



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on January 25, 2011.

Date of Meeting: August 4, 2010

The Mayor and Council of the City of Tucson met in regular session in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson, Arizona, at 5:34 p.m., on Wednesday, August 4, 2010, all members having been notified of the time and place thereof.

1. ROLL CALL

The meeting was called to order by Mayor Pro Tempore Scott and upon roll call, those present and absent were:

Present:

Regina Romero	Council Member Ward 1
Paul Cunningham	Council Member Ward 2
Karin Uhlich	Council Member Ward 3
Shirley C. Scott	Vice Mayor, Council Member Ward 4
Richard G. Fimbres	Council Member Ward 5
Steve Kozachik	Council Member Ward 6
Robert E. Walkup	Mayor (arrived at 6:47 p.m.)

Absent/Excused:

None

Staff Members Present:

Mike Letcher	City Manager
Michael Rankin	City Attorney
Roger W. Randolph	City Clerk

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Rabbi Samuel Cohon, Temple Emanu-el, after which the Pledge of Allegiance was presented by the entire assembly.

Presentations:

- a. Mayor Pro Tempore Scott proclaimed August 26, 2010, to be “Women’s Equality Day.” Barbara Clairhew, League of Women Voters, accepted the proclamation.
- b. Mayor Pro Tempore Scott proclaimed August 20, 2010, to be the “235th Anniversary of Tucson.” Geoff Gonzales, on behalf of the Tucson-Pima County Historical Commission, accepted the proclamation.
- c. Mayor Pro Tempore Scott proclaimed August to be “Drowning Impact Awareness Month.” Yomy Diaz, coordinator for Safe Kids Tucson, accepted the proclamation.
- d. Mayor Pro Tempore Scott, assisted by Council Member Romero presented certificates to participants of the Summer of Service Learn and Serve Program.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Pro Tempore Scott announced City Manager’s communication number 359, dated August 4, 2010, was received into and made part of the record. She also announced this was the time scheduled to allow members of the Mayor and Council to report on current events and asked if there were any reports.

- a. Council Member Romero invited the public to attend a Joint Core Tax Town Hall, sponsored by Wards 1, 3, and 5; invited the public to attend one of three home buying seminars; thanked those who participated in the A-Mountain neighborhood cleanup; and reported on events in Ward 1 held for National Night Out.
- b. Council Member Cunningham reported on events held and scheduled in Ward 2, which included: National Night Out, a Hazardous Household Waste Program, a Birthday Cake Contest, a Neighborhood Legislature meeting, Town Halls on the Core Tax, and the temporary closure of Udall Center due to its yearly cleaning.
- c. Council Member Fimbres echoed Council Member Romero’s comments about the Joint Core Tax Town Hall; applauded the efforts of everyone who participated in the Ward 5 National Night Out event; reported that Ward 5 was collecting old cell phones to help benefit the Pima Council on Aging; and reminded everyone that Ward 5 was still a drop off area for the Community Food Bank.

- d. Council Member Kozachik reported the Ward 6 Council Office was also a collection drop off area for old cell phones and food for the Community Food Bank, and reminded everyone about the Second Saturdays downtown.
- e. Mayor Pro Tempore Scott invited the public to attend the Tenth Annual “Back to School Bash” in Ward 4.

4. CITY MANAGER’S REPORT: SUMMARY OF CURRENT EVENTS

Mayor Pro Tempore Scott announced City Manager’s communication number 360, dated August 4, 2010, was received into and made part of the record. She also announced this was the time scheduled to allow the City Manager to report on current events, and asked for that report.

No report was given.

5. LIQUOR LICENSE APPLICATIONS

Mayor Pro Tempore Scott announced City Manager’s communication number 386, dated August 4, 2010, was received into and made part of the record. She asked the City Clerk to read the Liquor License Agenda.

- b. Liquor License Application(s)

New License(s)

- 1. Salud Oyster Bar & Grill, Ward 1
1825 W. Valencia Rd.
Applicant: Jesus Francisco Bonillas Jr.
Series 12, City 34-10
Action must be taken by: July 30, 2010

Tucson Police Department and Revenue Investigations have indicated the applicant is in compliance with city requirements.

Planning & Development Services Department has indicated the applicant is not in compliance with city requirements.

- 2. Cost Plus World Market, Ward 3
4821 N. Stone Ave.
Applicant: Andrea Dahlman Lewkowitz
Series 7, City 35-10
Action must be taken by: August 6, 2010

Staff has indicated the applicant is in compliance with city requirements.

3. Jackson's Sports Grille, Ward 1
5475 S. Calle Santa Cruz, Ste. 101
Applicant: James Roland Jackson
Series 12, City 37-10
Action must be taken by: August 15, 2010

Tucson Police Department and Revenue Investigations have indicated the applicant is in compliance with city requirements.

Planning & Development Services Department has indicated the applicant is not in compliance with city requirements.

4. QuikTrip #1470, Ward 1
1375 W. Ajo Way
Applicant: Troy Charles DeVos
Series 10, City 40-10
Action must be taken by: August 19, 2010

Staff has indicated the applicant is in compliance with city requirements.

Public Opinion: Written Argument Opposed Filed

This item was considered separately.

5. On the Border, Ward 6
5205 E. Broadway Blvd.
Applicant: Clare Hollie Abel
Series 12, City 41-10
Action must be taken by: August 26, 2010

Staff has indicated the applicant is in compliance with city requirements.

NOTE: State law provides that for a new license application, "In all proceedings before the governing body of a city...the applicant bears the burden of showing that the public convenience requires and that the best interest of the community will be substantially served by the issuance of a license". (A.R.S. Section 4-201)

Person Transfer(s)

6. Beer Belly's Pub & Grub, Ward 2
1110 S. Sherwood Village Dr.
Applicant: Les Joseph Meredith
Series 6, City 39-10
Action must be taken by: August 22, 2010

Staff has indicated the applicant is in compliance with city requirements.

NOTE: State law provides that for a person to person transfer, Mayor and Council may consider the applicant's capability, qualifications and reliability. (A.R.S. Section 4-203)

Person/Location Transfer(s)

7. Club Turbulence, Ward 5
6608 S. Tucson Blvd.
Applicant: Thomas Robert Aguilera
Series 6, City 38-10
Action must be taken by: August 19, 2010

Staff has indicated the applicant is in compliance with city requirements.

Public Opinion: Written Arguments Opposed Filed
Written Arguments in Favor Filed

This item was considered separately.

NOTE: State law provides that for a person and location transfer, Mayor and Council may consider both the applicant's capability, qualifications, reliability and location issues. (A.R.S. Section 4-203; R19-1-102)

Location Transfer(s)

8. Feast, Ward 6
3719 E. Speedway Blvd.
Applicant: Douglas Marc Levy
Series 6, City 42-10
Action must be taken by: August 26, 2010

Staff has indicated the applicant is in compliance with city requirements.

