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## Minutes of MAYOR AND COUNCIL Meeting

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Approved by Mayor and Council  
on January 19, 2011.

Date of Meeting: October 5, 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 5:36 p.m., on Tuesday, October 5, 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
Richard G. Fimbres	Council Member Ward 5
Steve Kozachik	Council Member Ward 6
Robert E. Walkup	Mayor

Absent/Excused:

Shirley C. Scott	Vice Mayor, Council Member Ward 4
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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 Pastor John W. Miller, Northwest Bible Church, after which the Pledge of Allegiance was presented by the entire assembly.

Presentations:

- a. Mayor Walkup, assisted by Council Member Uhlich, proclaimed October 9, 2010, to be “A Celebration of Campbell Plaza’s Fiftieth Anniversary.” Mike Perlman, Senior Vice President of Holualoa Arizona, Inc., an asset manager for the Campbell Plaza ownership, accepted the proclamation.
- b. Mayor Walkup proclaimed October 2010 to be “National Down Syndrome Awareness Month.” James and Jodi Bess, 2010 Buddy Walk Coordinators, accepted the proclamation.
- c. Mayor Walkup proclaimed the month of October to be “Keep Your Family Safe-Stop Gun Violence Month.” Chief of Police, Roberto Villaseñor, accepted the proclamation.

Roger W. Randolph, City Clerk, said before proceeding to Item 3, the City Attorney had an announcement to make.

Michael Rankin, City Attorney, said that Item 9 on the evening’s agenda was for an appeal from the decision of the Sign Code Advisory and Appeals Board (SCAAB), relating to the Nissan Body Shop. He said although a substantial amount of material was provided to the Mayor and Council in their packets, it did not represent the complete record that was provided to the SCAAB.

Mr. Rankin said, based on that, staff had asked that Item 9 be continued for one week, so the record could be presented in its entirety to the Mayor and Council before any deliberation was held and a decision was made. Mr. Rankin said he was making the announcement at the beginning of the meeting in case there was anyone in attendance for that item.

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

Mayor Walkup announced City Manager’s communication number 454, dated October 5, 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 community to contact Watershed Management Group, as they were seeking applications for their Neighborhood Leaders Program. She also invited the public to attend the grand opening of El Pueblo Farmer’s Market and Tucson Meet Yourself.

- b. Council Member Cunningham reported that the Tucson Parks and Recreation Department was hosting their last public meeting on the *Morris K. Udall Park Master Plan*. He also announced several Ward 2 locations where the public could get their flu shots and invited the public to attend the Positive Aging for Women's Conference.
- c. Council Member Uhlich announced that, for Campbell Plaza's Fiftieth Anniversary, she was asked to include something in the time capsule that would be buried at the Plaza until the year 2035. She briefed the public on what she intended to include in the time capsule.
- d. Council Member Fimbres thanked the organizers of the First Annual Hispanic Heritage Awards Luncheon that honored the brave men and women who served their country and also invited the public to attend the Ward 5 Townhall on Proposition 400, the Tucson Pride Parade and the Tucson Pride in the Desert.
- e. Council Member Kozachik announced that Second Saturdays was joining Tucson Meet Yourself and also reported on a fundraiser scheduled for Rialto's Ninetieth Anniversary.

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

Mayor Walkup announced City Manager's communication number 448, dated October 5, 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.

Richard Miranda, Deputy City Manager, reported that Planning and Development Services Department, the Alliance and Construction Trades, and other regional building officials were pleased to announce the initiation of a water heater installation, self-certification pilot program. He thanked all those involved for developing the new program, which safely streamlined the installation of water heaters.

**5. LIQUOR LICENSE APPLICATIONS**

Mayor Walkup announced City Manager's communication number 449, dated October 5, 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. Arizona Beer Express LLC, Ward 5  
730 E. 46th St.  
Applicant: Jason Joseph Baca  
Series 10, City 58-10

Action must be taken by: October 9, 2010

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

Public Opinion: Written Arguments Opposed Filed

This item was considered separately.

