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## Minutes of MAYOR AND COUNCIL Meeting

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Approved by Mayor and Council  
on December 14, 2010.

Date of Meeting: September 8, 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 5:39 p.m., on Wednesday, September 8, 2010, all members having been notified of the time and place thereof.

### 1. ROLL CALL

The meeting was called to order by Mayor Walkup 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

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 Kyle Thompson, City Clerk's Office, after which the Pledge of Allegiance was presented by the entire assembly.

- a. Mayor Walkup proclaimed September 2010 to be "Emergency Preparedness Month." Pat Quinn, Deputy Chief with City of Tucson's Office of Emergency Management - Homeland Security, accepted the proclamation.
- b. Mayor Walkup presented proceeds from the City of Tucson Employees Golf Tournament to the clothing banks of the Tucson Unified School District, Sunnyside Unified School District, Amphitheater Public Schools and the Flowing Wells Unified School District.

## **3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS**

Mayor Walkup announced City Manager's communication number 387, dated September 8, 2010, was received into and made part of the record. He 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 three events; the performance of "Coming in Hot" at Pima Community College West Campus, the Sunnyside Neighborhood's International Literacy Day and the Ward 1 Town Hall on the Core Tax. She also reported on the Pima Area Labor Federation's Annual Labor Day Picnic.
- b. Council Member Cunningham invited the public to the Ward 2 Town Hall on the Core Tax and proposed Charter Changes. He reported on an Inaugural Legislature held for Ward 2 neighborhood leaders, and also reminded everyone to be extra cautious on the road now that school was back in session.
- c. Council Member Uhlich invited the public to attend the annual Rillito River Project's "Bat Night."
- d. Vice Mayor Scott invited the public to attend a Ward 4 cleanup at the Eric Hite Memorial.
- e. Council Member Fimbres invited the public to attend the Tucson "Freedom Walk" sponsored by Operation Home Front.
- f. Council Member Kozachik reminded the public about the "Second Saturdays" event and also announced the Ward 6 Town Hall on the Core Tax and proposed Charter Changes.

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

Mayor Walkup announced City Manager’s communication number 388, dated September 8, 2010, was received into and made part of the record. He also announced this was the time scheduled to allow the City Manager to report on current events, and asked for that report.

Mike Letcher, City Manager, commended Roger W. Randolph, City Clerk, and his staff for the implementation SIRE, the new program being used to help put the agenda packets together for the Mayor and Council meetings.

**5. LIQUOR LICENSE APPLICATIONS**

Mayor Walkup announced City Manager’s communication number 412, dated September 8, 2010, was received into and made part of the record. He asked the City Clerk to read the Liquor License Agenda.

b. Liquor License Application(s)

New License(s)

1. Mandarin Buffet, Ward 5  
5005 S. Campbell Ave.  
Applicant: Mei Yun Wu  
Series 12, City 43-10  
Action must be taken by: September 5, 2010

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

Public Opinion: Written Argument Opposed Filed

This item was considered separately.

2. Great Wall of China Restaurant, Ward 4  
2445 S. Craycroft Rd.  
Applicant: Anna Kuang-Mei Liu  
Series 12, City 45-10  
Action must be taken by: September 3, 2010

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

3. Baskets Just For You, Ward 1  
1931 W. Grant Rd. #320  
Applicant: Myra Harmon Fairchild  
Series 10, City 48-10  
Action must be taken by: September 10, 2010

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

4. Downtown Kitchen + Cocktails, Ward 6  
135 S. 6th Ave.  
Applicant: John Steven Wilder  
Series 12, City 55-10  
Action must be taken by: October 4, 2010

Public Opinion: Written Argument In Favor Filed

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)

5. Great Wall of China Restaurant, Ward 4  
2445 S. Craycroft Rd.  
Applicant: Anna Kuang-Mei Liu  
Series 6, City 46-10  
Action must be taken by: September 3, 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)

6. Axis Food Mart, Ward 5  
1540 E. Broadway Blvd.  
Applicant: Maen Fahed Mdanat  
Series 9, City 47-10  
Action must be taken by: September 6, 2010

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

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

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)

This item was considered separately.

c. Special Event(s)

1. Tucson Breakfast Lions Club, Ward 5  
4823 S. 6th Ave.  
Applicant: Wayne Francis Locke  
City T56-10  
Date of Event: September 24, 2010 - September 25, 2010  
(Fundraiser)

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

2. Coyote TaskForce, Inc., Ward 6  
54 E. Pennington St.  
Applicant: Debra Tingley  
City T57-10  
Date of Event: October 2, 2010  
(Gallery Art Show at Cafe 54)