NOTE: State law provides that for a location transfer, Mayor and Council may consider whether the public convenience requires and that the best interest of the community will be substantially served by the issuance of a license at that location. (A.R.S. Section 4-203; Rule R19-1-102)

c. Special Event(s)

1. Tucson Museum of Art, Ward 1
140 N. Main Ave.
Applicant: Amanda Ivy Reed
City T52-10
Date of Event: September 16, 2010
(Annual Meeting Dinner)

Staff has indicated the applicant is in compliance with city requirements.

2. Tucson's Young Professionals, Ward 1
140 N. Main Ave.
Applicant: Jeffrey Ell
City T53-10
Date of Event: September 3, 2010
(Promote Community Event Downtown)

Staff has indicated the applicant is in compliance with city requirements.

3. The Church of St. Michael and All Angels, Ward 2
602 N. Wilmot Rd.
Applicant: John Robert Smith
City T55-10
Date of Event: September 24, 2010 - September 25, 2010
(Fundraiser)

Staff has indicated the applicant is in compliance with city requirements.

4. Downtown Tucson Partnership, Ward 6
100 S. Church Ave.
Applicant: Brandi Renee Haga
City T60-10
Date of Event: September 10, 2010
(A Celebration of Latin Jazz & Culture)

Staff has indicated the applicant is in compliance with city requirements.

5. Comite de Festividades Mexicanas, Ward 1
3700 S. La Cholla Blvd.
Applicant: Mercedes M. Guerrero
City T61-10
Date of Event: September 11, 2010 - September 12, 2010
(To Celebrate Mexican Independence)

Staff has indicated the applicant is in compliance with city requirements.

6. Tucson Steelers, Ward 5
2500 E. Ajo Way
Applicant: Guy Leslie Owens III
City T65-10
Date of Event: September 9, 2010
(Concert)

Staff has indicated the applicant is in compliance with city requirements

- d. Agent Change/Acquisition of Control/Restructure

NOTE: There are no agent change(s) scheduled for this meeting.

It was moved by Council Member Fimbres, duly seconded, and carried by a voice vote of 6 to 0 (Mayor Walkup absent/excused), to forward liquor license applications 5b1 through 5b3, 5b5 through 5b6, 5b8 and 5c1 through 5c6, to the Arizona State Liquor Board with a recommendation for approval.

5. LIQUOR LICENSE APPLICATIONS

- b. Liquor License Application(s)

New License(s)

- 4. QuikTrip #1470, Ward 1
1375 W. Ajo Way
Applicant: Troy Charles DeVos
Series 10, City 40-10
Action must be taken by: August 19, 2010

Staff has indicated the applicant is in compliance with city requirements.

Public Opinion: Written Argument Opposed Filed

Roger W. Randolph, City Clerk, announced the first item to be considered separately was Item 5b4, QuikTrip #1470, located in Ward 1.

It was moved by Council Member Romero, duly seconded, and carried by a voice vote of 6 to 0 (Mayor Walkup absent/excused), to forward liquor license application 5b4, QuikTrip #1470, to the Arizona State Liquor Board with a recommendation for approval.

5. LIQUOR LICENSE APPLICATIONS

- b. Liquor License Application(s)

New License(s)

- 7. Club Turbulence, Ward 5
6608 S. Tucson Blvd.
Applicant: Thomas Robert Aguilera
Series 6, City 38-10
Action must be taken by: August 19, 2010

Staff has indicated the applicant is in compliance with city requirements.

Public Opinion: Written Arguments Opposed Filed
Written Arguments in Favor Filed

Roger W. Randolph, City Clerk, announced the final item to be considered separately was Item 5b7, Club Turbulence, located in Ward 5.

Council Member Fimbres asked if there were any speakers in support of or in opposition to the liquor license application; and asked those in opposition to the liquor license application to come forward first.

Carl Bedford, Pima County-Tucson Commission on Addiction, Prevention and Treatment (CAPT) Chair, commented he was present, as a private citizen, to speak against the recommendation to grant the liquor license to Club Turbulence. He presented the Mayor and Council with statistics regarding underage drinking among eighth and twelfth graders. He spoke about saturation of establishments within the area and that the location of the establishment was in the gateway to those coming to visit Tucson.

Yolanda Herrera, Sunnyside Neighborhood Association Government Liaison and the Southside Neighborhood Association's Presidential Partnership (SNAPP) President, spoke in opposition to the granting of the liquor license for Club Turbulence. She said the Neighborhood, SNAPP, and other coalitions had been battling additional liquor licenses on the south side, particularly this one since 2003. The liquor license had been denied twice by the Mayor and Council; three times if they counted the time they came before the Mayor and Council in 2007.

Council Member Fimbres asked if there were any other speakers in opposition to the liquor license. Hearing no one, he asked for three speakers in support of the application to come forward.

Thomas Aguilera, representing the applicant, asked for a chance to speak.

Mayor Pro Tempore Scott stated the applicant could speak at this time.

Mr. Aguilera stated he was present to speak for the applicant, and wanted to ask a procedural question.

Mayor Pro Tempore Scott said that they should allow the applicant to speak, and procedurally that was what was normally done. She asked Mr. Aguilera to step down for a few minutes while the applicant spoke.

Mr. Aguilera stated he was used to that procedure and apologized if there was a new procedure, stating he was willing to follow that. He said typically, the applicant says a few things to lay the groundwork for why the applicant believed this license should be granted on its third try, and commented that this license had been up two other times.

Mr. Aguilera asked the Mayor and Council not to consider any of the letters of protest or testimony that did not meet the Title IV requirements associated withstanding people living, residing, or owning property within the mile radius. He said he did not know if the two protestors met that requirement as those questions were not asked of the protestors. He said he wanted to lodge an objection in the event it was discovered later that they did not meet the requirement.

Mr. Aguilera said there were nine letters of protest in front of the Mayor and Council which he believed one was valid and met the Title IV requirement. He stated he did not believe the Mayor and Council should be considering the other eight letters of protest because in his estimation of the standing issue, they did not meet the requirements. He commented that he did not know if the Mayor and Council could take a stand on the issue at the evening's meeting, or if he should just lodge an objection.

Michael Rankin, City Attorney, replied that just establishing his argument for the record was sufficient.

Mr. Aguilera continued stating his client, Brian Jameson, was present and willing to respond to questions from the Mayor and Council. He gave a little background on his client and spoke about how the Club was currently being operated and how they would operate if the license was granted. He also highlighted some of the process they went through to get the application to this point.

Council Member Uhlich asked what was to prevent somebody who wanted a liquor license in the City to open a club like the club that currently existed and to say they should give them a liquor license if they wanted them to stop the establishment. She asked what would prevent the precedent-setting effect that they could be opening in that instance.

Mr. Rankin replied that the zoning restrictions were such that there were a limited number of places within the City limits where all nude, entertainment establishments could locate new ones. He did not think it would open the door to a proliferation of that scenario.

Council Member Uhlich asked the City Attorney to describe if it was industrial areas and if there was a way the Mayor and Council could get a sense of where those areas were concentrated. She asked if they were concentrated in and around this area in the City or if they were scattered throughout the City.

Mr. Rankin explained it was industrial areas, and then there were separation requirements from similar type businesses and other types of incompatible businesses. He said he thought that would be one location; and said there might be a few others in the City, but it was not going to be more than a handful.