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

NOTE: There are no person transfer(s) scheduled for this meeting.

c. Special Event(s)

1. Tucson Fire Fighters Chili Cook-Off, Ward 1  
165 W. Alameda St.  
Applicant: Gerry R. Bowlin  
City T91-10  
Date of Event: November 5, 2010  
(Fundraiser for Adopt-A-Family)

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

2. University of Arizona Navy Reserve Officer Training  
Corps (ROTC), Ward 6  
1303 E. University Blvd.  
Applicant: Andrew Hansen Walter  
City T96-10  
Date of Event: October 30, 2010  
(Recognizing the Navy and Marine Corps Birthday)

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

d. Agent Change/Acquisition of Control

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

It was moved by Council Member Kozachik, duly seconded, and carried by a voice vote of 6 to 0 (Vice Mayor Scott absent/excused), to forward liquor license applications 5c1 and 5c2 to the Arizona State Liquor Board with a recommendation for approval.

## 5. LIQUOR LICENSE APPLICATIONS

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#### New License(s)

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

Public Opinion: Written Arguments Opposed Filed

Roger W. Randolph, City Clerk, announced the item to be considered separately was Item 5b1, Arizona Beer Express LLC, located in Ward 5.

Council Member Fimbres asked if the applicant was present and wanted to speak.

Jason Baca, applicant, said he knew the Mayor and Council received two written arguments in opposition to his liquor license application. One argument was from a church, but said the issue had been cleared up with the Tucson Police Department. The second argument was from the Bravo Park Neighborhood (BPN), whose main concern was about the type of service they would be starting in Tucson. He said they were primarily focusing on home delivery, which was something that had not been done in Tucson.

Mr. Baca said the BPN was concerned about safety, as far as underage drinking. He stated they met with the neighborhoods in the area and assured them that they had taken the steps necessary regarding the laws of Title IV and all their employees had taken liquor management classes.

Jesus Duran, Bravo Park Neighborhood Association President, and Luz Southside Coalition Chair, said they were consistently trying to make their neighborhoods better, safer, cleaner, and a better place for their children to flourish. He said by allowing more establishments (especially a mobile establishment) to sell alcohol in their neighborhoods would just make it harder to regulate. He said it seemed as though they were moving backwards, instead of trying to stabilize. By allowing the license to go forward it was an open avenue for underage drinking. He said too many youth were already drinking, even though the Social Host Ordinance was recently passed because of that concern.

Mr. Duran also added that there was a church congregation less than one hundred feet away from the establishment, which was another good reason for rejection. Mr. Duran

said the license also had a negative impact on all the surrounding neighborhoods, and for those reasons, he urged the Mayor and Council to deny the liquor license application.

It was moved by Council Member Fimbres, duly seconded, to forward liquor license application 5b1 to the Arizona State Liquor Board with a recommendation for denial.

Council Member Fimbres added the applicant failed to demonstrate that public convenience requirements and the best interests of the community was substantially served by the issuance of the license. He said the recommendation was based on the testimony and evidence presented and included the following; 1) saturation, there were thirty-one licenses within a one-mile radius of the license and at least four licenses were on adjacent intersections at Park Avenue/Benson Highway and Ajo areas; 2) the neighborhood residents within a mile radius of the business were not in favor of the license; 3) there was a church group directly next door to the business; and 4) the delivery of liquor to homes was a safety concern not only for the residents, but also to the applicant.

The motion to forward liquor license application 5b1 to the Arizona State Liquor Board with a recommendation for denial was carried by a voice vote of 6 to 0 (Vice Mayor Scott absent/excused).

## **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. Patrick Bunker, Old Spanish Trail Neighborhood Association Vice President and member of the Tucson Firefighters Association, spoke in support of Proposition 400.
- b. Barbara Rallis expressed her concerns about the neglect of dogs and cats. She asked the Mayor and Council to modify current laws to protect animals from neglect.
- c. Joseph Sweeney spoke about his concerns regarding four forms of amnesty, which affect the community.
- d. Roberto Bedoya, Tucson Pima Arts Council Director, spoke about his concerns with outside agency budget cuts.
- e. Caitlin Jensen, retained speaker for Keep Tucson First, spoke in support of Proposition 400.
- f. Ruth Beeker spoke in opposition to Proposition 401. She urged the Mayor and Council to appoint a citizens committee modeled after that used in the budget study.