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

3. Tucson Museum of Art, Ward 1  
140 N. Main Ave.  
Applicant: Amanda Ivy Reed  
City T58-10  
Date of Event: October 29, 2010

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

4. St. Demetrios Greek Orthodox Church, Ward 3  
1145 E. Fort Lowell Rd.  
Applicant: George A. Makris  
City T59-10  
Date of Event: September 23, 2010 - September 26, 2010  
(Fundraising)

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

5. The University of Arizona Alumni Association, Ward 6  
1303 E. University Blvd.  
Applicant: Christopher James Vlahos  
City T62-10  
Date of Event: October 23, 2010  
(The University of Arizona Homecoming 2010)

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

6. Tucson Botanical Gardens, Ward 6  
2150 N. Alvernon Way  
Applicant: Colleen J. LaFleur Yock  
City T63-10  
Date of Event: September 16, 2010  
(Fundraising Event - Twilight Thursdays Artist Reception)

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

7. St. Margaret Mary Parish, Ward 1  
801 N. Grande Ave.  
Applicant: Federico T. Valdenegro  
City T64-10  
Date of Event: October 8, 2010 - October 10, 2010  
(Annual Parish Fiesta)

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

Public Opinion: Written Argument In Favor Filed

8. Our Lady Queen of All Saints Roman Catholic Church, Ward 5  
2915 E. 36th St.  
Applicant: Darlene Dooley  
City T66-10  
Date of Event: September 24, 2010 - September 25, 2010  
(Fundraiser for Church)

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

9. Child & Family Resources, Ward 6  
2800 E. Broadway Blvd.  
Applicant: Richard James Poyner  
City T67-10  
Date of Event: November 6, 2010  
(Fundraiser)

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

10. Tucson Botanical Gardens, Ward 6  
2150 N. Alvernon Way  
Applicant: Colleen J. LaFleur Yock  
City T68-10  
Date of Event: October 10, 2010  
(Fundraising Event - A Butterfly Affaire)

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

11. Our Mother of Sorrows, Ward 4  
1800 S. Kolb Rd.  
Applicant: Brenda Carrillo  
City T69-10  
Date of Event: October 8, 2010 - October 10, 2010  
(Annual Parish Fiesta)

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

12. Arizona Theatre Company, Ward 6  
330 S. Scott Ave.  
Applicant: Mae Krueger  
City T71-10  
Date of Event: September 25, 2010  
(Fundraising)

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

13. Knights of Columbus Council #12696, Ward 2  
8800 E. 22nd St.  
Applicant: William Dean Woodruff  
City T75-10  
Date of Event: September 24, 2010  
(Fundraiser/St. Augustine Catholic High School)

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

d. Agent Change/Acquisition of Control/Restructure

1. Seoul Kitchen Corporation, Ward 2  
4951 E. Grant Rd. #115  
Applicant: Yeon Suk Choi  
Series 12, City AC10-10  
Action must be taken by: September 3, 2010

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

2. Pinnacle Peak Patio, Ward 2  
6541 E. Tanque Verde Rd.  
Applicant: Daniel Moore Bates  
Series 12, City AC11-10  
Action must be taken by: September 5, 2010

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

3. Pinnacle Peak Patio, Ward 2  
6541 E. Tanque Verde Rd.  
Applicant: Daniel Moore Bates  
Series 7, City AC12-10  
Action must be taken by: September 5, 2010

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

NOTE: The local governing body of the city, town or county may protest the acquisition of control within sixty days based on the capability, reliability and qualification of the person acquiring control. (A.R.S. Section 4-203.F)

It was moved by Council Member Romero, duly seconded and carried by a voice vote of 7 to 0, to forward liquor license applications 5b2 through 5b5, 5c1 through 5c13, and 5d1 through 5d3 to the Arizona State Liquor Board with a recommendation for approval.

## 5. LIQUOR LICENSE APPLICATIONS

- b. Liquor License Application(s)

New License(s)

1. Mandarin Buffet, Ward 5  
5005 S. Campbell Ave.  
Applicant: Mei Yun Wu  
Series 12, City 43-10  
Action must be taken by: September 5, 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 5b1, Mandarin Buffet, located in Ward 5.

Council Member Fimbres asked if the applicant was present and asked that they come forward.

Mei Yun Wu, assisted by a translator, stated they operated a restaurant and mostly sold food instead of liquor. She said their operating hours were everyday until 10:00 p.m.

Council Member Fimbres asked if anyone was present in opposition to the liquor license application. There was no one.



It was moved by Council Member Fimbres, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license application 5b1, Mandarin Buffet, to the Arizona State Liquor Board with a recommendation for approval.

