



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on January 24, 2012.

Date of Meeting: May 17, 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 5:48 p.m., on Tuesday, May 17, 2011, 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	Council Member Ward 4
Richard G. Fimbres	Vice Mayor, 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 Reverend Dr. Charlie Earhart, Water of Life Metropolitan Community Church, after which the Pledge of Allegiance was presented by the entire assembly.

Presentations:

- a. Mayor Walkup, assisted by Council Member Scott and Fred Gray, Parks and Recreation Director, presented the 2011 Tucson Parks and Recreation Commission awards.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 199, dated May 17, 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 invited the public to attend the following events; the "Dig a Garden Bed Workday," the "Homeowners Energy Workshop" and the "Santa Cruz Farmer's Market."
- b. Council Member Cunningham reported on the following; a Ward 2 "shredding" event, a "Community Health and Wellness" and a "Graffiti Cleanup" event.
- c. Council Member Uhlich invited everyone to the first annual "Hip-Hop Peace Summit" co-sponsored by the city-wide Boy's and Girl's Club.
- d. Vice Mayor Fimbres invited the public to attend the "Amigo's de Pima Scholarship Luncheon" and reported that the American Legion Post 59 Golf Group would be hosting its first annual Memorial Day Golf Tournament, honoring Sergeant Martin Lugo Jr. and Private-First Class Angel Carranza.
- e. Council Member Kozachik reported the City-Wide Refugee Youth Coalition was displaying writings, photography, art, and poetry to express critical social issues that youths face as refugees.
- f. Mayor Walkup reported on his visit to Washington D.C. to meet with a number of the Congressional Delegation, specifically General Phillip M. Breedlove, Vice Chief of Staff of the U. S. Air Force regarding the Air Operations Center (A.O.C.) which included Davis Monthan Air Force Base.

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

Mayor Walkup announced City Manager’s communication number 200, dated May 17, 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.

There was no report.

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager’s communication number 210, dated May 17, 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. Baja Market by J & M, Ward 5
4000 E. 29th St.
Applicant: Jorge Omar Silva
Series 10, City 19-11
Action must be taken by: May 29, 2011

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

Public Opinion: Written Argument Opposed Filed

This item was considered separately.

2. Wingstop #972, Ward 1
2106 W. Grant Rd.
Applicant: Nicholas Carl Guttilla
Series 12, City 20-11
Action must be taken by: May 30, 2011

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

3. Zayna Mediterranean, Ward 6
4122 E. Speedway Blvd.
Applicant: Riad Altoubal
Series 12, City 21-11
Action must be taken by: May 29, 2011

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

4. Chuy's Mesquite Broiler, Ward 2
8987 E. Tanque Verde Rd. #335
Applicant: Christopher Mark Evenson
Series 12, City 23-11
Action must be taken by: May 29, 2011

Tucson Police Department has indicated the applicant is in compliance with city requirements.

Planning & Development Services and Revenue Investigations have indicated the applicant is not in compliance with city requirements.

City Clerk's office has indicated the applicant is not in compliance with city requirements.

This item was considered separately.

5. Texas Roadhouse, Ward 1
968 W. Irvington Rd.
Applicant: Lauren Kay Merrett
Series 12, City 24-11
Action must be taken by: June 5, 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(s)

6. Sushi Garden, Ward 6
3048 E. Broadway Blvd.
Applicant: Chun Young Kim
Series 7, City 22-11
Action must be taken by: May 30, 2011

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)

c. Special Event(s)

1. Compass Call Reunion Anniversary Association, Ward 6
1303 E. University Blvd.
Applicant: Courtney L. Barnett
City T42-11
Date of Event: June 4, 2011
(Compass Call Alumni Reunion)

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

d. Agent Change/Acquisition of Control

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

It was moved by Council Member Kozachik, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license applications 5b2, 5b3, 5b5, 5b6, and 5c1 to the Arizona State Liquor Board with a recommendation for approval.

5. LIQUOR LICENSE APPLICATIONS

b. Liquor License Application(s)

New License(s)

1. Baja Market by J & M, Ward 5
4000 E. 29th St.
Applicant: Jorge Omar Silva
Series 10, City 19-11
Action must be taken by: May 29, 2011

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

Public Opinion: Written Argument Opposed Filed Kampai, Ward 6

Roger W. Randolph, City Clerk, announced the first item to be considered separately was item 5b1, Baja Market, located in Ward 5.

