



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on May 24, 2011.

Date of Meeting: January 19, 2011

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 5:37 p.m., on Wednesday, January 19, 2011, all members having been notified of the time and place thereof.

1. ROLL CALL

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

Present:

Regina Romero	Council Member Ward 1
Paul Cunningham	Council Member Ward 2 (arrived at 5:38 p.m.)
Karin Uhlich	Council Member Ward 3
Shirley C. Scott	Council Member Ward 4
Richard Fimbres	Mayor Pro Tempore, Council Member Ward 5
Steve Kozachik	Council Member Ward 6

Absent/Excused:

Robert E. Walkup	Mayor
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Staff Members Present:

Michael Rankin	City Attorney
Roger W. Randolph	City Clerk
Richard Miranda	Deputy City Manager

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Missionary Cherry Jackson, Church of God in Christ, after which a moment of silence was held for the victims and those injured during the “Congress on Your Corner” event held on January 8, 2011. The Pledge of Allegiance was then led by the entire assembly.

Presentations:

Mayor Pro Tempore Fimbres presented a certificate and award to Fred Gray, Director of the Parks and Recreation Department, from the Commission for Accreditation of Park and Recreation Agencies.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Pro Tempore Fimbres announced City Manager’s communication number 26, dated January 19, 2011, 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 thanked everyone who attended the graffiti abatement event in Ward 1 and the local merchants who donated food and drinks to the participants.
- b. Council Member Cunningham invited the public to attend the 2011 Senior Olympic Festival event at Udall Park.
- c. Council Member Scott reported on Tucson Electric Power’s “Bright Solutions” event at the UA Science and Technology Park, and the ground-breaking ceremony at Lincoln Park for the new softball field complex.
- d. Mayor Pro Tempore Fimbres congratulated Mike Letcher, City Manager, who was the keynote speaker at the Martin Luther King, Jr. (MLK) breakfast. He also reported on several Ward 5 events; a Business Forum, a Town Hall Budget Forum, the State of the Ward address, and a graffiti abatement clean-up event.

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

Mayor Pro Tempore Fimbres announced City Manager’s communication number 27, dated January 19, 2011, 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, announced the passing of a past City employee, Ana Cota-Robles, and expressed his condolences to the family.

Mr. Miranda also acknowledged and commended City and Regional emergency staff/units that responded to the tragic event that occurred on January 8th. Specifically, he acknowledged the City's 911 Communication Dispatchers, the Tucson Fire Department, the Tucson Police Department, and SunTran bus drivers. He also applauded members of the community and all involved for a job well done.

5. LIQUOR LICENSE APPLICATIONS

Mayor Pro Tempore Fimbres announced City Manager's communication number 28, dated January 19, 2011, 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. QuikTrip #1454, Ward 3
2802 N. 1st Ave.
Applicant: Troy Charles DeVos
Series 10, City 119-10
Action must be taken by: January 15, 2011

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

Public Opinion: Written Arguments Opposed Filed

(Continued from the Mayor and Council Meeting of January 11, 2011)

This item was considered separately.

2. 7-Eleven 23347D, Ward 6
3856 E. 5th St.
Applicant: Verna Asutosh Patel
Series 10, City 120-10
Action must be taken by: January 16, 2011

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

(Continued from the Mayor and Council Meeting of January 11, 2011)

3. Hana Tokyo, Ward 1
5435 S. Calle Santa Cruz #185
Applicant: Teresa Cheung
Series 12, City 121-10
Action must be taken by: January 17, 2011

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

(Continued from the Mayor and Council Meeting of January 11, 2011)

4. Don Pedro's Peruvian Bistro, Ward 5
3386 S. 6th Ave. #120 & #130
Applicant: Peter Gonzvar
Series 12, City 122-10
Action must be taken by: January 17, 2011

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

(Continued from the Mayor and Council Meeting of January 11, 2011)
5. Outback Steakhouse 0312, Ward 2
4871 E. Grant Rd.
Applicant: Randy D. Nations
Series 12, City 123-10
Action must be taken by: January 20, 2011

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

(Continued from the Mayor and Council Meeting of January 11, 2011)
6. 1702, Ward 6
1702 E. Speedway Blvd.
Applicant: Eric Lepie
Series 3, City 124-10
Action must be taken by: January 28, 2011

Staff has indicated the applicant is in compliance with city requirements.
7. Le Delice, Ward 2
7245 E. Tanque Verde Rd. #160 - #170
Applicant: Maurice Jean Cochard
Series 12, City 126-10
Action must be taken by: February 4, 2011