**5. LIQUOR LICENSE APPLICATIONS**

b. Liquor License Application(s)

New License(s)

- 6. Axis Food Mart, Ward 5  
1540 E. Broadway Blvd.  
Applicant: Maen Fahed Mdanat  
Series 9, City 47-10  
Action must be taken by: September 6, 2010

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

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

Roger W. Randolph, City Clerk, announced the final item to be considered separately was Item 5b6, Axis Food Mart, located in Ward 5.

Council Member Fimbres asked the applicant to come forward and speak on their behalf.

Maen Fahed Mdanat, the applicant, stated he applied for a Series 9 liquor license. He said they had one written argument opposed to the license, but had many letters and signatures in support. He added that they needed a Series 9 license to keep the business going at that location.

Council Member Fimbres asked if there was anyone present who wished to speak in opposition to the liquor license application. Hearing no one, he commented that there were thirteen letters from neighbors and businesses, along with a petition with three hundred fifteen signatures in support of the liquor license application.

It was moved by Council Member Fimbres, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license application 5b6, Axis Food Mart, to the Arizona State Liquor Board with a recommendation for approval.

**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.

Mayor Walkup also announced that pursuant to the Arizona Open Meeting Law, individual Council Members may ask the City Manager to review the matter, ask that the matter be placed on a future agenda, or respond to criticism made by speakers. However, the Mayor and Council may not discuss or take legal action on matters raised during “call to the audience.”

- a. Andy Marshall, Principal Executive Officer of Teamsters Local 104, spoke in support of negotiations and the contract with the Regional Transportation Authority.
- b. Gene Hildreth spoke in opposition to the proposed tax increase and Proposition 400.
- c. Lisa Horner, Acting Executive Director of Access Tucson, spoke about the mission of Access Tucson and was opposed to the merger between Arizona Public Media and Tucson Cable 12.
- d. Diana Rey-McGrew spoke in support of Access Tucson.
- e. Brian Ortega, Pueblo High School (PHS) student and current news director for the PHS *Warrior News*, spoke about the valuable resources Access Tucson provided to youth in the community.
- f. Jesse Lugo spoke about the Core Tax and Permanent Override Review Committee (CTPORC) meetings as they were listed on the City’s website, and the need for a call to the audience during those meetings.
- g. Mikki Niemi spoke about his concerns with the proposed tax increase, and gave suggestions on how to balance the budget.
- h. Carl Fiske spoke in support of Access Tucson.
- i. Glenn McCreedy, Breakaway Media Consultant, spoke in support of Access Tucson, and the important role they had in education.
- j. Raquel Baranow spoke in support of Access Tucson.
- k. Libby Hubbard spoke about the importance of public access and Access Tucson.

**7. CONSENT AGENDA – ITEMS A THROUGH N**

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. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY DEPARTMENT OF ELECTIONS TO PLACE TWO BALLOT QUESTIONS ON THE NOVEMBER 2, 2010 SPECIAL ELECTION

1. Report from City Manager SEP8-10-389 CITY WIDE
  2. Resolution No. 21609 relating to Elections; approving and authorizing execution of an Intergovernmental Agreement between the City of Tucson and Pima County for election services provided by the Pima County Division of Elections for the City's November 2, 2010 Special Election; and declaring an emergency.
- b. FINAL PLAT: (S09-081) QUIKTRIP #1470 BLOCKS 1 TO 4
1. Report from City Manager SEP8-10-390 WARD 1
  2. Staff recommends that the Mayor and Council approve 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.
- c. APPROVAL OF MINUTES OF MAYOR AND COUNCIL MEETING
1. Report from City Manager SEP8-10-393 CITY WIDE
  2. Mayor and Council Regular Meeting Minutes of February 17, 2010 and February 23, 2010.
- d. INTERGOVERNMENTAL AGREEMENT: WITH THE STATE OF ARIZONA FOR THE RESTORATION / REHABILITATION / RESURFACING PROJECT UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009
1. Report from City Manager SEP8-10-395 CITY WIDE
  2. Resolution No. 21610 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between the City of Tucson and the State of Arizona for the American Recovery and Reinvestment Act of 2009 (ARRA 2009) Restoration/Rehabilitation/Resurfacing Project; and declaring an emergency.
- e. INTERGOVERNMENTAL AGREEMENT: WITH THE STATE OF ARIZONA FOR THE TREAT AVENUE PEDESTRIAN BRIDGE AND WALKWAY PROJECT UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009
1. Report from City Manager SEP8-10-398 WARD 6