Vice Mayor Fimbres asked if the owner of Baja Market was in the audience and if he wished to address the Mayor and Council. He added some Neighborhood Association representatives would also follow with their concerns.

Jorge Silva and Martin Miranda, owners of Baja Market, gave a brief history of their current license and explained why the liquor license was needed in their market at the 29th Street location. They also explained the ways they have served the community.

Mark Mayer, 29th Street Corridor Communities Representative, stated that in attendance that evening there were other representatives from different neighborhood associations who were urging the Mayor and Council to recommend a denial of the application to the Arizona State Liquor Board for a number of reasons, which he continued to explain.

Emily Brock, Julia Keen Neighborhood Association Co-Chair, added that the license was also near an Ace Hardware business which had problems due to all the liquor licenses in the area. She said she was informed by the owner that the business needed to close early because they did not want to be in the area after dark due to all the crime. She added that the new liquor license would add to the problems.

Vice Mayor Fimbres said because the applicant failed to demonstrate that the license was in best interests of the community, and based on the testimony and evidence presented regarding saturation, he moved for denial of the license.

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

5. LIQUOR LICENSE APPLICATIONS

b. Liquor License Application(s)

New License(s)

4. Chuy's Mesquite Broiler, Ward 2
8987 E. Tanque Verde Rd. #335
Applicant: Christopher Mark Evenson
Series 12, City 23-11
Action must be taken by: May 29, 2011

Tucson Police Department has indicated the applicant is in compliance with city requirements.

Planning & Development Services and Revenue Investigations have indicated the applicant is not in compliance with city requirements.

City Clerk's office has indicated the applicant is not in compliance with city requirements.

Roger W. Randolph, City Clerk, announced the final item to be considered separately was item 5b4, Chuy's Mesquite Broiler, located in Ward 2.

Council Member Cunningham asked if the applicant of Chuy's was in the audience. Hearing no response, he advised that the Chuy's located on the east side of

Tucson had some issues with the Department of Finance and also compliance issues with Zoning. He said the fate of the business was under question and recommended denial of the license.

It was moved by Council Member Cunningham, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license application 5b4 to the Arizona State Liquor Board with a recommendation for denial.

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 and the call to the audience would last thirty minutes.

- a. Brennan Cain gave the twenty-fourth installment of *“Tucson, the Novel: An Experiment in Literature and Civil Discourse.”*
- b. Douglas Harbaugh representing Indian Ridge Homeowners Association requested that the cell tower project and structure being installed on Tanque Verde Road be placed on hold because of the lack of community outreach.
- c. Clarissa Geborkoff, Ana Valenzuela, and Leanne Robertson, representing Operation Home front, invited the public to the first annual Armed Forces Day celebration.
- d. William M. Cohen spoke in opposition to police brutality in the Tucson area.
- e. Robert Melvin spoke in opposition to the placement and conditions of street signs.
- f. Roy Warden spoke regarding documents he would be requesting concerning a law suit involving City employees.
- g. Dyer Lytle spoke in support of the Jefferson Park Neighborhood Preservation Overlay Zone Design Manual and urged the Mayor and Council to support and vote for the Design Manual.

7. CONSENT AGENDA – ITEMS A THROUGH G

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. APPROVAL OF MINUTES
 1. Report from City Manager MAY17-11-201 CITY WIDE