- g. Shannon Cain gave the seventh installment of her performance piece entitled, *“Tucson, the Novel: An Experiment in Literature and Civil Discourse.”*
- h. Brian Flagg urged everyone to support Proposition 400, which he said was a quality of life issue and would help the poor. He also spoke about his concerns for the Regional Transportation Authority turning new Sun Tran buses into express buses.
- i. Denise Uyehara, Tucson Pima Arts Council, Arts Advocacy Group, urged the Mayor and Council to continue preserving public funding for the arts through the Tucson Pima Arts Council.

Council Member Kozachik, in reference to Brian Flagg’s comments, asked the City Attorney what level of input the City had into how funds were spent for the new buses and how the City could exercise that input most effectively.

Michael Rankin, City Attorney, stated that the Mayor and Council could not engage in discussion about issues brought up during the Call to the Audience, but could direct staff to provide those kinds of answers to the full Mayor and Council by memo or at the next study session.

Council Member Kozachik requested that the City Attorney provide information by memorandum to Mayor and Council regarding his concerns.

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

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. REAL PROPERTY: AUTHORIZATION TO ACQUIRE RIGHT-OF-WAY FOR THE HOUGHTON ROAD CORRIDOR PROJECT BETWEEN VALENCIA ROAD AND I-10
  - 1. Report from City Manager OCT05-10-451 WARD 4
  - 2. Resolution No. 21633 relating to Transportation; authorizing the City Manager to acquire by negotiation, and the City Attorney to condemn if necessary, certain real property from the Arizona State Land Department needed as right-of-way for the Houghton Road Corridor Project between Valencia Road and I-10; and declaring an emergency.
- b. GRANT APPLICATION: TO THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR THE LEAD-BASED PAINT HAZARD CONTROL PROGRAM
  - 1. Report from City Manager OCT05-10-452 CITY WIDE

2. Resolution No. 21634 relating to Housing and Community Development; approving and authorizing the submission of an application for funding to the United States Department of Housing and Urban Development (HUD) for the Lead-Based Paint Hazard Control Program; and declaring an emergency.

c. APPROVAL OF MINUTES

1. Report from City Manager OCT05-10-455 CITY WIDE
2. Mayor and Council Regular Meeting Minutes of April 27, 2010

It was moved by Council Member Romero, duly seconded, and passed by a roll call vote of 6 to 0 (Vice Mayor Scott absent/excused), that Consent Agenda Items a - c be passed and adopted and the proper action taken.

**8. PUBLIC HEARING: TUCSON CODE - AMENDING (CHAPTER 23) THE *LAND USE CODE*; RELATING TO THE DOWNTOWN AREA INFILL INCENTIVE DISTRICT ZONE**

Mayor Walkup announced City Manager's communication number 456, dated October 5, 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* relating to the Downtown Infill Incentive District. He said before beginning the public hearing, staff wanted to make a brief statement.

Ernie Duarte, Planning and Development Services Department Director, reported that in April 2010, the Mayor and Council directed staff to prepare six *Land Use Code (LUC)* text amendments that created flexibility for infill development. He said the changes became known as the "quick fixes" to the *LUC*, which included the Certificate of Occupancy, extending development review expiration dates, improving parking reductions and loading zone requirements, and establishing an urban overlay district procedure. He said all of them had come forward to the Mayor and Council and had been adopted.