2. Resolution No. 21611 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between the City of Tucson and the State of Arizona for the American Recovery and Reinvestment Act of 2009 (ARRA 2009) Treat Avenue Pedestrian Bridge and Walkway Project; and declaring an emergency.
- f. **BOARDS, COMMITTEES, AND COMMISSIONS: EXTENDING THE TERM OF SERVICE FOR THE DOWNTOWN LINKS CITIZEN ADVISORY COMMITTEE**
1. Report from City Manager SEP8-10-400 WARDS 1 AND 6
  2. Resolution No. 21612 relating to Boards and Commissions; amending Resolution No. 20171 to extend the term of the Downtown Links Citizen Advisory Committee to August 24, 2012; and declaring an emergency.
- g. **INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH PIMA COUNTY FOR THE URBAN AREA SECURITY INITIATIVE REGIONAL EMERGENCY OPERATIONS CENTER ENHANCEMENT**
1. Report from City Manager SEP8-10-402 CITY WIDE
  2. Resolution No. 21614 relating to Intergovernmental Agreements; authorizing and approving Amendment No. 1 to the Intergovernmental Agreement between Pima County and the City of Tucson for the Tucson Area Urban Area Security Initiative (UASI) Regional Emergency Operations Center (EOC) Enhancement Contract No. 01-01-T-142132-0707; and declaring an emergency.
- h. **INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR EARLY VOTING ELECTION SERVICES FOR THE NOVEMBER 2, 2010 SPECIAL ELECTION**
1. Report from City Manager SEP8-10-397 CITY WIDE
  2. Resolution No. 21615 relating to Elections; approving, and authorizing execution of, an Intergovernmental Agreement between the City of Tucson and Pima County relating to support services provided by the Pima County Recorder for the City's November 2, 2010 Special Election; and declaring an emergency.
- i. **TRANSPORTATION: ACQUISITION OF RIGHT-OF-WAY FOR THE TUCSON MODERN STREETCAR PROJECT**

1. Report from City Manager SEP8-10-401 WARDS 1 AND 6
  2. Resolution No. 21616 relating to Transportation; authorizing the City Manager to acquire by negotiation, and the City Attorney to condemn if necessary, certain real property needed as right-of-way for the Tucson Modern Streetcar Project; and declaring an emergency.
- j. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR ANIMAL CARE AND ENFORCEMENT SERVICES
1. Report from City Manager SEP8-10-408 CITY WIDE
  2. Resolution No. 21617 relating to Intergovernmental Agreements; authorizing and approving the fiscal year 2011 Intergovernmental Agreement between the City of Tucson and Pima County for Animal Care and Enforcement Services; and declaring an emergency.

(This item was considered separately at the request of Council Member Kozachik.)

- k. INTERGOVERNMENTAL AGREEMENT: WITH THE STATE OF ARIZONA FOR THE TYNDALL AVENUE BETWEEN 6TH STREET AND UNIVERSITY BOULEVARD PROJECT UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009
1. Report from City Manager SEP8-10-396 WARD 6
  2. Resolution No. 21618 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between the City of Tucson and the State of Arizona for the American Recovery and Reinvestment Act of 2009 (ARRA 2009) for Tyndall Avenue Between Sixth Street and University Boulevard Project; and declaring an emergency.
- l. GRANT APPLICATION: SUBMISSION OF A FEDERAL TRANSIT ADMINISTRATION AMERICAN RECOVERY AND REINVESTMENT ACT/TRANSPORTATION INVESTMENT GENERATING ECONOMIC RECOVERY GRANT
1. Report from City Manager SEP8-10-406 CITY WIDE

2. Resolution No. 21619 relating to Transportation; authorizing and approving the submission of a Federal Transit Administration (FTA) American Recovery and Reinvestment Act (ARRA)/Transportation Investment Generating Economic Recovery (TIGER) Grant Fund Application through Grant #AZ-78-0001; and declaring an emergency.
- m. TUCSON CODE: AMENDING (CHAPTER 19) RELATING TO LIQUOR LICENSE FEE - LIQUOR STORE (SERIES 9) SAMPLING PRIVILEGES
1. Report from City Manager SEP8-10-410 CITY WIDE
  2. Ordinance No. 10836 relating to Liquor License Applications; amending the Tucson Code, Chapter 19, Licenses and Privilege Taxes, Article I, Occupational License Tax, Division 4, Liquor and Vending Machine License Tax, Sec. 19-53, Applications; and declaring an emergency.
- n. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR THE PROVISION OF LIBRARY SERVICES AT THE SOUTH PARK ARTS AND CULTURE CENTER BUILDING
1. Report from City Manager SEP8-10-404 CITY WIDE
  2. Resolution No. 21620 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between the City of Tucson and Pima County regarding the provision of library services at the South Park Arts and Culture Center Building, and declaring an emergency.