Mayor Pro Tempore Scott asked if there were any other speakers. Council Member Fimbres introduced Jim Lara.

Jim Lara, Desert View Homeowners Association and Neighborhood Association, spoke in favor of the liquor license application. He expressed concerns about the current age group, eighteen year olds, that were allowed to go into the Club and how many of them were students in high school who talked to their friends, twelve to eighteen year olds, about what they saw in the Club. Mr. Lara said they wanted to see the club turned into an adult club, twenty-one and over, because of the kids in the community. He commented it was not appropriate for kids to be hearing about what happened inside the club. If they wanted to protect the kids, they needed to support turning the establishment into one that sold alcohol whereby the age requirement was twenty-one.

Anna Perez, resident of Midvale Park for twenty-four years, and mother of three children, two of which were underage, spoke in favor of the liquor license application. She said she was concerned about her youngest, who had just turned eighteen and was very excited about going to a nightclub. She said she wanted that stopped. She said if the Mayor and Council approved the liquor license application, their children would not be exposed to that type of behavior. She urged the Council to take her comments into consideration.

Council Member Fimbres commented that the issue was not absolutely clear. He said, even though the act of a liquor license at this type of venue could be harmful to the south side community, there were social issues to consider, which were harmful to young adults, young people, seniors in high school, and the general community. But, based on the saturation issue in Ward 5, he said he was recommending a denial of the liquor license application.

It was moved by Council Member Fimbres, duly seconded, to forward liquor license application 5b7, for Club Turbulence, to the Arizona State Liquor Board with a recommendation for denial.

Mayor Pro Tempore Scott asked if there were any further discussion.

Council Member Cunningham stated that based on the information he heard at the evening's meeting, he did not think that an approval might be the way to go. He said he wanted to offer a substitute motion.

A substitute motion was made by Council Member Cunningham to forward a no recommendation, remain neutral, and see what the Arizona State Liquor Board's decision would be.

Mayor Pro Tempore Scott asked if there was a second to the substitute motion.

Council Member Uhlich stated she did not see a memo from the Tucson Police Department (TPD), but wanted to hear from the representative of TPD. She asked if she had to offer a second on the motion in order to proceed with the line of questioning.

At this time, Council Member Cunningham withdrew his motion.

Terry Rozema, Tucson Police Department (TPD) Assistant Chief, stated he did not know if the Mayor and Council had specific questions for him, but addressed a couple of issues that had come forward in reference to the comments made earlier by the applicant's attorney that TPD endorsed the recommendation for approval. He said that was not accurate, TPD only made recommendations of compliance or denial, never endorsing a specific recommendation.

Assistant Chief Rozema said there were a couple of things that were talked about at the evening's meeting that he thought should be considered; concern for the kids of the community, which was absolutely something everyone should be concerned about and the comments made earlier that there were fifteen to seventeen year olds attending the establishment. He stated, if the establishment was doing what they were supposed to be doing, fourteen to sixteen year olds would not be allowed in. Additionally he said, if they were concerned about kids under twenty-one years of age being there, perhaps the Attorney's Office could say whether or not they had the ability to say they would only allow people twenty-one and older.

Mr. Rankin explained that Assistant Chief Rozema was right, although, under the law, in the all-nude clubs, eighteen and over could be admitted. He said the private operator of the establishment could impose their own rules and not hire any dancers who were twenty one or over, or not allow patrons to come in who were twenty one or over.

Mayor Pro Tempore Scott asked if the club owners were required to ask for identification (ID) for their current patrons who could go into the establishment, because if they were running an establishment with liquor, they should be checking the ID of every person who came in who might appear to be younger. But, if currently eighteen year olds and over were being allowed to go into the establishment, she asked if they had to produce an ID or could their little sister or brother go, who were only sixteen.

Mr. Rankin replied he did not know if there was a carding requirement, but said certainly they faced exposure if they allowed folks who were underage to get in. He said he imagined it would be the establishment's practice to check ID's, but the applicant would have to confirm that.

Mayor Pro Tempore Scott asked the applicant if they checked ID's.

Brian Jameson, the applicant, said they were very adamant about checking ID's; no underage kids. He said there were kids who went there with student ID's from the schools, but that was not acceptable. The ID had to be a State issued ID and they had to be of age, eighteen years and older, so yes, ID's were required.

Mayor Pro Tempore Scott clarified that those who went to the establishment were eighteen years old or under twenty one, no alcohol was involved, and were able to view dancers.

Mr. Jameson replied they were able to view dancers who were eighteen and who could possibly still be in school. He said students who were eighteen years old were allowed to come in and see the other students.

Mayor Pro Tempore Scott asked what clothing the current dancers wore, which was at the heart of the issue.

Mr. Jameson said it was a totally nude club. He said with a twenty-one and up club, the nudity would go away, students would go away, and the establishment would be more regulated.

Mayor Pro Tempore Scott asked the applicant if there would still be a form of nudity involved if they were granted their license and only twenty-one and over were allowed to go into the establishment.

Mr. Jameson said the establishment would then be like any other topless club in Tucson; topless, no more nudity.

Mayor Pro Tempore Scott questioned the applicant's comments that there would be no more nudity, but it would be topless.

Mr. Jameson said, as it stood, there were two clubs in Tucson that were fully nude. The rest were topless. He said if the club became topless, then there would be only one nude club left in Tucson.

Mayor Pro Tempore Scott asked the applicant for clarification on whether or not he was interested in having an establishment without this kind of attraction; having patrons just come in, have some adult beverages, and then leave. She asked if he still wanted to include in his liquor license application, that his business establishment be topless.

Mr. Jameson said that was correct.

Mayor Pro Tempore Scott stated that was what made this application challenging.

Council Member Uhlich stated she did not know if the applicant had been asked, but said she had to ask if the owner would be willing to change their guidelines, regardless of the granting of the liquor license, to allow patrons and dancers who were only twenty-one and over in the best interest of the Tucson community.

Mr. Jameson replied he was open to any suggestions as he wanted to work with the community.

Mr. Aguilera stated they could not do that; they could not restrict certain employment issues under the age discrimination laws about employment.

Council Member Uhlich said she understood that, but it was more along the lines of having a safe and reputable and experienced cadre. She referred to comments by the applicant about the experience of the employees that would be hired, and said that certainly could apply to dancers as well. She said she understood what the applicant was saying. She said she was glad to hear that the applicant was willing to work with the community to accomplish the goal of safeguarding young people in the community.

Mr. Jameson said the most important thing was working with the community. He said he had outreached to the community; met with community leaders, community neighborhoods, businesses, and they wanted the age group to be twenty-one and up, that way there would be more restrictions and more oversight; currently the club was open till five in the morning. With twenty-one and up, there was control by the police department, by the Arizona Department of Liquor Licenses and Control (ADLLC).

Council Member Kozachik asked Assistant Chief Rozema to respond to Mr. Jameson's last comment. He said he was also curious about references made to incidents that had occurred at the Club.