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/Location Transfer(s)

8. Vito's Pizza Kitchen, Ward 3
2921 E. Fort Lowell Rd. #101
Applicant: Matthew Angus McKinnon
Series 7, City 83-10
Action must be taken by: November 11, 2010

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

9. Pearson's Pub, Ward 6
1120 S. Wilmot Rd.
Applicant: Adam Jeffry Pearson
Series 6, City 125-10
Action must be taken by: February 3, 2011

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

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)

c. Special Event(s)

1. Integrative Touch for Kids, Ward 2
4455 E. Camp Lowell Dr.
Applicant: Shay Beider
City T122-10
Date of Event: February 5, 2011
(Fundraiser)

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

(Continued from the Mayor and Council Meeting of January 11, 2011)

2. Tucson Museum of Art, Ward 1
140 N. Main Ave.
Applicant: Amanda Ivy Reed
City T123-10
Date of Event: February 11, 2011
(Exhibition Opening Reception)

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

(Continued from the Mayor and Council Meeting of January 11, 2011)

3. Tucson's Young Professionals, Ward 1
140 N. Main Ave.
Applicant: Rachel Davidson
City T124-10
Date of Event: February 4, 2011
(To Promote Community Event Downtown)

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

(Continued from the Mayor and Council Meeting of January 11, 2011)

4. American Hellenic Educational Progressive Association, Ward 3
1145 E. Fort Lowell Rd.
Applicant: Victor Ruboyianes
City T125-10
Date of Event: February 6, 2011
(Super Bowl Party)

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

(Continued from the Mayor and Council Meeting of January 11, 2011)

5. Sonoran Glass Art Academy, Ward 5
6151 S. Tucson Blvd.
Applicant: Karl Taylor
City T126-10
Date of Event: February 4, 2011
(Fundraiser)

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

(Continued from the Mayor and Council Meeting of January 11, 2011)

6. 355 MXG Maintenance Professional of the Year Committee, Ward 6
1303 E. University Blvd.
Applicant: Natalie A. Brockman
City T127-10
Date of Event: February 25, 2011
(Annual Awards Banquet)

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

d. Agent Change/Acquisition of Control

1. Takamatsu Japanese & Korean Restaurant, Ward 6
5532 E. Speedway Blvd.
Applicant: Richard Whun Koga
Series 12, City AC17-10
Action must be taken by: January 28, 2011

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 Uhlich, duly seconded, and carried by a voice vote of 6 to 0 (Mayor Walkup absent/excused), to forward liquor license applications 5b2 through 5b9, 5c1 through 5c6, and 5d1 to the Arizona State Liquor Board with a recommendation for approval.

5. LIQUOR LICENSE APPLICATIONS

b. Liquor License Application(s)

New License(s)

1. QuikTrip #1454, Ward 3
2802 N. 1st Ave.
Applicant: Troy Charles DeVos
Series 10, City 119-10
Action must be taken by: January 15, 2011

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

Public Opinion: Written Arguments Opposed Filed

(Continued from the Mayor and Council Meeting of January 11, 2011)

Roger W. Randolph, City Clerk, announced the item to be considered separately was Item 5b1, QuikTrip #1454, located in Ward 3.

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

Josh Stimpson, representing QuikTrip #1454, said he appreciated the opportunity to speak at the evening's meeting. He said he was a tenured QuikTrip employee, recently relocated to the Tucson Division from the Atlanta Division to pioneer Tucson's newest QuikTrip market. He expressed his gratitude to Council Member Uhlich and her staff for the admirable job of facilitating communication and answering questions throughout the process of the application.

Mr. Stimpson spoke about several aspects of his company pertaining to responsible retailing. He explained that, for fifty years, QuikTrip has been a committed responsible retailer to the communities they served and went to great lengths to continually train their employees on upholding the standards of responsible retailing and identification practices; full-time employee received over ninety hours of hands-on training, secret shoppers were used regularly as a self-check throughout their stores, severe disciplinary actions were taken should an employee fail a secret shopper, and they reinforced their policies and procedures through positive reinforcement such as employees receiving bonuses if secret shoppers were identified.