2. Mayor and Council Regular Meeting Minutes of January 4, 2011
- b. BOARDS, COMMITTEES, AND COMMISSIONS: EXTENDING THE TERM OF SERVICE FOR THE TRANSIT TASK FORCE
1. Report from City Manager MAY17-11-203 CITY WIDE
 2. Resolution No. 21741 relating to Boards and Commissions; amending Resolution No. 21023 to extend the term of the Transit Task Force; and declaring an emergency.
- c. INTERGOVERNMENTAL AGREEMENT: WITH ARIZONA GAME AND FISH FOR THE SEGMENT 4 HABITAT CONSERVATION PLAN GRANT
1. Report from City Manager MAY17-11-207 WARDS 4, 5 AND OUTSIDE CITY
 2. Resolution No. 21743 relating to Intergovernmental Agreements; approving and authorizing an Intergovernmental Agreement between the Arizona Game and Fish Department (AZGFD) and the City of Tucson for a Fourth Habitat Conservation Planning Grant; and declaring an emergency.
- d. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR THE MILES NEIGHBORHOOD ASSOCIATION AND CHERRY AVENUE IMPROVEMENT PROJECT AND PETITION FOR ESTABLISHMENT OF A COUNTY HIGHWAY
1. Report from City Manager MAY17-11-205 WARD 5
 2. Resolution No. 21740 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between Pima County and the City of Tucson regarding the Miles Neighborhood Association/Cherry Avenue Improvement Project and a Petition for establishment of a County Highway; and declaring an emergency.
- e. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH PIMA COUNTY REGIONAL FLOOD CONTROL DISTRICT FOR THE PANTANO WASH BANK PROTECTION AND LINEAR PARK PROJECT
1. Report from City Manager MAY17-11-204 WARD 2
 2. Resolution No. 21739 relating to Intergovernmental Agreements; approving and authorizing execution of Amendment No. 1 to the Intergovernmental Agreement between the City of Tucson and the Pima County Regional Flood Control District for the Pantano Wash Bank Protection and Linear Park Project, expanding the original project limits; and declaring an emergency.

- f. TRANSPORTATION: NAMING THE WALKING PATH ALONG LOS REALES ROAD IN THE ELVIRA NEIGHBORHOOD THE "GIL CATALAN MEMORIAL WALKWAY"
 - 1. Report from City Manager MAY17-11-202 WARD 1
 - 2. Resolution No. 21742 relating to Transportation, authorizing and approving the naming of the walking path along Los Reales Road in the Elvira Neighborhood the Gil Catalan Memorial Walkway; and declaring an emergency.

- g. FINANCE: PROPOSED SALE OF WATER SYSTEM REVENUE OBLIGATIONS, SERIES 2011 (CONTINUED FROM THE MEETING OF MAY 10, 2011)
 - 1. Report from City Manager MAY17-11-208 CITY WIDE
 - 2. Ordinance No. 10889 an Ordinance relating to Finance: authorizing the Chief Financial Officer of City of Tucson, Arizona, to cause the sale and execution and delivery pursuant to an obligation indenture of not to exceed \$40,000,000 aggregate principal amount of Water System Revenue Obligations, Series 2011, evidencing proportionate interests of the holders thereof in installment payments of the purchase price to be paid by the City of Tucson, Arizona, pursuant to a Series 2011 City Purchase Agreement; authorizing the completion, execution and delivery with respect thereto of all agreements necessary or appropriate for the financing of costs of acquiring improvements to the storage, treatment and distribution facilities of the water system of the City and related financing costs including the delegation to the Chief Financial Officer of certain authority with respect thereto; authorizing the preparation and delivery of an official statement with respect to such Series 2011 Obligations; ordering the sale of such Series 2011 Obligations; authorizing the execution and delivery of a continuing disclosure undertaking with respect to such Series 2011 Obligations; authorizing the Chief Financial Officer to expend all necessary funds therefore and declaring an emergency.

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

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

7. CONSENT AGENDA – ITEM G

- g. FINANCE: PROPOSED SALE OF WATER SYSTEM REVENUE OBLIGATIONS, SERIES 2011 (CONTINUED FROM THE MEETING OF MAY 10, 2011)
 - 1. Report from City Manager MAY17-11-208 CITY WIDE

2. Ordinance No. 10889 relating to Finance: authorizing the Chief Financial Officer of City of Tucson, Arizona, to cause the sale and execution and delivery pursuant to an obligation indenture of not to exceed \$40,000,000 aggregate principal amount of Water System Revenue Obligations, Series 2011, evidencing proportionate interests of the holders thereof in installment payments of the purchase price to be paid by the City of Tucson, Arizona, pursuant to a Series 2011 City Purchase Agreement; authorizing the completion, execution and delivery with respect thereto of all agreements necessary or appropriate for the financing of costs of acquiring improvements to the storage, treatment and distribution facilities of the water system of the City and related financing costs including the delegation to the Chief Financial Officer of certain authority with respect thereto; authorizing the preparation and delivery of an official statement with respect to such Series 2011 Obligations; ordering the sale of such Series 2011 Obligations; authorizing the execution and delivery of a continuing disclosure undertaking with respect to such Series 2011 Obligations; authorizing the Chief Financial Officer to expend all necessary funds therefore and declaring an emergency.