Assistant Chief Rozema commented on the incidents, stating there had been numerous calls for service to the location. Liquor laws gave TPD a bigger hammer to work with. He said he thought the problem was with the staffing levels TPD currently faced, which would probably not allow them to spend a lot of time doing proactive enforcement. In addition, the ADLLC had lost a number of their investigators, so it would make it a little more problematic for TPD to do proactive enforcement at liquor establishments.

Assistant Chief Rozema stated that the incidents included stolen or lost property, thefts, vandalisms, and assaults, most of which were not the Club's fault or responsibility.

Mayor Pro Tempore Scott said there was a motion on the floor and it had been seconded to recommend a denial to the Arizona State Liquor Board. She asked if there were any further comments.

Council Member Kozachik asked Mr. Jameson if they were suggesting in their exchange that they would be amenable to voluntarily discuss going twenty-one and over, irrespective of the liquor license application and if that was true, maybe what the Mayor and Council should do was continue the item and get that dialogue going.

Mr. Jameson replied he was open to any suggestions, but needed to consult with his lawyer

Mr. Aguilera stated he could not speak to the sixty-day issue, but the City Attorney probably knew that off the top of his head. He asked for clarification that the request for continuance was based upon a request that the applicant consider withdrawing his liquor license application, and asked Council Member Kozachik if that was correct. He also said he was not an employment lawyer, but believed the employment laws would

have to be scrutinized to make sure that the owner was not exposing himself to a type of violation of equal employment rules.

Council Member Kozachik said he did not know the legal ins and outs of it, but just heard a dialogue that began that suggested it. He said it seemed to him that if they were going to encourage topless or full nude bars in the community, they were encouraging the exploitation of young women. He said he was having a tough time supporting it because of that. Yet, he said he heard the other side of it also, which said that if they increased the age, there was the tendency to engender greater enforcement. He said he was looking for a middle ground where they could continue the discussion.

Mr. Rankin replied that the sixty-day expiration, according to their notes, was August 19, and there was not another scheduled meeting in the interim. He said there were instances in the past where they were able to go beyond that date, but that was based on prior contact with the ADLLC so that they were amenable to the continuance.

Mayor Pro Tempore Scott said there had been a lot of discussion and knew it was still a difficult decision. She asked for a vote on the original motion which was to deny the liquor license application.

Mr. Rankin clarified that the substitute motion had been withdrawn, so the original motion was the one being voted on, which was a recommendation for denial.

The motion to forward liquor license application 5b7, Club Turbulence, to the Arizona State Liquor Board with a recommendation of denial, was passed by a roll call vote of 6 to 0 (Mayor Walkup absent/excused).

(NOTE: Mayor Walkup arrived at 6:47 p.m.)

6. CALL TO THE AUDIENCE

Mayor Walkup announced this was the time any member of the public was allowed to address the Mayor and Council on any issue except for items scheduled for a public hearing. Speakers were limited to three-minute presentations.

- a. Beryl Baker spoke about her concerns with the neighborhood impacts of the parking restrictions and street closures in the *Sentinel Peak Master Plan*.
- b. Judy Boehm spoke in opposition to the recently imposed twenty-five dollar Parks and Recreation fee to seniors at the Armory Park Senior Citizen Center.
- c. Joe Sweeney spoke about the closing of Access Tucson, Bourne Properties purchase of the Thrifty Block and 287(g) funding language.
- d. Neal Moenich spoke about his concerns with the imposed Parks and Recreation fee at the Armory Park Senior Citizen Center.

Michael Rankin, City Attorney, commented that the Mayor and Council, during the Call to the Audience, could not engage in any dialogue with speakers.

- e. Ruth Beeker spoke about her concerns that the Mayor and Council no longer held their subcommittee meetings, and urged them to reorganize and reclaim the strengths of the subcommittees.
- f. Paul Parisi, Tucson Metropolitan Chamber of Commerce, spoke in support of the proposed amendments to the Tucson Water Service Area Policy.
- g. Margie Rodriguez urged the Mayor and Council to take the necessary actions needed to end the Sun Tran bus strike.
- h. John Kromko spoke in opposition to the transfer of Sun Tran to the Regional Transportation Authority.

7. CONSENT AGENDA – ITEMS A THROUGH Q

Mayor Walkup announced the reports and recommendations from the City Manager on the Consent Agenda were received into and made part of the record. He asked the City Clerk to read the Consent Agenda.

- a. HUMAN RESOURCES: TIME EXTENSION REQUEST REGARDING MANDATORY RETIREMENT FOR OFFICER STEVE SMITH
 - 1. Report from City Manager AUG4-10-361 City-Wide
 - 2. Approval of Officer Smith's request for the third one-year extension of five potential extensions in accordance with Tucson City Code Section 10-15 is recommended.
- b. TRANSPORTATION: (C14-10-03) RENAMING SAVAGE PLACE TO ROSE WATER PLACE
 - 1. Report from City Manager AUG4-10-364 Ward 2
 - 2. Ordinance No. 10823 relating to transportation: renaming Savage Place to Rose Water Place (C14-10-03); and declaring an emergency.
- c. TRANSPORTATION: (C14-10-02) RENAMING INTROSPECT DRIVE TO CERRADA DEL BETO
 - 1. Report from City Manager AUG4-10-363 Ward 1
 - 2. Ordinance No. 10824 relating to transportation; renaming Introspect Drive to Cerrada Del Beto (C14-10-02); and declaring an emergency.

- d. ZONING: (S07-085) DESIGNATING THE TENTATIVE AND FINAL PLAT FOR BLUE SKY SUBDIVISION AS PROTECTED DEVELOPMENT RIGHT PLANS
 - 1. Report from City Manager AUG4-10-367 Ward 5
 - 2. Resolution No. 21597 relating to zoning: designation of the Tentative and Final Plats for Blue Sky Subdivision (S07-085) as protected development right plans; and declaring an emergency.
- e. ZONING: (S09-055) DESIGNATING THE TENTATIVE AND FINAL PLAT FOR THE VILLAGE CENTER AT RITA RANCH AS PROTECTED DEVELOPMENT RIGHT PLANS
 - 1. Report from City Manager AUG4-10-362 Ward 4
 - 2. Resolution No. 21598 relating to zoning: designation of the Tentative and Final Plats for Village Center at Rita Ranch (S09-055) as protected development right plans; and declaring an emergency.
- f. TUCSON CODE: AMENDING (CHAPTER 11) RELATING TO REGULATION OF DRINKING ESTABLISHMENTS
 - 1. Report from City Manager AUG4-10-365 City-Wide
 - 2. Ordinance No. 10825 relating to crimes and offenses; amending Chapter 11, Crimes and Offenses, Article I, In General, Section 17, of the Tucson City Code, Regulating the Frequenting of drinking establishments during closed hours; setting an effective date; and declaring an emergency.
- g. REAL PROPERTY: APPROVING A GROUND LEASE AGREEMENT WITH NEW CINGULAR WIRELESS (A T & T) FOR A WIRELESS CELLULAR ANTENNAE AT 7575 EAST SPEEDWAY BOULEVARD
 - 1. Report from City Manager AUG4-10-366 Ward 2
 - 2. Ordinance No. 10826 relating to real property; authorizing and approving the Ground Lease Agreement between the City of Tucson and New Cingular Wireless PCS, LLC, for a wireless cellular antennae located at 7575 East Speedway Boulevard, Tucson, Arizona; and declaring an emergency.
- h. APPROVAL OF MINUTES OF MAYOR AND COUNCIL MEETING
 - 1. Report from City Manager AUG4-10-378 City-Wide
 - 2. Mayor and Council Regular Meeting Minutes of November 17, 2009 and January 26, 2010.