Mr. Stimpson said, in Arizona, they had over eighty active licenses with an exemplary record with the Arizona Department of Liquor. He said they also try to reach out to neighborhood associations by attending their meeting, but unfortunately, due to scheduling conflicts, they were unable to meet with the Keeling Neighborhood Association (KNA) in November. However, he said, they were able to reach out to Mary Lopez, one of the four initial protesters living adjacent to the site. He said Ms. Lopez was now supportive of their development and their request for a liquor license.

Jane Evans, Keeling Neighborhood Association elected representative, said she was present to protest the proposed beer and wine liquor license by QuikTrip Corporation. She stated that the KNA opposed the liquor license request and stated their reasons why. She said the Mayor and Council's decision would affect over twelve hundred households who struggled to keep their heads above water on many issues. She urged the Mayor and Council to keep their request deep into their hearts and help them work towards a better Tucson.

Council Member Uhlich thanked the speaker and said there were a couple of things she wanted to emphasize. She said she really appreciated QuikTrip, because they were one of the best employers and company to work for. She added it had been noted that they were also a very good employer, because they paid decent wages and was overall a very good and responsible company.

Council Member Uhlich said that Ms. Evans' testimony pointed to the factors that the Mayor and Council were supposed to take into consideration, which was public convenience and saturation in an area. She said when the Mayor and Council offered a "no recommendation" on the previous application, that decision was predicated on the closing of the Circle K and approving Quik Trip's request would add back additional liquor sales in an area that she believed was clearly and demonstrably saturated with liquor sales; an area that was already saturated and had no evidence of the need for the public's convenience to be served with an additional license.

It was moved by Council Member Uhlich, duly seconded, and carried by a voice vote of 6 to 0 (Mayor Walkup absent/excused), to forward liquor license application 5b1 to the Arizona State Liquor Board with a recommendation for denial.

6. CALL TO THE AUDIENCE

Mayor Pro Tempore Fimbres 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, and the call to the audience was scheduled for thirty-minutes.

Mayor Pro Tempore Fimbres 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 the call to the audience.

- a. Mikki Niemi spoke regarding the graffiti abatement event in Ward 1 and also spoke in opposition to public service budget cuts.
- b. Robert Reus spoke in opposition to proposed budget cuts to Access Tucson and in support of the proposed changes to the Tucson City Charter, relating to the City's form of government.

- c. Shannon Cain expressed her thoughts about the tragic shooting that occurred on January 8, 2011. She urged the community to pledge to engage in the democratic process with civility, compassion and respect.
- d. Ken Johnson invited the public to monthly Disabled Veterans events.
- e. Andy Marshall spoke about the City's budget, Labor Council meetings, and affect the SunTran cuts had to their employees and the citizens of Tucson.
- f. Sabrina Jackson, SunTran employee, said she was one of the volunteers that helped with the Memorial, in spite of the possibility of loosing her job due to budget cuts.
- g. Judy Leone spoke in opposition to the proposed SunTran budget cuts.
- h. Susan Brenton, Manufactured Housing Communities of Arizona Executive Director, spoke in opposition to a renter's tax.
- i. Keith VanHeyningen expressed his views on State and local budgets debts.
- j. Anne Stephenson spoke in opposition to the Kolb Road extension, the Regional Transportation Authority (RTA) Plan, and the Morris K. Udall Park Plan.

Council Member Kozachik asked the City Attorney what the public process was for reconsideration of RTA approved projects.

Mike Rankin, City Attorney, said that could not be discussed that during the call to the audience. He said he would follow up by memorandum to the Mayor and Council on the process for reconsidering RTA approved projects.

- k. Connie Transue spoke in opposition to the Kolb Road extension, the RTA Plan, and the Morris K. Udall Park Plan.
- l. Troy Pelaar spoke in opposition to the proposed SunTran budget cuts.
- m. Joseph Sweeney spoke in opposition to illegal youth immigrants attending public schools, and in support of 287(g) funding and SB1070.