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

Council Member Kozachik stated that discussion began on the item last week and the Council Members had some concerns. He said most of his questions would be directed to staff regarding clarification on how the bonds were formulated.

A question and answer period followed between Council Member Kozachik and Kelly Gottschalk, Chief Financial Officer, regarding Piper Jaffrey, the City's Bond Council, the bond package, "Series 2011 City Purchase Agreement," specifically, the City's Improvement Fund, "Funds and Accounts," (a) Revenue Fund, (b) Debt Service Bond, (c) Pre-1999 Obligation Reserve Fund," "Remaining Revenues and Deficiencies" and the "Schedule of Estimated Annual Water Revenue Bond Obligation Debt Service Requirements"

Council Member Kozachik asked which bonds were funding the \$40 million package.

Kelly Gottschalk, Chief Financial Officer, explained the \$40 million was entered in the Ordinance, but the intent was to issue just over \$31 million. She said the reason for the difference between the two numbers was just a capacity number. She said they did not intend, unless something changed in the market that they would need to go up to that level.

Ms. Gottschalk said the conversation in "Section F" that Council Member Kozachik was referring to, had to do with the fact that those were revenue obligations and not bonds. A percentage share was basically being issued into that fund and asked if her answer addressed his concerns.

Council Member Kozachik replied that Ms. Gottschalk's answer touched on his questions, but he was still concerned on 'out of pocket expenses' for labor and as to how the City could more closely match the amount that was being bonded to the amount that was actually needed to borrow.

Ms. Gottschalk said they were issuing bonds very closely to the amounts that were needed for the projects. The only difference between the proceeds that would go for the actual projects that was needed in the water fund was the cost of issuance difference, which was not a large number on the transaction relative to the whole amount of the transaction. She said it was less than one percent of the transaction, so it would be around three hundred thousand dollars.

Further discussion was held regarding the Debt Service Bond, Pre-1999 Obligation Reserve Fund", "Remaining Revenues and Deficiencies" and the "Schedule of Estimated Annual Water Revenue Bond Obligation Debt Serve Requirements."

Ms. Gottschalk said that number was just a capacity number and they would not be issuing to that level. The par amount they anticipated on issuing would be thirty-one, seven-thirty and that could go up or down by two percent, depending on the pricing of the bonds on that given day.

Ms. Gottschalk stated that all funds would definitely be used for the purpose listed on page 5 of the official statement. All the proceeds would be used for distribution, storage, and treatment facilities or other facilities related to the water fund, and as everyone knew, they had a very large capital plan. She said once they were done paying all the cost of issuance, such as the attorneys, financial advisors, printing, and postage, any extra money would be moved to the project's general fund to be used as capital. The other option would be to pay down some of the debt service, but it would not be enough because of the long capital list. She said the monies would only be used for those purposes.

Council Member Kozachik referred to the chart describing the Water Debt Service in Section F-12, "Schedule of Estimated Annual Water Revenue Bond Obligation Debt Serve Requirements" and stated that combined, it was almost \$640 million. He asked, if this included the \$40 million that was mentioned earlier that evening.

Ms Gottschalk said it did not include the \$40 million mentioned earlier. She added the chart would change after the pricing of the bonds, and at that time, the chart would be able to get filled in because they would then know exactly where the principal payments were and exactly what the interest would be. She said this information was not known until the bonds were priced.

Council Member Kozachick said that Mr. Quigley had mentioned that nine million dollars was going to be allocated to the Regional Transportation Authority (RTA) projects, and as he understood, that did not need to be issued until the first of the fiscal year.

Ms. Gottschalk said she did not believe they would need to. However, there was a legal opinion received in the past from prior bond council that said, for the City to issue to the debt, the most current audited financial statements were needed. In the past, it was interpreted to mean that if they crossed over to the new fiscal year, the debt could not be issued until the audit was completed. She said that language should be revisited because it did not make sense to her. She said she took it to mean that as long as she had the last audit, she was good.