It was moved by Council Member Cunningham, duly seconded, and carried by a roll call vote of 7 to 0, that Consent Agenda Items a - n, with the exception of Item j, which was considered separately, be passed and adopted and the proper action taken.

## 7. CONSENT AGENDA – ITEM J

- j. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR ANIMAL CARE AND ENFORCEMENT SERVICES
1. Report from City Manager SEP8-10-408 CITY WIDE
  2. Resolution No. 21617 relating to Intergovernmental Agreements; authorizing and approving the fiscal year 2011 Intergovernmental Agreement between the City of Tucson and Pima County for Animal Care and Enforcement Services; and declaring an emergency.

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

Council Member Kozachik asked about the difference between the proposed Fiscal Year 2011 budget and what the Intergovernmental Agreement (IGA) asked for. He referred to Exhibit A of the IGA. He said the proposed Fiscal Year 2011 budget was \$1.4 million, and on page four, the projection of the IGA was \$1.9 million. He commented that when comparing the two numbers, there was shortage of one half a million dollars already built into the IGA. He asked the City Manager if the actual budget being proposed was the \$1.9 million or the \$1.4 million as shown in the Mayor and Council materials. He said more importantly, in reading through the IGA, he did not see any incentives for either Pima County or Pima Animal Care Center to control their own costs.

Mike Letcher, City Manager, replied he had to confirm with Marie Nemerguth, Budget and Internal Audit Program Director, if in fact it was \$1.4 million, because all he heard was \$1.9 million amount that was in the IGA. He suggested that the Mayor and Council continue with the next agenda item to allow him time to contact Ms. Nemerguth and then they could revisit the item.

(Note: Item j was continued and discussed after Item 13.)

**8. PUBLIC HEARING: MANZO NEIGHBORHOOD PLAN (PA-10-02)  
NORTHEAST CORNER SILVERBELL ROAD AND ST. MARY'S ROAD –  
NEIGHBORHOOD COMMERCIAL**

Mayor Walkup announced City Manager's communication number 399, dated September 8, 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 revision to the *Manzo Neighborhood Plan*. He said the public hearing was scheduled to last for no more than one hour and speakers were limited to five-minute presentations.

Mayor Walkup asked if there was anyone wishing to be heard on this item. Hearing no one, he asked for a motion to close the public hearing.

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 Resolution 21613 by number and title only.

Resolution No. 21613 relating to planning and zoning; amending the *Manzo Neighborhood Plan*.

Council Member Romero thanked Carondelet for being active and fostering a positive working relationship with the surrounding neighborhoods. She recognized Keri Sylvyn,

representing Carondelet, and asked her to address the neighborhood's concerns regarding rezoning after the Land Use Plan amendment was approved.

Keri Silvyn, Carondelet and Evergreen Devco representative, replied they had been in close contact with the neighborhoods. Their plan was to rezone the entire parcel, which had both the Walgreens and an eight thousand square foot building, which would be retained by Carondelet to C-1, with the intention of the eight thousand square foot building most likely being medical offices. She said they were committed to and would continue to work with the neighborhoods' concerns on the appropriate zoning and restrictions.

It was moved by Council Member Romero, duly seconded, and carried by a roll call vote of 7 to 0, to pass and adopt Resolution 21613.

**9. PUBLIC HEARING: ZONING (C9-96-08) CUNNINGHAM – FREMONT AVENUE, R-2 TO C-2 ZONING, ORDINANCE ADOPTION, CHANGE OF CONDITIONS AND PRELIMINARY DEVELOPMENT PLAN**

Mayor Walkup announced City Manager's communication number 411, dated September 8, 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 request for change of conditions and preliminary development plan for property located on the northwest corner of East Twenty Second Street and Fremont Avenue. He said the public hearing was scheduled to last no more than one hour and speakers were limited to five minute presentations.

Jeff Stanley, Project Engineer, said they were in agreement with the change of conditions and was available to answer any questions the Mayor and Council had.

Mayor Walkup asked if there was anyone else in the audience wishing to be heard 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 10837 by number and title only.

Ordinance No. 10837 relating to zoning: amending Ordinance No. 8752 to amend zoning conditions and preliminary development plan for approval of the zoning district boundaries in the area located on the north side of East 22<sup>nd</sup> Street, 200 feet east of South Park Avenue in Case C9-96-08, Cunningham – Fremont Avenue, C-2 zoning; and declaring an emergency.