- i. REAL PROPERTY: VACATION AND CONVEYANCE OF RIGHT OF WAY WITHIN MOUNTAIN VAIL ESTATES
 - 1. Report from City Manager AUG4-10-368 Ward 4
 - 2. Ordinance No. 10827 relating to real property; vacating and declaring certain rights of way within the Mountain Vail Estates to be surplus; authorizing the conveyance thereof to the original dedicator; and declaring an emergency.

- j. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR MAINTAINING A SUB-RECIPIENT AGREEMENT FOR PARTICIPATION IN THE FEDERALLY FUNDED HOME PROGRAM
 - 1. Report from City Manager AUG4-10-371 City-Wide
 - 2. Resolution No. 21600 relating to Housing and Community Development Department; authorizing and approving the execution of an Intergovernmental Agreement between the City of Tucson and Pima County for maintaining a Sub-Recipient Agreement for the purpose of participating in the federally funded HOME Program; and declaring an emergency.

- k. REAL PROPERTY: VACATION AND CONVEYANCE OF VAN BUREN AVENUE RIGHT OF WAY FROM ELVIRA ROAD TO INTERSTATE 10 (CONTINUED FROM THE MEETING OF JULY 7, 2010)
 - 1. Report from City Manager AUG4-10-369 Ward 5
 - 2. Resolution No. 21599 relating to real property; vacating a portion of the Van Buren Avenue RIGHT OF WAY from Elvira Road to Interstate 10 (Eastern half); vesting title thereto in the abutting owners by operation of law; and declaring an emergency.
 - 3. Ordinance No. 10829 relating to real property; vacating and declaring a portion of the Van Buren Avenue RIGHT OF WAY from Elvira Road to Interstate 10 to be surplus; authorizing the conveyance thereof to abutting owners Beaufort Company, L.L.C. and N.N.K., L.L.C. (Western half); and declaring an emergency.

- l. TUCSON CONVENTION CENTER: APPROVAL OF A USE AGREEMENT WITH THE SOUTHERN ARIZONA HOME BUILDERS ASSOCIATION (SAHBA) FOR HOME SHOWS
 - 1. Report from City Manager AUG4-10-374 City-Wide
 - 2. Resolution No. 21601 relating to the Tucson Convention Center; authorizing the Mayor to execute on behalf of the City of Tucson an Agreement with the Southern Arizona Home Builders Association (SAHBA) for the use of the Tucson Convention Center for home shows for five years; and declaring an emergency.

This item was continued at the request of staff.

- m. FINANCIAL PARTICIPATION AGREEMENTS AND INTERGOVERNMENTAL AGREEMENT: WITH VARIOUS OUTSIDE AGENCIES
 - 1. Report from City Manager AUG4-10-382 City-Wide
 - 2. Resolution No. 21604 relating to outside agencies; authorizing and approving the Financial Participation Agreements between the City of Tucson and various outside agencies and the Intergovernmental Agreement between the City of Tucson and Pima County for Fiscal Year 2011; and declaring an emergency.

- n. ASSURANCE AGREEMENT AND FINAL PLAT: (S07-173) MOUNTAIN VAIL SHIPLEY, A RESIDENTIAL CLUSTER PROJECT, LOTS 1 TO 85 AND COMMON AREAS "A" AND "B"
 - 1. Report from City Manager AUG4-10-380 Ward 4
 - 2. Resolution No. 21603 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the installation of all required improvements and approving the Final Plat in case No. S07-173, for Mountain Vail Shipley, a Residential Cluster Project, Lots 1 through 85, Common areas "A" and "B"; and declaring an emergency.
 - 3. Staff recommends that the Mayor and Council approve the assurance agreement and the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

- o. BOARDS, COMMITTEES, AND COMMISSIONS: CREATING THE ECONOMIC AND WORKFORCE DEVELOPMENT SELECTION COMMITTEE
 - 1. Report from City Manager AUG4-10-385 City-Wide
 - 2. Resolution No. 21605 relating to Boards and Commissions; creating the Economic and Workforce Development Selection Committee; and declaring an emergency.

- p. HOUSING AND COMMUNITY DEVELOPMENT: AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR THE PROPOSED HUD SECTION 108 PROGRAM
 - 1. Report from City Manager AUG4-10-383 City-Wide
 - 2. Resolution No. 21608 relating to Housing and Community Development; approving and authorizing the submission of an Application to the United States Department of Housing and Urban Development (HUD) for the Section 108 Loan Program and authorizing the City Manager to enter into an agreement with the Industrial Development Authority; and declaring an emergency.

This item was considered separately at the request of Council Member Romero.

q. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY RENEWING PARTICIPATION IN THE HOME PROGRAM

1. Report from City Manager AUG4-10-381 City-Wide
2. Resolution No. 21606 relating to Housing and Community Development; authorizing and approving the renewal of an Intergovernmental Agreement between the City of Tucson and Pima County for the purpose of participating in the federally funded HOME Program; and declaring an emergency.

It was moved by Council Member Kozachik, duly seconded, and passed by a roll call vote of 7 to 0, that Consent Agenda Items a – q, with the exception of Item l, which was continued and Item p, which was considered separately, be passed and adopted and the proper action taken.

7. CONSENT AGENDA – ITEM P

p. HOUSING AND COMMUNITY DEVELOPMENT: AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR THE PROPOSED HUD SECTION 108 PROGRAM

1. Report from City Manager AUG4-10-383 City-Wide
2. Resolution No. 21608 relating to Housing and Community Development; approving and authorizing the submission of an Application to the United States Department of Housing and Urban Development (HUD) for the Section 108 Loan Program and authorizing the City Manager to enter into an agreement with the Industrial Development Authority; and declaring an emergency.

This item was considered separately at the request of Council Member Romero.

Roger W. Randolph, City Clerk, announced the item to be considered separately was Consent Agenda Item p, at the request of Council Member Romero.

Council Member Romero explained her reasons for wanting to consider the item separately and stated she wanted to amend the resolution to include that the Downtown Tucson Partnership (DTP) have an active role in the decisions regarding submitted proposals.

Michael Rankin, City Attorney, stated what the Mayor and Council needed to do per Council Member Romero's concern was not necessarily an amendment to the Resolution, but direct staff to include DTP as an active participant in the decision making of which proposals should receive consideration by the Mayor and Council.