Council Member Kozachik said that Chris Avery came forward several weeks ago and indicated that two or three years ago, the RTA made a decision to shift the cost of utility relocations to the jurisdictions, including Tucson. Since that time, they had been paying for that through the Water Departments debt which was a part of the \$640 million that was owed. He said, if there was \$9 million of that current package which was allocated to those costs, it would be worth while to at least approach the RTA through a City representative and perhaps find a project that was approximately that value and that would have community wide benefits. He said, at least while the issue was being revisited as to who should be paying the utility line relocations, the nine million dollars could be placed back into the hundred and \$50 million debt service and if a project was found to approximate that value that would have community wide benefits, the dollars in the package could be allocated to that project. He said he wanted to begin the conversation before the package was approved and see if there was any traction to his suggestions.

Council Member Kozachik added that he was interested in hearing the response of the Mayor, City Attorney, and Mr. Quigley regarding his statements. He said his intent was not to reduce the package, but there was a \$40 million dollar package and eight to ten million of that was arguably RTA dollars. He did not want to derail the relationship the City had with the RTA, because there could be projects that would have community wide value, which could be perceived as being urgent or fairly urgent. He said they could take the \$9 million capacity they were looking at now, at least for that year, and allocate those dollars to such a project. He asked if it was worth visiting and if so, would the City not need to look for other funding sources if such a project existed.

Ms. Gottschalk asked if Council Member Kozachik was speaking about funding a road project or a water project.

Council Member Kozachick answered that he was talking about a water related project.

Ms. Gottschalk said it would need to be a water storage treatment or distribution related project.

Mike Rankin, City Attorney, said that conversation began last week in terms of whether there was enough room within the package. He said if a different resolution were to be achieved with the RTA that would not require the expenditure of all or some portion of the \$9 million that was being referred to, would they have the ability to

reallocate those \$9 million for water projects that would still fit within the scope. He said the answer would be yes, as long as they satisfied the requirements that Ms Gottschalk had described. He stated that if the RTA did change its policy that resulted in the City being able to use the money that fit within the scope of the issuance, they would be able to do that.

Council Member Kozachick said he suggested it was worth exploring, since the decision on the item did not have to be made that evening. If the RTA would be interested in perhaps entertaining the suggestion for at least a one year hiatus, he thought it would be worth the conversation.

Ms. Gottschalk asked Council Member Kozachik if he was suggesting changing the issuance.

Council Member Kozachick said he was not suggesting changing the issuance at all.

Mayor Walkup commented that he was unsure on the mechanics of doing that.

Council Member Scott asked if it meant that the City, as an alternative, would pay the monies up front, but as a policy member the RTA, the Mayor could forward the idea of \$9 million being set aside for the project, and suggest that the policy be changed back, so that the RTA could pick up those funds.

Mayor Walkup said it was a situation that one would never know unless the question was asked. If this were to be done, it would have to be surrounded by reasonable justifications, because that decision was made a long time ago after considerable discussions regarding where the best place was to put costs. He said it was a discussion that was controversial at the time.

Council Member Kozachik said he would like staff to put their heads together and see if they could identify a project that might have approximately that value, would have a community wide benefit, and be able to put a one year hold on that policy, so there would be liquid funds within this bond package to fund such a project. He said we could walk away from the idea if staff was unable to come up with a project.

Mr. Rankin said there were two issues going on here. There was the fundamental issue raised as to whether the RTA was willing to reconsider the 2008 policy change that was approved and the suggestions about placing a one year suspension or moratorium on the implementation of that policy. He explained that the policy applied to all of the jurisdictions within the RTA and all of the projects that were related to it. So it was obviously a much broader question than just the monies that were implicated within the proposed Water Revenue Bond issuance. The other thing to think about was, if the authorization of the package would be passed that evening or before the end of the fiscal year, the opportunity would not be lost. In fact, he said, if the issue with the RTA was resolved somewhere down the road, and before the bond funds were expended, there was

plenty of room in capital projects identified within that scope, and the monies would be released by a policy change of the RTA and could be reallocated to water projects.