It was moved by Council Member Fimbres, duly seconded, and carried by a roll call vote of 7 to 0, to pass and adopt Ordinance 10837.



**10. PUBLIC HEARING: FEDERAL TRANSIT ADMINISTRATION GRANT APPLICATION UNDER THE SURFACE TRANSPORTATION PROGRAM FOR FEDERAL FISCAL YEAR 2010**

Mayor Walkup announced City Manager's communication number 405, dated September 8, 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 grant submission of a Federal Transit Administration Surface Transportation Program Fund Capital Grant Application for Federal Fiscal Year 2010. He said before beginning the public hearing staff wanted to make a brief statement.

Jim Glock, Transportation Department Director, reported that the grant application allowed the Transportation Department to access two million, nine hundred ninety seven thousand dollars, which could be utilized to purchase seven replacement buses. Their current fleet had over sixty busses that met the Federal Transit Administration's eligibility criteria for replacement.

Mayor Walkup announced the public hearing was scheduled to last for no more than one hour and speakers were limited to five-minute presentations. He asked if there was anyone in the audience wishing to be heard 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 Resolution 21621 by number and title only.

Resolution No. 21621 relating to Transportation; authorizing and approving the submission of a Federal Transit Administration (FTA) Surface Transportation Program (STP) Fund Capital Grant Application for Federal Fiscal Year 2010, through Grant AZ-95-X012; and declaring an emergency.

It was moved by Vice Mayor Scott, duly seconded, to pass and adopt Resolution 21621.

Mayor Walkup asked if there was any discussion.

Council Member Uhlich asked if the buses would be compressed natural gas and what other benefits they had that reduced maintenance costs.

Mr. Glock replied that, most likely, the buses would be low-floor leveled biofueled buses similar to the ones currently being operated in the streets.

Council Member Cunningham asked, for clarification, if any general fund monies would be used to fund the buses or augment any costs and if any of the buses would be articulated or bi-articulated.

Mr. Glock replied that the local match for the buses was coming from the Regional Transportation Authority (RTA). He said this particular series of buses, when put out for bid, will ask the bus manufacturers to give the City a price on standard forty-foot buses with compressed natural gas engine set-up, biofuel, as well as, articulate and bi-articulate features.

Mayor Walkup asked what the status of hybrid buses was in the industry.

Mr. Glock responded that the City had one hybrid bus that was purchased through another grant. He said hybrid buses, at this point in time, were double the cost of a standard bus.

Council Member Kozachik asked whose books the assets would show up on, the City or the RTA

Mr. Glock said he thought the funding sources that purchased the vehicles would be recognized. While titled in the City's assets, it would recognize the RTA's and FTA's interest in the asset.

Council Member Kozachik commented on negotiations with the RTA on the transfer of services and assets stating it was important to ensure that, if those assets were transferred to the RTA's ownership, it not be done until the assets reached a depreciated value of zero so that it did not affect the City's bond rating.

Resolution 21621 was declared passed and adopted by a roll call vote of 7 to 0.

**11. PUBLIC HEARING - RECONSIDERATION OF ORDINANCE 10815 TUCSON CODE - AMENDING (CHAPTER 23) THE *LAND USE CODE*; RELATING TO ZONING COMPLIANCE FOR SITE IMPROVEMENTS IN EXISTENCE ON MAY 1, 2005**

Mayor Walkup announced City Manager's communication number 394, dated September 8, 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* by adding a new section allowing a new use in existing buildings without meeting all current zoning requirements, so long as the new use was permitted under the current zoning of the property and existing improvements were maintained. He said the public hearing was scheduled to last for no more than one hour, and speakers were limited to five-minute presentations.

Ruth Beeker stated she was present to represent those who had similar concerns with the Ordinance and had expressed them via email, attend the Planning Commissions's public hearing, and call to the audience. She commented about having to come back for a second public hearing, stating it was counterproductive. She expressed her views and recommendations for the process.

Tom Warne stated he worked on the Ordinance for approximately two and a half years. He said he worked with small business owners, staff, the *Land Use Code* Committee and stakeholders. He explained that the Ordinance helped small businesses. He also commented that what was previously in place did not work; it was a very expensive process and extremely cumbersome for any small business person to take care of and do.

Jason Wong, member of the *Land Use Code* Committee and stakeholder, stated that with the help of the Planning and Development Services staff, they worked dilligently to craft a workable Ordinance, which took into consideration all concerns and the health and safety of the public. He said the Ordinance created was one that was balanced to allow and encourage the use of vacant buildings that sat unproductive. He urged the Mayor and Council to adopt the Ordinance.