It was moved by Council Member Romero, duly seconded, and passed by a roll call vote of 7 to 0, that Consent Agenda item p be passed and adopted, and the proper action taken, with direction to staff that the Downtown Tucson Partnership have an active role in the decisions regarding submitted proposals,

8. PUBLIC HEARING: TUCSON CODE – AMENDING (CHAPTER 23) THE *LAND USE CODE*; RELATING TO REDUCTIONS IN REQUIRED NUMBER OF MOTOR VEHICLE PARKING SPACES

Mayor Walkup announced City Manager's communication number 372, dated August 4, 2010, was received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing on a proposed amendment to the *Land Use Code (LUC)* relating to reductions in required number of Motor Vehicle Parking Spaces. Mayor Walkup said, before beginning the public hearing, staff wanted to make a brief statement.

Jim Mazzocco, Planning and Development Department Planning Administrator, stated this item was a follow up to direction received from the Mayor and Council on March 9, 2010, that addressed barriers to infill. He stated this was a fairly minor change, which was related to a text amendment that the Mayor and Council passed in May 2009.

Mayor Walkup announced the public hearing was scheduled to last for no more than one hour and speakers were limited to five-minute presentations.

Paul Parisi, Tucson Metropolitan Chamber of Commerce (TMCC), commended staff and the Mayor and Council for moving ahead with the proposed amendment. He thanked them for allowing the business community to participate and said the TMCC supported the amendment.

Ruth Beeker stated she supported the changes, in viewing the Ordinance as an isolated item. However, she commented on her concerns about how the City of Tucson was handling parking regulations and was concerned that the regular parking regulations were being bypassed by quick fix exemptions.

Mayor Walkup asked if there was anyone else wishing to speak on this item. There was no one.

It was moved by Vice Mayor Scott, duly seconded, and carried by a voice vote of 7 to 0, to close the public hearing.

Mayor Walkup asked the City Clerk to read Ordinance 10830 by number and title only.

Ordinance No. 10830 relating to planning and zoning; amending certain portions of the *Land Use Code*, Chapter 23, Article III, Development Regulations, Division 3, Motor Vehicle and Bicycle Parking Requirements, Section 3.3.3, General Provisions; Section 3.3.8, Reductions in Required number of Motor Vehicle Parking Spaces; Division 4, off-street loading, Section 3.4.4 Design Criteria; and declaring an emergency.

It was moved by Council Member Cunningham, duly seconded, to pass and adopt Ordinance 10830.

Council Member Kozachik asked staff to explain why this was not redundant to what they just did.

Ernie Duarte, Planning and Development Services Director, explained this Ordinance was complimentary to some of the things that were previously done with the Certificate of Occupancy (C of O) Relief Ordinance. The C of O Relief Ordinance was specific to buildings that had not been improved or added onto since 2005. He said this was a complimentary tool that allowed for shared parking agreements in the event someone wanted to redevelop, possibly add square footage to a facility, or enter into shared parking agreements with adjacent buildings where there was no existing parking. He said this was really a complimentary change to the C of O Relief Ordinance that the Mayor and Council adopted last July.

Mayor Walkup asked if there was any further discussion.

Mr. Duarte read a correction to the Ordinance for the record. He said on page three, first paragraph, Section 3.3.8.6.A.2 was missing a reference to Section 3.3.8.6.4.A.d. He said with the correction, the section under 3.3.8.6.A.2 should read, "Manufacturing, off-site service and repair and other industrial uses except salvaging and recycling may request a parking reduction using and alternate parking calculation of one (1) space for each 1,000 square feet of gross floor area if the use meets criteria listed in Section 3.3.8.6.A.4.a, b, c and d below."

It was moved by Council Member Cunningham, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopt Ordinance 10830, as amended.

9. PUBLIC HEARING: TUCSON CODE - AMENDING (CHAPTER 23) THE *LAND USE CODE*; CREATING THE URBAN OVERLAY DISTRICT

Mayor Walkup announced City Manager's communication number 376, dated August 4, 2010, was received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing on a proposed amendment to the *Land Use Code (LUC)* creating the Urban Overlay District. Mayor Walkup said, before beginning the public hearing, staff wanted to make a brief statement.

Ernie Duarte, Planning and Development Services Director, reported that the Urban Overlay District was one of those initiatives directed by Mayor and Council on quick fixes to the *Land Use Code*. He said the text amendment created enabling legislation to allow an overlay where the goal was to encourage transit and pedestrian-oriented development. The overlay was intended to be a zoning option, thus the underlying zoning of the property may be used or the property owner may use the infill standards spelled out in a particular overlay. The overlay can only be initiated by the Mayor and Council. He stated the text amendment had been reviewed and endorsed by both the *Land Use Code* Committee and the Planning Commission.

Mayor Walkup announced the public hearing was scheduled to last for no more than one hour and speakers were limited five-minute presentations.

Paul Parisi, Tucson Metropolitan Chamber of Commerce (TMCC), stated the TMCC supported these types of Ordinances that gave developers more opportunity to develop.

Mayor Walkup asked if there was anyone else wishing to speak on this item. There was no one.

It was moved by Vice Mayor Scott, duly seconded, and carried by a voice vote of 7 to 0, to close the public hearing.

Mayor Walkup asked the City Clerk to read Ordinance 10832 by number and title only.

Ordinance No. 10832 relating to planning and zoning; amending the Tucson Code, Chapter 23, Land Use Code, Article II, Zones, Division 8, Overlay Zones, by adding a new Section 2.8.13, "UOD" Urban Overlay District Zone (UOD); and declaring an emergency.

It was moved by Council Member Uhlich, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopt Ordinance 10832.

10. PUBLIC HEARING: TUCSON CODE - AMENDING (CHAPTER 16) THE NEIGHBORHOOD PRESERVATION ORDINANCE

Mayor Walkup announced City Manager's communication number 375, dated August 4, 2010, was received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing on proposed amendments to the Neighborhood Preservation Ordinance. Mayor Walkup said, before beginning the public hearing, staff wanted to make a brief statement.

Albert Elias, Housing and Community Development Department Director, stated this was an amendment to the Neighborhood Preservation Ordinance (NPO), and was an Ordinance that spoke to safety and health issues. It included things like property maintenance, hazards, blighting conditions, and those types of things. The amendments allowed for staff to enforce regulations in a more clear and understandable manner, and helped the community in terms of safety and in understanding the regulations.

Mayor Walkup announced the public hearing was scheduled to last for no more than one hour and speakers would be limited to five-minute presentations.

Barbara Dolan, Arizona MultiHousing Association (AMA), said the AMA represented two thousand members statewide and managed forty thousand rental units in the City of Tucson. She said they reviewed the proposed changes to the NPO and agreed it would help promote safety and clarified the role of renters and landlords.

Ms. Dolan stated the AMA had just a few suggested modifications as it related to the *State's Landlord Tenant Act*, and asked for more time to work on those changes with staff. Some of the changes related to the definition of habitable space, giving time for move out on the storage provisions, the section relating to heating and cooling parts, and the section clarifying the role of renters. She had the proposed language and said she shared the AMA's suggestions with staff.

Council Member Kozachik asked staff what would happen procedurally and how that would slow down the process of incorporating the suggestions at a later date, if action was taken at the evening's meeting.

Michael Rankin, City Attorney, replied that if after reviewing the proposed changes, staff felt that they should be proposed to the Mayor and Council and come back with an additional amendment. He said, if at the evening's meeting, the Mayor and Council passed the amendments to the Ordinance, the changes would occur first and staff would either bring back additional changes or not.