Council Member Uhlich said what she was hearing from Council Member Kozachik, was not to hold up the issuance, but make that step as part of the motion. She said she would second the motion to proceed with the issuance and work with the Mayor and Staff with this concept. She also said she wanted to make it clear that the motion was not to suspend the policy wholesale of the RTA. She added she would be supportive if their particular projects of interest to the region were water related.

Mayor Walkup said he thought the request to the RTA should be worded very carefully so that they understood it was not necessarily being suggested as a broad change in the decision, but more of a selective change in this case. He reiterated that it was important to send it to question and make the argument.

Council Member Cunningham said he had some questions regarding the issuance of the bonds. He said part of this would help us with the scatis system. How antiquated is the scatis system compared to other jurisdictions.

Andrew Quigley, Tucson Water Director, explained that currently they had a system that was functioning, but it needed to be enhanced to further automate the system. He said, it was a technology investment that had not been done recently and one that they needed to stay ahead of. Obviously, if they were to build a whole system next year, they would already be a generation behind. He said, where they were right now, was that they needed to optimize the system with the best available system.

Council Member Cunningham said that he also noticed in the Capital Improvement Project (CIP) budget that the carry forward total in the 2012 year totals added up to about \$40 million. He asked if the City would have to bond out more money in two years to continue the CIP project or would it be the end of the road. He said he did not want to come back in a couple of years and bond out more money.

Mr. Quigley said the CIP project outlined several million dollars of expenditures over the next several years and they would return to Mayor and Council with a new financial plan next February that would identify additional capital needs. He said there was a need to continually invest in the system and they may come back for additional indebtedness on the system because it was typical for utilities of their size to fund that way. He said he wanted to emphasize that it was a valuable system and to begin paying cash for investments that were going to be well over the life of the bonds would cause the rates to skyrocket in order to continue financing them. He said he expected to use long-term debt and have future discussions with the Mayor and Council.

Council Member Cunningham asked if there were any outstanding water bonds that were retiring that year or next year that would decrease the final debt ceiling.

Ms. Gottschalk answered that they always strive to have a level debt service annually, so they retire principal every year as they add. She said she wanted to echo what Mr. Quigley said. It was standard for a water utility, a sewer utility, as well as, common for an infrastructure system of that size to fund on a sixty-forty debt verses cash basis, because improvements were being built into the system and would be there for over twenty years, so it was fairly common to pay for them over twenty years.

Council Member Cunningham said that Mr. Glock talked about the \$8.2 million that Tucson Water was suppose to pay for the street car, and were any of those funds included in this bond package.

Ms. Gottschalk said absolutely not, that it was only for water related items or related to the water system.

Mr. Quigley said there could be relocation costs due to the RTA street car project.

Council Member Cunningham said all of his questions and concerns were satisfied.

Mayor Walkup asked if there was a theoretical or absolute bonding limit that the City needed to try to operate under and not exceed that was consistence with the standards for a system that large and if there was, where would the City stand on that threshold.

Ms. Gottschalk explained there were several limits that worked together and built into their debt service covenants. She said there was one on the debt side to keep the debt low which were additional bonds test that basically said the revenues had to be so many times your debt service or more debt could not be issued. On the other side, you had the pressure on the cash side, that basically encouraged issuing debt versus paying as you go and that was because there needed to be so much cash on hand. So, all those pieces needed to stay in balance as well as the rate increases and tap fees. It was really an art to keep those things in balance and that was why it was looked at on a long term basis. She added that all of the three rating agencies had bench marks and annual reports where they looked at different systems and the amount of debt on those systems. She added she could forward that information to the Mayor and Council if they wished.

Mayor Walkup said the \$40 million did not approach the threshold of any penalty associated with debt financing. He said the \$40 million was well within reasonable for a system that large and concurred with Mr. Quigley's comments, that over time, the City should be investing in the renewal of the system so degradation of the bonding capacity and costs would not occur.

Vice Mayor Fimbres asked what the financial impact was in terms of repayment, if Tucson Water's bond rating was lowered and also, how much more could it possibly cost to repay.