7. CONSENT AGENDA – ITEMS A THROUGH L

Mayor Pro Tempore Fimbres 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. APPROVAL OF MINUTES

- 1. Report from City Manager JAN19-11-33 CITY WIDE

2. Mayor and Council Regular Meeting Minutes of October 5, 2010
- b. REAL PROPERTY: CONVEYANCE OF RIGHT -OF- WAY VIA THE PAPER PLAT PROCESS TO PIMA COUNTY FOR PROPERTY LOCATED WITHIN THE 36TH AND MISSION SUBDIVISION
 1. Report from City Manager JAN19-11-31 WARD 1
 2. Ordinance No. 10870 relating to real property; vacating and declaring a portion of City-owned right-of-way located within the 36th & Mission Subdivision to be surplus property; authorizing the conveyance thereof at no cost to Pima County pursuant to the Mayor and Council Paper Plat Policy; and declaring an emergency.
 - c. TUCSON CODE: AMENDING (CHAPTER 10A) RELATING TO THE TUCSON COMMISSION ON DISABILITY ISSUES
 1. Report from City Manager JAN19-11-30 CITY WIDE
 2. Ordinance No. 10871 relating to Boards and Commissions; amending the Tucson Code, Sections 10A-76 (A)-(E) and 10A-77(C) to eliminate the use of the term "handicapped" and replaced with the term "individuals with disabilities" pursuant to the Americans with Disabilities Act of 1990 (ADA) and the ADA Amendments Act of 2008 (42 USC § 12101 et seq.); and declaring an emergency. and Council Regular Meeting Minutes of April 27, 2010
 - d. TUCSON CODE: AMENDING (CHAPTER 10A) RELATING TO THE TUCSON-PIMA COUNTY METROPOLITAN ENERGY COMMISSION
 1. Report from City Manager JAN19-11-32 CITY WIDE
 2. Ordinance No. 10872 relating to the Tucson-Pima County Metropolitan Energy Commission; providing that each member of the Commission appointed by the City shall serve a term of four years; providing for termination of a member's appointment; approving corresponding amendments to the Commission's bylaws by amending Tucson Code Section 10A-110; and declaring an emergency.
 - e. TUCSON CODE: AMENDING (CHAPTER 2) RELATING TO RESIDENCY REQUIREMENTS FOR SPECIFIED CITY OFFICERS AND EMPLOYEES
 1. Report from City Manager JAN19-11-34 CITY WIDE
 2. Ordinance No. 10873 relating to Administration and Civil Service; revising Tucson Code Chapter 2, Article I. to amend residency requirement for certain City officers and employees by limiting requirement to establish residency to persons hired by the City on or after January 1, 2011; by amending Tucson Code Section 2-4; and declaring an emergency.

(This item was continued to the meeting of January 25, 2011.)

f. TUCSON CODE: AMENDING (CHAPTER 21) RELATING TO FIREARMS IN CITY PARKS (CONTINUED FROM THE MEETING OF JANUARY 11, 2011)

1. Report from City Manager JAN19-11-35 CITY WIDE
2. Ordinance No. 10869 relating to parks; amending Tucson Code § 21-3(5)(2); permitting possession of firearms in City parks; and declaring an emergency.

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

g. INTERGOVERNMENTAL AGREEMENT: WITH THE ARIZONA DEPARTMENT OF PUBLIC SAFETY FOR THE ARIZONA VEHICLE THEFT TASK FORCE (CONTINUED FROM THE MEETING OF JANUARY 11, 2011)

1. Report from City Manager JAN19-11-36 CITY WIDE
2. Resolution No. 21677 relating to Intergovernmental Agreements; approving and authorizing execution of an Intergovernmental Agreement between the City of Tucson and the State of Arizona on behalf of the Arizona Department of Public Safety regarding the Arizona Vehicle Theft Task Force; and declaring an emergency.

h. REAL PROPERTY: AUTHORIZATION TO ACQUIRE RIGHT-OF-WAY FOR THE FORT LOWELL ROAD STREET LIGHTING AND SIDEWALK IMPROVEMENT PROJECT ON FIRST AVENUE TO CAMPBELL AVENUE (CONTINUED FROM THE MEETING OF JANUARY 11, 2011)

1. Report from City Manager JAN19-11-37 WARD 3
2. Resolution No. 21678 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 Fort Lowell Road Street Lighting and Sidewalk Improvement Project located along Fort Lowell Road between First Avenue and Campbell Avenue; and declaring an emergency.

i. PARKS AND RECREATION: UPDATING THE MORRIS K. UDALL PARK MASTER PLAN (CONTINUED FROM THE MEETING OF JANUARY 11, 2011)

1. Report from City Manager JAN19-11-38 WARD 2
2. Resolution No. 21679 relating to parks and recreation; updating the Morris K. Udall Park Master Plan; and declaring an emergency.