Council Member Uhlich asked if the intention of the Ordinance was to set standards that were different, or above and beyond the *Landlord Tenant Act*, or if it was to reinforce existing provisions. She suggested passing and adopting the Ordinance with further direction to ensure that it was consistent with provisions in the *Landlord Tenant Act*, and asked staff if that in any way undermined what staff was trying to accomplish.

Mr. Elias replied it did not undermine what staff was trying to accomplish. He said they were striving for consistency with the *Landlord Tenant Act*. The key difference was that the *Landlord Tenant Act* allowed for private parties to take action if rules were not being followed, but it did not help the City. Mr. Elias said the City's Ordinance gave enforcement authority to City staff, which the *Landlord Tenant Act* did not.

Council Member Kozachik referred to the *State Statute* that obligated landlords to provide alternate housing while heating and cooling repairs were being made, and asked if that should be incorporated into the language in the Ordinance.

Mr. Rankin replied that the *Landlord Tenant Act* created the rights, obligations, and remedies that were between the landlord and the tenant. He said, as Mr. Elias pointed out, these were minimum housing codes that gave the City local code enforcement authority, which the City did not have with respect to the *Landlord Tenant Act*.

Mr. Rankin said he did not think the City had to implement those changes, because those remedies already existed for the tenants through the *Landlord Tenant Act*, and the amendment was to get at the City's local code enforcement authority for lack of minimum housing standards.

Council Member Romero raised concerns about unintended consequences, especially in older homes that might not have central heating and cooling. She asked if this code would apply to everyone and how they would differentiate between dwelling units from landlords and owner occupied units.

Mr. Elias addressed Council Member Romero's concerns stating that the idea with the amendment was not to require all homeowners to be forced to install central heating and cooling; instead require that habitable rooms have some type of heating and cooling in them. He said what the City was trying to address were situations where portable heating devices were primarily used as a permanent means of heating and cooling.

Council Member Romero asked if this regulation also applied to property owners.

Mr. Elias replied it applied to all dwelling units.

Mr. Rankin explained the NPO, in particular, Section 16.11, referred to health and safety codes, and applied equally to owner/occupied, as well as, rental units because the health and safety issues were the same, whether it was owner occupied or rental. He said that was how the code was structured. Mr. Rankin added that code enforcement was complaint driven, and it was rare to have owners complain about their own property.

Council Member Romero asked questions about how this would affect property owners who did not have money to fix the problem. She said she would hate to see a violation given to an individual who did not have the means to be able to fix the problem, and asked how the City would deal with that issue.

Mr. Elias explained that one of the things staff suggested was to allow the City to go forward with the rules, and if a pattern of problems was encountered, staff could come back with a revision to address that problem.

Mr. Elias suggested that the Mayor and Council allow the Ordinance to go forward to allow staff to monitor its effectiveness in terms of addressing the problem with portable devices being used on an ongoing basis. If the City encounters problems with inappropriate enforcement or people unable to meet the regulations, staff can come back to Mayor and Council with an amendment to rectify that problem.

Mayor Walkup asked if there was any further discussion or anyone else who wished to speak on this issue. There was no one.

It was moved by Council Member Cunningham, duly seconded, and carried by a voice vote of 7 to 0 to close the public hearing.

Mayor Walkup asked the City Clerk to read 10833 by number and title only.

Ordinance No. 10833 relating to Neighborhood Preservation; amending Section 16 of the Tucson Code, the "Neighborhood Preservation Ordinance"; amending Definitions; amending Building Interior Provisions; amending Building Exterior Provisions; amending Exterior and Vacant Land Provisions; amending Outdoor Storage Provisions; amending Graffiti Prevention, Prohibition Provisions; by amending Chapter 16, Sections 16-3, 16-11, 16-12, 16-13, 16-30 and 16-61; and declaring an emergency.

It was moved by Vice Mayor Scott, duly seconded, to pass and adopt Ordinance 10833.

Council Member Romero asked if the motion included the directive to for staff to meet with Ms. Dolan to look at her concerns.

Mr. Elias relied that staff would follow up with Mr. Dolan.

Ordinance 10833 was passed and adopted by a roll call vote of 7 to 0.

11. CITY MAGISTRATES: APPOINTMENT OF MICHAEL LEX AS A CITY MAGISTRATE

Mayor Walkup announced City Manager's communication number 373, dated August 4, 2010, was received into and made part of the record. He asked the City Clerk to read Ordinance 10828 by number and title only.

Ordinance No. 10828 relating to City Magistrates; appointing Michael Lex as City Magistrate of the City of Tucson; fixing compensation; and declaring an emergency.

It was moved by Council Member Fimbres, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopt Ordinance 10828 appointing Michael Lex as City Magistrate.

12. WATER: ADOPTION OF TUCSON WATER SERVICE AREA POLICY

Mayor Walkup announced City Manager's communication number 379, dated August 4, 2010, was received into and made part of the record. He asked the City Clerk to read Resolution 21602 by number and title only.

Resolution No. 21602 relating to Water; adopting the Tucson Water Service Area Policy; and declaring an emergency.

It was moved by Council Member Uhlich, duly seconded, to pass and adopt Resolution 21602, and delete language in Section 1.A.4.B to adjust the Water Service Area Map to place the parcels into the "Non-Expansion Area" as described in Section 3(A).

Council Member Uhlich commented on a modification that related back to action taken by the Council associated with the Tucson Mountain parcels. She said she wanted to make sure the Mayor and Council had guidance from the City Attorney and asked for clarification from staff that if those parcels were left in the map, it meant that specific action, on a case by case basis, would be taken by the Mayor and Council and be more in keeping with the Council's direction of thirty days ago to allow that the parcels not be included in the map. She added the appeal process would be available, initiated by the property owners rather than presuming individual action. She asked if that was correct.

Jeff Biggs, Tucson Water Department Director, replied that was correct.

Additional comments were made by Council Member Uhlich with regards to water service planning, demand driven service, and correspondence received on the City's process allowing for annexation and how that linked to this policy. She asked staff to address those concerns.

Christopher Avery, Interim Tucson Water Deputy Director, addressed a couple of concerns that were raised about not being sufficiently flexible; the standard form for pre-annexation agreement currently had on and the policy as noticed in section 1.J of the Resolution. He made reference to the Science and Technology Park Annexation and the process used and also commented about exemptions available to the Mayor and Council to alter the policy at any time or to authorize exemptions to the Water Service Policy, which he referred to as economic development incentives.

Vice Mayor Scott referred to a letter from the Metropolitan Pima Alliance (MPA), where they spoke about concerns that the City needed to honor commitments made. She asked staff if there were any projects in the pipeline that were affected by this policy.

Mr. Avery replied that the language led to two different conclusions. He said if the intent of the language was to say that once a commitment was issued to provide service, the commitment was forever binding, and therefore the City should move forward; it was a different point than if the City lived up to the commitment made at the time. He said that a decade ago, the City's water assurance letter had language that basically said commitments outlined in the letter were good for only one year. The agreement has since been revised to make it specifically clear that the water assurance letter expired within a year's time, and action was required in order to make that commitment; basically fulfill the filing of a Master Plan with Tucson Water for infrastructure.