Ms. Gottschalk said the financial impact was that the interest rate would be higher and she said she did not want to guess to what that level would be because at some point they would cross over the threshold where it would be more cost effective to buy insurance than it looked like presently, so it could balance out. She said it would cost hundreds of thousands of dollars to the citizens.

Vice Mayor Fimbres asked what the time frame was to the proposed improvements.

Ms. Gottschalk said that week they had their calls with the rating agencies regarding all the bond packages: Water, Highway User Revenue Funds (HURF), and the Certificates of Participation. She said they expected to receive those ratings next week and would post the official statements, the schedule that they had, and also probably price the bonds. They were currently working around some RTA and other issues and they were projecting to close those issues before the end of the fiscal year.

Vice Mayor Fimbres asked if the City/County Water Policy report had any effect on those bonds.

Mr. Quigley said it would be a positive effect since there was an agreement placed between the County and the City in respect to Water Policy. He said it would be fairly nominal, but it was a positive thing.

It was moved by Council Member Kozachik, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopt Consent Agenda Item g, and the proper action taken, and direct City staff and the Mayor to work with the Regional Transportation Authority (RTA) on re-evaluating the RTA policy regarding utility relocation costs.

8. PUBLIC HEARING: AMENDING TUCSON CODE (CHAPTER 15) RESIDENTIAL, COMMERCIAL, DISPOSAL AND GROUNDWATER PROTECTION FEE INCREASE

Mayor Walkup announced City Manager's communication number 209, dated May 17, 2011, 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 the proposed amendment to Chapter 15 of the Tucson Code to support the existing Financial Sustainability Plan reviewed by Mayor and Council on April 20, 2010. He said the public hearing was scheduled to last for no more than one hour and speakers were limited to five-minute presentations.

Michael Block, Environmental Services Advisory Committee (ESAC) Finance Chair, said the Committee reviewed the changes to Chapter 15 of the Tucson Code and were in full support of the Ordinance.

It was moved by Council Member 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 10895 by number and title only.

Ordinance No. 10895 relating to Environmental Services; amending certain portions of the Tucson Code, Chapter 15, Article I, Section 15-1 Definitions; Article IV, City Residential and Commercial Collection Services, Sections 15-16.1, 15-16.5, 15-16.8; Article V, City Fees and Charges for Residential Collection, Commercial Collection, and Disposal Services, Division 1, Sections 15-31.1, 15-31.3; Division 2, Sections 15-32.1, 15-32.2, 15-32.4, 15-32.5, 15-32.6; Division 3, Section 15-33.2, 15-33.3; Division 4, Sections 15-34.5, 15-34.7, 15-34.9; and Division 5, Section 15-36; and setting an effective date.

It was moved by Council Member Uhlich, duly seconded, to pass and adopt Ordinance 10895.

Council Member Uhlich said circling back to the discussions on financing of capital projects, the ground water protection fee was targeted at remediation for capital investments. She asked if the City was following the similar model of financing; some through bonds and some through cash. She added it was quite a jump from the Ground Water Protection Fee and as recently mentioned, if financed in cash, it would generate a huge increase in fees. She asked Mr. Quigley if he could address her statement.

Andrew Quigley, Tucson Water Department Interim Director, replied that the Ground Water Protection Fee increase was based on two factors. Because we had additional accounts, the obligation to Tucson Water in respect to the billing system had to increase. Also, Tucson Water provided a credit to Environmental Services for personnel involved in the ground water protection efforts. He said, those two elements were about seven hundred thousand dollars of this over a million dollar increase to the annual fee. The remainder of that fee was going toward the remediation work at the Silverbell Landfill. Mr. Quigley said he envisioned that as they moved toward the 2013 plan, they would be looking at a way to capitalize through a long term operating agreement to remediate that landfill. Instead of using debt to accomplish that plan, they would enter into a long term contract with an operator to operate the facility.

Mr. Quigley said the other things that were being done, currently and in the past in Environmental Services, was borrowing from Certificates of Participation and borrowing from land space in particular, especially revenue space, which was not a good business practice. He added that currently Environmental Services was accumulating cash for expansions and development of facilities of the existing Los Reales Land Fill to eliminate borrowing. He said that third party waste coming to Los Reales had declined quite a bit over the last couple of years because of the development of a transfer station owned by Waste Management. He said they had to be cautious on how funds needed to be set aside for that, because their system was not as robust as the system that Tucson Water had in placing that debt on residential or commercial customers that they competed with.