Mr. Duarte stated that the item on the evening's agenda was in regard to the Downtown Infill Incentive District, and it was the last amendment from the group of "quick fixes." The amendment incorporated a sub-district element into the existing Infill Incentive District. The downtown core sub-districts stretched from an area on the west side of the freeway, near the western terminus of the modern streetcar and an area east of the freeway, broadly bordered by the railroad tracks on the north and east, and Cushing Street on the south. The sub-district covered a significant portion of the alignment of the proposed modern streetcar, after it emerges from the Fourth Avenue Underpass to its western terminus. He added the remaining Infill Incentive District was within a newly named Greater Infill Incentive Sub-District that covered the remaining portion of the Infill Incentive District. Mr. Duarte stated its provisions were similar to those adopted in the original Overlay adoption in 2009, with a slightly different set of design criteria.



Mr. Duarte explained that some of the key provisions of the Downtown Core included that; the proposal did not waive, use or height regulations, incorporated flexible design standards in exchange for compliance with pedestrian and transit oriented development; and included transition standards when a proposal adjoined existing residential development. He said still protected historic district buildings from façade changes and demolitions, and the proposal also included an expedited review and approval of thirty working days. He added that during the study session earlier that day, there was a need to incentivize infill development, and the proposal did that.

Mr. Duarte concluded stating the *Land Use Code* Committee and the Planning Commission reviewed the draft Ordinance and recommended its approval. He said there were no written protests received on the item.

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

David Sanders said he had two questions he wanted to ask regarding the sale of medical marijuana. He wanted to know if there was going to be a sliding scale fee for those who did not have a lot of money and if someone did not have a lot of money, and could not afford it, what would be done.

Ruth Beeker spoke in support of the proposed amendment to the *Land Use Code* relating to the Downtown Infill Incentive District. In particular, she said she was pleased that there was a revision of the transition area conditions, stating they were now specific regulations to be followed if a new development was adjacent to a residential area.

David Godlewski, Southern Arizona Home Builders Association (SAHBA) , Government Liaison, spoke in support of the proposed amendment to the *Land Use Code* relating to the Downtown Infill Incentive District. He said he hoped it would lead to additional sales tax revenues the City was dependent on.

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

It was moved by Council Member Uhlich, duly seconded, and carried by a voice vote of 6 to, to close the public hearing.

Mayor Walkup asked the City Clerk to read Ordinance 10841 by number and title only.

Ordinance No. 10841 relating to planning and zoning; amending certain portions of the *Land Use Code*, Chapter 23, Article II, Zones, Division 8, Overlay Zones, Section 2.8.12, Downtown Area Infill Incentive District Zone (IID); and declaring an emergency.

Council Member Fimbres thanked Ernie Duarte, Jim Mazzocco and Adam Smith of the Planning and Development Services Department, as well as Ruth Beeker, Jim Campbell and the LUC Committee for their hard work on the proposal.

It was moved by Council Member Fimbres, duly seconded, that Ordinance 10841 be passed and adopted.

Mayor Walkup asked if there was any discussion.

Council Member Kozachik asked staff if the Ordinance specifically related to modifications to existing structures or if it also incorporated new development.

Mr. Duarte replied it could apply to both new development, as well as re-development.

Council Member Kozachik referred to page three of the handout on the parking item and asked if the residential areas surrounding the IID were incorporated within ParkWise's enforcement zones.

Jim Mazzocco, Planning and Development Services Department Planning Administer, stated this was a provision that was actually in the current parking regulations, at six hundred feet. It was extended in this particular Infill Incentive District. He added that ParkWise patrolled neighborhood streets, but this did not necessarily mean that these parking spaces were going to be in neighborhood streets and could be in a parking lot away from the business.

Council Member Kozachik clarified that the quarter mile perimeter was intended to incorporate surface parking and not necessarily moving into the residential area.

Mr. Mazzocco replied it was meant to be surface parking a quarter mile away from the business.

Council Member Kozachik asked about a couple of references that were made to solid waste collections in the materials received that the issue would be discussed at a future *Land Use Code* Committee meeting. He said in a couple areas in the Ordinance itself, it states, "on-site refuse collection container requirements may be modified."

Council Member Kozachik asked if the language "may be modified" precluded the need for further consideration, or what kinds of discussions did staff envision going forward.