Mayor Walkup asked if there was anyone else in the audience wishing to address the Mayor and Council 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 10835 by number and title only.

Ordinance No. 10835 relating to planning and zoning; amending certain portions of the Land Use Code, Chapter 23, Article V, Administration, Division 3, Special Development Applications, adding Section 5.3.12, Zoning Compliance for Site Improvements in Existence on May 1, 2005; and declaring an emergency.

It was moved by Council Member Fimbres, duly seconded, to pass and adopt Ordinance 10835.

Mayor Walkup asked if there was any discussion.

Council Member Uhlich thanked everyone who commented on the Ordinance. She noted that it was agreed that the impacts of the Ordinance would be reviewed after a year, and felt it would be interesting to document the successes and unintended consequences. She asked staff if they had, in place, some way of identifying and tracking the waivers and the record of the Ordinance so that the impacts could be reviewed.

Ernie Duarte, Planning and Development Services Department (P&DSD) Director, replied that subsequent to the July action on the part of the Mayor and Council, they had received inquiries asking the P&DSD to incorporate different elements into the Certificate of Occupancy (C of O) tracking, so they could see the affects of the C of O. In particular, they were looking at job creation, business development, and whether or not they were looking at national companies moving into the buildings versus local companies. They wanted to find out what the financial impacts would be of the new

businesses moving in. He stated they were able to tweak their database to be able to capture that information, and they were committed to continuing the C of O stakeholder dialogue to be able to report out to the community the affects of the changes prior to consideration by the Mayor and Council.

Ordinance 10835 was declared passed and adopted by a roll call vote of 7 to 0.

**12. ZONING: (C9-09-14) BMC TUCSON PARKING – VENICE AVENUE, R-2 TO P, CITY MANAGER'S REPORT, DIRECT ORDINANCE ADOPTION**

Mayor Walkup announced City Manager's communication number 391, dated September 8, 2010, and the report from the Zoning Examiner were received into and made part of the record. He also announced this was a request to rezone the property located at the northwest corner of Bellevue Street and Venice Avenue. The Zoning Examiner and staff recommend approval subject to certain conditions. He asked if the applicant or representative were present and if they were agreeable to the proposed conditions.

Michael Schooler, Applicant, said they were agreeable to the proposed conditions. He said in addition to the conditions, they received a letter from the neighbor to the east who withdrew his protest, subject to the driveway relocation, which was described in the Mayor and Council materials, as well as, the revision to the change in the plan materials.

Mayor Walkup asked the City Clerk to read Ordinance 10834 by number and title only.

Ordinance No. 10834 relating to zoning: amending zoning district boundaries in the area located at the northwest corner of Bellevue Street and Venice Avenue, north of Speedway in Case C9-09-14, BMC Tucson Parking – Venice Avenue, R-2 to P; and setting an effective date.

Roger W. Randolph, City Clerk, stated the item required a three-quarter majority vote.

Council Member Kozachik commented on discussions he had with the Brown-Mackie representatives and the neighborhood. He said Brown Mackie addressed the neighborhood's concerns and received the approval of both the City Manager and the Zoning Examiner.

It was moved by Council Member Kozachik, duly seconded, and carried by a roll call vote of 7 to 0, to pass and adopt Ordinance 10834.

### 13. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Walkup announced City Manager's communication number 409, dated September 8, 2010, was received into and made part of the record. He asked if there were any personal appointments to be made.

Council Member Fimbres announced his personal appointment of Ellen Rauch to the Environmental Services Advisory Committee (ESAC).

### 7. CONSENT AGENDA – ITEM J

(Note: This item was taken out of order and revisited.)

#### j. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR ANIMAL CARE AND ENFORCEMENT SERVICES

1. Report from City Manager SEP8-10-408 CITY WIDE
2. Resolution No. 21617 relating to Intergovernmental Agreements; authorizing and approving the fiscal year 2011 Intergovernmental Agreement between the City of Tucson and Pima County for Animal Care and Enforcement Services; and declaring an emergency.

Mike Letcher, City Manager, stated the City Attorney would address the \$1.4 million. He reported there was \$1.9 million in the budget, and the one \$1.4 million was a performance measure.

Michael Rankin, City Attorney, explained that the contract amount was the \$1.9 million. He pointed out that the \$1.4 million figure on attachment one, which Council Member Kozachik referred to, was with respect to the enforcement costs category, and explained what it covered. He added it did not include enforcement activities, such as the sheltering, licensing, and education costs. It was just a portion of the overall performance measures.