Council Member Uhlich also thanked the Chair of the Finance Committee who volunteered and served very graciously.

Council Member Kozachik said he wanted to make sure he was in complete understanding. He said, on the last page of the communication, it mentioned that this would generate \$1.8 million. In an earlier communication, in respect to the furlough days, it mentioned that the Environmental Service Department furlough savings was about four hundred fifty thousand dollars. He asked if that amount was incorporated in the \$1.8 million figure.

Mr. Quigley said it was not. The furlough savings was accumulated because the revenue posture changed in terms of agreements with Pima County. Pima County was not going to fund a Household Hazardous Waste (HHW) program and addition to that, the participation or low income program was declining, which provided more revenue into the fund. He said that was how furloughs got handled within the fund. It was through the additional revenues coming in from Pima County and from the residential participants that would no longer be on the low income program. He added, the \$1.8 million were new fees to fund commercial operations, landfill, and the Groundwater Protection fee. The Groundwater Protection fee was almost a million dollars in itself.

Council Member Kozachick said he wanted to make sure that the Mayor and Council would not be seeing this item return year after year. He mentioned in January, a memo was distributed that said, among the three City enterprise funds, none were in a strong position. The most recent memo in respect to this increase stated that staff was recommending furlough days not be included in the 2012 budget, based on the financial position of the fund. He said he wanted to make sure that the Environmental Services Department was strong enough to eliminate the furloughs and the \$1.8 million was totally separate of that consideration.

Mr. Quigley confirmed that it was.

Ordinance 10895 was passed by a roll call vote of 7 to 0.

9. ZONING: C9-11-03 BROADWAY VILLAGE PAD, R-1, O-3 AND C-1 TO PLANNED AREA DEVELOPMENT, CITY MANAGER'S REPORT, DIRECT ORDINANCE ADOPTION

Mayor Walkup announced City Manager's communication number 206, dated May 17, 2011, was received into and made part of the record. He also announced this was a request to rezone property located at the southwest corner of Broadway Boulevard and Country Club Road. The Zoning Examiner and staff recommend approval subject to certain conditions.

Mayor Walkup asked the City Clerk to read Ordinance 10894 by number and title only.

Ordinance No. 10894 relating to zoning: amending zoning district boundaries in the area located at the southwest corner of East Broadway Boulevard and Country Club Road in case C9-11-03, Broadway Village Planned Area Development (PAD), R-1, O-3, and C-1 to PAD; and setting an effective date.

Council Member Kozachik said regarding some background on the project, in early April, the Zoning Examiner held a hearing on the Broadway Village Shopping Center and the hearing was continued to give the builders an opportunity to meet with the neighborhoods. Subsequent to that, several significant design changes were agreed to. He added that the Planning Center was very responsive to neighborhoods concerns and invited Mike Grassinger to explain the process, identify the interaction he experienced with the neighborhoods, and how the project had developed in coming to that point.

Mike Grassinger, Planning Center CEO, explained that they worked with four neighborhood associations. Each neighborhood association introduced a lot of interest and history in their areas. He stated the majority of the concerns raised involved the historic nature of their area. During the first Zoning Examiner's meeting, it was decided to continue the hearing to be able to meet with the neighbors to listen to their concerns. They met with the neighborhoods until there was a successful conclusion.

Council Member Kozachik said as a result, the neighborhood associations were in support of the Ordinance. He asked if there was anyone else in the audience who would like to speak in support or opposition to the Ordinance. There was no one.

It was moved by Council Member Kozachik, duly seconded, and passed by a voice vote of 7 to 0, to approve the request as recommended by the Zoning Examiner and pass and adopt Ordinance 10894.

10. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Walkup announced City Manager's communication number 211, dated May 17, 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 Cunningham, duly seconded, and carried by a voice vote of 7 to 0 to approve the appointments of Chuck Frietas and Catlow Shipek to the Citizens' Water Advisory Committee.

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

There were none.

11. ADJOURNMENT: 7:26 p.m.

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, May 24, 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 17th day of May, 2011, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

RWR:ccs:ds