Mr. Mazzocco stated that was not actually a zoning issue; there was a set of regulations called Development Standards that applied to Environmental Services, which were currently being modified. He said what staff was saying was that a person may suggest an alternative way of waste disposal, if approved by Environmental Services.

Council Member Kozachik asked for clarification if staff envisioned the need to tweak the language again given the way it currently read.

Mr. Mazzocco said they did not believe so. Environmental Services spoke to the *Land Use Code* Committee and said they were not quite finished with their Development Standards. He said once they did, the two could merge. Both were aware that staff was trying to do something more flexible in a downtown situation and were trying to accommodate that.

Council Member Kozachik said the reason he asked the first question was because on page ten of the proposed Ordinance, it specifically states “modifications to historic buildings shall compliment the overall context of the historically designated buildings.” He asked if that language also applied to new development, and did that new development have to respect the existing integrity of the urban design and historical context in the surrounding area. He stated he saw nothing he read in the proposed Ordinance that would prevent a sixty-foot tall fast food restaurant from popping up in the middle of downtown.

Mr. Mazzocco replied one of the items that was not regulated in the proposed Ordinance was the height of the zones, so development could happen in the downtown area based on the zoning. However, they had addressed the urban design criteria as to how it related to the streets and any residential property.

Council Member Kozachik said he was not as concerned about the height, as he was about the urban design criteria. He said he saw that language referred to with respect to modifications to historic buildings, but not specifically with respect to how it related to new construction.

Mr. Mazzocco said it related to new construction as well.

Council Member Kozachik asked about the development transitioning to neighborhood and property lines. He wanted to know what kind of protections were drawn into the proposed Ordinance for new construction that would prevent a multi-story structure from going up within two blocks, which was more than thirty feet from some of the existing barrios. He asked if the language in the proposed ordinance spoke to transitioning and stepping down towards existing neighborhoods for new construction as well as existing historical buildings.

Mr. Mazzocco said the regulation was what it said. It was a simple regulation and the intent was that when there was development near residential property, the height of that part of the building nearest the residential property would be of similar size to that residential property. It could become higher as it moves away from the residential property.

Council Member Kozachik asked if it was within thirty feet.

Mr. Mazzocco replied it was. The thirty-feet was picked by the Land Use Committee, reviewed by the Commission and staff, and seemed to be a starting point they felt was comfortable.

Council Member Kozachik asked for confirmation that the Land Use Committee and the Planning Commission would be looking at any new construction to ensure that it respected the step down in transition provisions they envisioned as they moved close to established neighborhoods.

Mr. Mazzocco stated it was an administrative process. If it was not working, the Ordinance would be revisited and had a sunset date on it. If there was a case where there was a problem, it could be brought back to the Mayor and Council and adjusted.

Council Member Kozachik added that presumably it would be brought back before a twenty five-story structure was built next to an established barrio.

Mr. Mazzocco said that could be done.

Ordinance 10841 was passed and adopted by a roll call vote of 6 to 0 (Vice Mayor Scott absent/excused).

**9. APPEAL: (T10SA00237) APPEAL OF THE SIGN CODE ADVISORY AND APPEALS BOARD DECISION - TUCSON NISSAN BODY SHOP, 5102 EAST 22ND STREET (MAYOR AND COUNCIL APPEAL CASE NO. S-10-001)**

Mayor Walkup announced City Manager's communication number 453, dated October 5, 2010, was received into and made part of the record.

Roger W. Randolph, City Clerk, announced this item, as the request of staff, was continued to the meeting of October 13, 2010.

**10. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS**

Mayor Walkup announced City Manager's communication number 450, dated October 5, 2010, was received into and made part of the record. He asked if there were any personal appointments to be made.

There were none.

**11. ADJOURNMENT:** 6:53 p.m.

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council would be held on Wednesday, October 13, 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 5th day of October 2010, and do hereby certify that it is an accurate transcription.

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DEPUTY CITY CLERK

RWR:sac:tl