(This item was continued to a future study session at the request of Council Member Cunningham.)

j. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH THE REGIONAL TRANSPORTATION AUTHORITY FOR THE DOWNTOWN LINKS PROJECT (CONTINUED FROM THE MEETING OF JANUARY 11, 2011)

1. Report from City Manager JAN19-11-39 WARDS 1, 5, AND 6
2. Resolution No. 21680 relating to Intergovernmental Agreements; approving and authorizing execution of Amendment No. 2 to the Intergovernmental Agreement for Transportation Funding between the City of Tucson and the Regional Transportation Authority (RTA) of Pima County for Downtown Links Project; and declaring an emergency.

k. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH THE REGIONAL TRANSPORTATION AUTHORITY FOR IMPROVEMENTS TO BROADWAY BOULEVARD FROM EUCLID AVENUE TO COUNTRY CLUB ROAD (CONTINUED FROM THE MEETING OF JANUARY 11, 2011)

1. Report from City Manager JAN19-11-40 WARDS 5 AND 6
2. Resolution No. 21681 relating to Intergovernmental Agreements; approving and authorizing execution of Amendment No. 2 to the Intergovernmental Agreement between the City of Tucson and the Regional Transportation Authority of Pima County (RTA) for improvements to Broadway Boulevard: Euclid Avenue to Country Club Road; and declaring an emergency.

l. APPROVAL OF MINUTES (CONTINUED FROM THE MEETING OF JANUARY 11, 2011)

1. Report from City Manager JAN19-11-41 CITY WIDE
2. Mayor and Council Regular Meeting Minutes of September 28, 2010

It was moved by Council Member Scott, duly seconded, and passed by a roll call vote of 6 to 0 (Mayor Walkup absent/excused), that Consent Agenda Items a – l, with the exception of Items e and i which were continued, and Item f which was considered separately, be passed and adopted and the proper action taken.

7. CONSENT AGENDA – ITEM F

- f.
1. Report from City Manager JAN19-11-35 CITY WIDE
 2. Ordinance No. 10869 relating to parks; amending Tucson Code § 21-3(5)(2); permitting possession of firearms in City parks; and declaring an emergency.

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

Council Member Kozachik clarified that Item f was scheduled for Mayor and Council discussion prior to the tragic incident that occurred and was not an over-reaction to that incident. He asked the City Attorney if the Ordinance could be amended and if the form could be changed to include a check-off on the facility reservation indicating that it was a “gun free” zone. He commented that there were spaces and ramadas in City parks that were rented out to the public for parties and gatherings, and asked staff if the City had the authority to allow those who rented spaces to prohibit firearms within the confines of their own parties.

Michael Rankin, City Attorney, said the Ordinance or the form could not be amended to reflect Council Member Kozachik’s concerns. He said the City and their permittees could not exclude persons with firearms from City property other than a City building; there were restrictions on the City’s ability to do that as well. He said people who had exclusive use of areas might be able to control who attends their events as invitees only; but it would not be based on the question of whether they were carrying a firearm or not.

Mr. Rankin said there was an exception with a number of different scenarios. He said he would follow up with a memo to the Mayor and Council describing the different scenarios and how the gun laws have changed by the State Legislature. He said the big exception was in the context of Title 4 - Licensed Events, which included special events where a license was held to sell liquor. For example, he explained, at Hi-Corbett Field, where there was a permittee and under those circumstances, the rules, under Title 4, were as follows:

- The City, its employees, and its permittees must exclude the persons with firearms who did not have a CCW(Carrying a Concealed Weapon) permit, as well as persons who had a CCW permit who wanted to carry their weapon openly from any premises or event that was licensed for the sale of liquor, like a special event.
- The City, its employees, and its permittees also might, but did not have to exclude persons with firearms even if they had the CCW permit from those events that are licensed for sale, or retail of liquor. He added if the event or premises was posted with a notice prohibiting firearms, that notice had to be posted thirty days in advance of the event.
- If a person with a CCW permit who was carrying a concealed firearm was allowed to enter a premise licensed to serve liquor, they would not be permitted to drink alcohol.

Mr. Rankin said another scenario would be the City’s ability to regulate persons coming into public buildings, such as City Hall, who wanted to bring in weapons. He said the City could exclude persons carrying firearms in those situations, but only if secured storage was provided for the firearms that was immediately accessible to the entry and exit of the event, so that their weapons could easily be checked in and out.

Mr. Rankin said the City and other cities and towns in Arizona had the authority to prohibit, through Ordinances, the carrying of firearms within City parks by persons other than those with CCW permits. In 2010, the State Legislature adopted House Bill 2543, which took away that authority, pre-empting the City's ability to exclude those persons from public areas; City parks and the zoo. Based on that, the *Tucson City Code* was no longer enforceable under law. He said the Ordinance before the Mayor and Council made the amendments necessary in the *Code* to bring it in line with State law.