Council Member Kozachik confirmed that the IGA was for \$1.9 million, and said he was concerned that as the IGA as written, appeared as if the County and Pima Animal Care had a blank check. He said there were no controls written into the contract that caused the County to have to control their own costs. He asked if the County sent the City a bill, at the end of the fiscal year; for \$2.5 million did the City just pay it.

Mr. Rankin replied it was not completely accurate, because the performance measures applied, and the average costs per response, which was their fifty-six dollars and forty one cents, would kick in. Mr. Rankin stated he did not disagree, overall, with the characterization and pointed out that the \$1.9 million figure was the projected cost of the contract, but was trued up at the end of the fiscal year, either to the City's or the County's benefit, based on the levels of services that were actually performed.

Council Member Kozachik asked where the City was in the process of the negotiations of the IGA, and what the City's sense was in the ability to write some additional language into the IGA that would give the City or County more of an incentive to do their own due diligence. Currently there was no language to that affect in the IGA.

Mr. Rankin replied he could not speak for the County, and did not know what their willingness was to renegotiate the way the costs were calculated under the IGA. He said he could devise some language if the Council directed him to. He said it was characteristic of how the IGA had been constructed over the many prior years.

Council Member Kozachik said he understood that, but he wanted to see some language that caused the County to bring to the table some sort of measures that protected the City's interest more at the end of the fiscal year, so that the City was not just approving the bills, stamping invoices, and writing checks.

It was moved by Council Member Kozachik that the IGA not be approved just yet and that staff come back with language that established more control, or some sort of obligation on the part of the County or Pima Animal Care to at least set a ceiling, so that the City knew what they were buying.

Mr. Letcher stated, as mentioned at Study Session, staff audited the costs. It was a fee for service, and was what the County charged. He said the City could make it any number they wanted to, but once the money ran out, the County would stop picking up stray animals, unless the City wanted to run the business themselves. He commented that within the last nine years, the City had negotiated with the County and the County made huge efforts to try and control costs.

Mr. Letcher said he did not mind going back to County, but the only way the City would not pay was to say what they were going to pay, and after that the County would not have to pick up animals in the corporate limit. He said that was the only way costs could be cut.

Council Member Uhlich stated she seconded the motion, and asked if there was a way they could continue the dialogue with Pima County. She commented that the \$1.9 million figure caught her eye, as well, when looking at funding for outside agencies. She said she appreciated what staff was saying, but asked if the ceiling or dollar amount could be finalized as part of the action in early October, and that they try to find some kind of language that included some cost controls.

Council Member Uhlich asked if the contract for the jail service had a ceiling in it. She said she did not mean to implicate the County, in any way, and did not think Council Member Kozachik did either, but she wanted to ensure that when the budget was adopted, that an agreement was reached with the County that recognized there was no more money than what was established in the IGA. She said she encouraged that it be explored as well.

Mr. Rankin said they could explore setting a ceiling and reiterated what the City Manager said. He said looking at the jail IGA, it was another good example in that it was a cost per prisoner per day and putting a ceiling on that would get the same reaction we would get from Pima Animal Care.

Council Member Uhlich suggested including in the IGA some tracking of the use of both facilities; and in the tenth month, if it looked like the ceiling was being reached, there could at least be some dialogue with the County, or some stop gap measure. She asked if the City would pay less, or if there would be a floor set, if the calls were low on both the jail and Pima Animal Care.

Mr. Rankin replied a floor had not been set on the IGA, but if the actual cost, based on the fee per service was lower, the City would be reimbursed under the IGA.

Council Member Uhlich said then the agreement would be something along the lines of monthly tracking, and if it looked like they were tracking toward bumping up against what was budgeted, the City would need to figure something out, but not assume that the City would be able to have the money continue to flow. She asked staff if that was an acceptable approach and if the Mayor and Council could hear more on that from staff in October, having to do with tracking the use of the systems, in an effort to address that with the County proactively before bumping a ceiling.

Mr. Letcher stated there was a provision in the contract on page four that dealt with the payments. The IGA already indicated that within ninety days into the fiscal year, the County had to notify the City of the status. He suggested delaying the item for a week to give staff time to review the contract more closely.

Council Member Romero stated she agreed with Council Member Kozachik that the Mayor and Council needed to budget proactively and put language in those types of contracts to protect the City.

After discussion, the motion was withdrawn and the Mayor and Council agreed to continue the item for one week.

**14. ADJOURNMENT:** 7:22 p.m.

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, September 14, 2010, at 5:30 p.m., in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.

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MAYOR

ATTEST:

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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 8th day of September 2010, and do hereby certify that it is an accurate transcription.

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DEPUTY CITY CLERK

RWR:sac:yl