Mr. Avery commented further that all of the water assurance letters put out by Tucson Water had a one-year expiration. He said he thought those commitments had expired, been continued, or had reached some kind of impasse and were dealt with on a case by case basis. He stated that there might be some exceptions but it was his opinion that Tucson Water had dealt with those and had lived up to the commitments made in the past and intended to honor them as they went forward. Any letters, from twenty to thirty years ago, that did not have the one year expiration were rare.

Mr. Avery said he felt Tucson Water could comply with what he thought was the spirit of MPA's letter to live up to actual commitments made. He stated, to expand that to areas that Tucson Water did not commit to was a different story and one he could not respond to.

Vice Mayor Scott asked questions pertaining to projects outside the city limits, and asked if a modification of the water service area policy could be done.

Mr. Avery answered affirmatively stating there was an exception to the policy written into the Resolution. It was intended so that the City did not get into a place where they were not be able to benefit the region the way they wanted to. On the other hand, he said it was important that the policy have some clear lines so people could move forward and know what the rules were. Also, he said it was important that when policies changed, the Council encompassed the idea of grand-fathering pre-existing commitments, and that they live up to those commitments made before the policy changed.

Council Member Cunningham asked for clarification to be sure he understood the action the Council was taking.

Mr. Avery said what was talked about in the Resolution was that it would be done either by Resolution, Ordinance or an intergovernmental agreement, that authorized Tucson Water staff to provide water to a particular large scale economic development opportunity outside the City of Tucson.

Council Member Romero expressed her concerns and asked staff to work with landowners and developers to make sure they were moving in the direction to have a successful partnership. She said they did not want to lose the opportunity of annexation coming into the City.

Council Member Kozachik asked for clarification on the revision to the original motion, and how the revision would affect the ongoing Painted Hills negotiations.

Michael Rankin, City Attorney, replied that the amendment did not affect Painted Hills. He said the deletion, through the amendment, did not delete the reference to Painted Hills, which remained as presented in the Resolution.

Resolution 21602 with the deletion of language in section 1.A.4.B, to adjust the Water Service Area Map to place the parcels into the "Non-Expansion Area" as described in Section 3(A), was passed and adopted by a roll call vote of 7 to 0.

13. ZONING: (C9-06-16) WEINBERG - MARY ANN CLEVELAND WAY, MH-1 TO R-2 (R-1 ORDINANCED), CHANGE OF CONDITION AND PRELIMINARY DEVELOPMENT PLAN, ORDINANCE ADOPTION

Mayor Walkup announced City Manager's communication number 370, dated August 4, 2010, was received into and made part of the record. He asked the City Clerk to read Ordinance 10831 by number and title only.

Ordinance No. 10831 relating to zoning: amending Ordinance 10614 amending the rezoning conditions for the area located south of Mary Ann Cleveland Way, approximately one mile east of Houghton Road in Case C9-06-16, Weinberg - Mary Ann Cleveland Way, MH-1 to R-1; and setting an effective date.

It was moved by Vice Mayor Scott, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopt Ordinance 10831.

14. ECONOMIC DEVELOPMENT: DESIGNATING THE CITY OF TUCSON EMPOWERMENT ZONE AS A CITY OF TUCSON RECOVERY ZONE

Mayor Walkup announced City Manager's communication number 384, dated August 4, 2010, was received into and made part of the record. He asked the City Clerk to read Resolution 21607 by number and title only.

Resolution No. 21607 relating to Economic Development; designating the City of Tucson Empowerment Zone as a City of Tucson Recovery Zone; and declaring an emergency.

It was moved by Council Member Romero, duly seconded, to pass and adopt Resolution 21607.

Council Member Romero expressed her concerns regarding the empowerment zone stating that it eliminated a lot of areas that had high home foreclosures, unemployment, general distress and significant poverty. She asked if the recovery zone map had to be the empowerment zone, or if it could be extended.

Michael Rankin, City Attorney, commented on the eligibility requirements for the designation as a recovery zone, which was an area designated as having significant poverty and unemployment rate of home foreclosures or general distress, or an area for which a prior empowerment zone was established as of February 17, 2009. He said what the Mayor and Council were proceeding with, at the evening's meeting, fell under the second category; an area previously designated as an empowerment zone, even though it had expired, but was eligible because it was in place as of the eligibility date. He said the Mayor and Council could proceed with the Resolution as crafted, and if there was a desire to designate a broader zone, the item could be brought back.

Council Member Romero asked if the Resolution could be amended at a later date to include other areas.

Sean McBride, Assistant City Manager, replied that the approval of the Resolution was a pre-emptive strike. They did not have legislative approval or availability of funding the recovery zone. He said it was anticipated that there would be state funding relief in the program, but it had not been fully utilized. They wanted to enact the designation in anticipation of the legislation, so that the funding was available as soon as possible due to the timeframe. He stated it did not limit the City from going through a process to expand it in the future and there was federal legislation considering this and expanding and extending the program, which was a perfect opportunity to look at that once they saw that they were eligible to expand the other zones.

Comments were made by Council Member Kozachik about the timeline being of the essence, because the expiration was the end of the year. It was suggested that if they wished to expand it, they should identify them now and get the bonds moving.

Resolution 21607 was passed and adopted by a roll call vote of 7 to 0.

15. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Walkup announced City Manager's communication number 377, dated August 4, 2010, was received into and made part of the record. He asked for a motion to approve the appointments in the report.

It was moved by Council Member Romero, duly seconded and carried by a voice vote of 7 to 0, to approve the appointments of Brian Wong to the Citizens' Water Advisory Committee (CWAC); John Brown to the Climate Change Committee (CCC); Michael Chihak to the El Presidio Historic Zone Advisory Board (EPHZAB); Carianne Funicelli Campbell and Pepper Provenzano to the Landscape Advisory Committee (LAC); Anita Carol Fonte to the Metropolitan Housing Commission (MHC); Sandra Fimbres and Yolanda D. Herrera to the Pima County-Tucson Commission on Addiction, Prevention and Treatment (CAPT); and Daniel Hernandez to the Tucson Commission on Gay, Lesbian, Bisexual and Transgender Issues (GLBT); and the reappointment of Bill Burnett to the Pima County-Tucson Commission on Addiction, Prevention and Treatment (CAPT).

Mayor Walkup asked if there were any personal appointments to be made.

Council Member Cunningham announced his personal appointments of Suzanne Elefante to the Citizen Police Advisory Review Board (CPARB); and Brandon Lui to the Small, Minority, and Women-Owned Business Commission (SMWBC).

Vice Mayor Scott announced her personal appointment of Chloe Forsman to the Tucson-Pima County Bicycle Advisory Committee (TPCBAC).

16. ADJOURNMENT: 8:14 p.m.

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council would be held on Wednesday, September 8, 2010 at 5:30 p.m., in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.

MAYOR

ATTEST:

CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 4th day of August 2010, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

RWR:sac:ccs