Council Member Kozachik asked if the City could require someone who was intending to bring a weapon into a public park, to make their intention public.

Mr. Rankin said the City could not require that. He said, additionally, the rules, in respect to firearms, were the same as those with ammunition. The City's ability to regulate where ammunition could be carried fell under the same rules as firearms.

Council Member Kozachik asked if the Special Event Liquor License form could include a place to indicate if someone was intending to carry a weapon, so people who may or may not be attending, had public notice and made aware that a particular group was inviting firearms.

Mr. Rankin advised that the forms were State forms and were difficult to change. He suggested what could be done was to provide an information sheet for anyone applying for a Special Event Liquor License, to make them aware that if they desired to post the notice at the event, in order to enhance their ability to exclude persons who may want to carry firearms, they could do so. He said that way the applicant could be made aware that they would have to post the notice thirty days before the event, and the City could give them the information on how the notice should be posted.

Council Member Kozachik said he understood that the City was rolling the Ordinance to be compliant with State law, but he was not going to make the motion to pass it.

Council Member Cunningham asked if there was a deadline to make a decision on the Ordinance.

Mr. Rankin stated there was not a deadline, it was just recognized that whether the *Code* was changed or not, the current *Code* could not be enforced as written.

It was moved by Council Member Cunningham to not pass and adopt Consent Agenda Item f.

Motion failed for a lack of a second.

It was moved by Council Member Scott that Consent Agenda Item f be passed and adopted, to be compliant with State law.

Motion failed for a lack of a second.

Mr. Rankin announced that in the absence of action by the Mayor and Council, the City's *Code* would not change, however per legal advice, the general orders from the Tucson Police Department and the rules that the Parks and Recreation Department put into effect would remain.

8. MAGISTRATE: CONSIDERATION OF REMOVAL OR RESIGNATION OF CITY COURT MAGISTRATE THEODORE C. ABRAMS.

Mayor Pro Tempore Fimbres announced City Manager's communication number 29, dated January 19, 2011, was received into and made part of the record.

Michael Rankin, City Attorney, advised that as provided in the revised Mayor and Council Communication, the Magistrate at issue submitted a written resignation and the City Clerk had the original resignation in his position. He advised the Mayor and Council on the appropriate motion.

It was moved by Council Member Kozachik, duly seconded, that the Mayor and Council accept the resignation of Theodore C. Abrams from his position as City Magistrate, with the resignation effective on February 2, 2011; and that the City Attorney and City staff be authorized to perform any tasks necessary to carry out that direction.

Council Member Romero asked if it was necessary to accept the February 2nd date as the end of his term or could the Mayor and Council suggest that the resignation be effective immediately.

Mr. Rankin explained that the effective date was provided as a condition of his resignation and advised the Mayor and Council to accept the resignation with the terms as presented. He added that another option was to proceed with a hearing but, because the item was re-titled, the hearing would have to be done the following week rather than proceeding at the evening's meeting, for discussion as to whether the Mayor and Council wished to hold a hearing or accept the resignation as offered.

Council Member Romero asked if there would be any additional cost to the City if the Mayor and Council decided to go through the whole process of having a hearing, did it involve City liability issues or was it just the City Attorney's recommendation to accept the resignation date as February 2.

Mr. Rankin stated he strongly advised accepting the resignation as recommended. He explained it was an easier process to accept the resignation as presented; it was clean, and resolved all the outstanding issues.

The motion to accept the resignation of Theodore C. Abrams passed by a roll call vote of 6 to 0 (Mayor Walkup absent/excused).

9. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Pro Tempore Fimbres announced City Manager's communication number 29, dated January 19, 2011, 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 passed by a roll call vote of 6 to 0 (Mayor Walkup absent/excused), to approve the appointment of Michelle McDonald M.D., to the Climate Change Advisory Committee (CCC).

Mayor Pro Tempore Fimbres asked if there were any personal appointment to be made

Council Member Romero announced her personal appointment of Debra Johnson to the Pima County/Tucson Women's Commission.

10. ADJOURNMENT: 7:04 p.m.

Mayor Pro Tempore Fimbres announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, January 25, 2011, 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 19th day of January 2011, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

RWR:ccs:sac