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## Minutes of MAYOR AND COUNCIL Meeting

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Approved by Mayor and Council  
on June 5, 2012

Date of Meeting: July 6, 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 5:54 p.m., on Wednesday, July 6, 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:

None

Staff Members Present:

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

## **2. INVOCATION AND PLEDGE OF ALLEGIANCE**

The invocation was given by Chaplain John Wheat, Tucson Fire Department, after which the Pledge of Allegiance was presented by the entire assembly.

Presentations:

- a. Mayor Walkup proclaimed July to be “Smart Irrigation Month.”
- b. Mayor Walkup presented a Certificate of Appreciation to Sharon Johnson, during the Public Housing Authority meeting, for her service on the Public Housing Authority Commission.

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

Mayor Walkup announced City Manager’s communication number 285, dated July 6, 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 a ground breaking celebration of the Cushing Street Bridge, and to the Ward 1 Family Fun Swim Day.
- b. Council Member Uhlich announced the following events: the commencement of the Tucson Summer Pro-League, weekly demonstrations sponsored by the Arizona Desert Museum for their Year of the Bat events, open recreation hours for youth at the Marty Birdman Center and fundraising events for the Cactus Drive In.
- c. Vice Mayor Fimbres announced the names of the many individuals who were recently honored at an event sponsored by the Pima County Board of Supervisors. He also thanked the Ashton Construction Company who won the bid for the streetcar construction
- d. Council Member Kozachik invited the public to Second Saturday, and announced the “Hundred Fans from One Hundred Palms” promotion for donations of new fans to senior citizens.

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

Mayor Walkup announced City Manager’s communication number 286, dated July 6, 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.

No report was given.

## 5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager's communication number 287, dated July 6, 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)

NOTE: There are no application(s) for new licenses scheduled for this meeting.

Person Transfer

1. Mooney's Pub, Ward 2  
1110 S. Sherwood Village Dr.  
Applicant: Paul Gregory Mooney  
Series 6, City 35-11  
Action must be taken by: July 9, 2011

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

2. The Event, Ward 2  
6350 E. Tanque Verde Rd.  
Applicant: Dariush Marghzar-Hariri  
Series 6, City 38-11  
Action must be taken by: July 21, 2011

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

Public Opinion: Written Argument Opposed Filed

This item was considered separately.

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. St. Demetrios Greek Orthodox Church, Ward 3  
1145 E. Fort Lowell Rd.  
Applicant: Demetrios Petropoulos  
City T47-11  
Date of Event: August 27, 2011  
(Fundraiser)

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

2. Tucson Botanical Gardens, Ward 6  
2150 N. Alvernon Way  
Applicant: Colleen J. LaFleur  
City T48-11  
Date of Event: July 21, 2011  
(Fundraiser)

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

3. Tucson Botanical Gardens, Ward 6  
2150 N. Alvernon Way  
Applicant: Colleen J. LaFleur  
City T49-11  
Date of Event: August 18, 2011  
(Fundraiser)

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

4. Tucson's Young Professionals, Inc., Ward 6  
300 E. Congress St.  
Applicant: Jeffrey Ell  
City T50-11  
Date of Event: August 5, 2011  
(Promote Community Event Downtown)

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 5b1 and 5c1-4 to the Arizona State Liquor Board with a recommendation for approval.

## 5. LIQUOR LICENSE APPLICATIONS

- b. Liquor License Application(s)

2. The Event, Ward 2  
6350 E. Tanque Verde Rd.  
Applicant: Dariush Marghzar-Hariri  
Series 6, City 38-11  
Action must be taken by: July 21, 2011

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

Public Opinion: Written Argument Opposed Filed

Roger W. Randolph, City Clerk, announced the item to be considered separately was Item 5b2, The Event, located in Ward 2.

Council Member Cunningham asked if the applicant was present to inform Mayor and Council about The Event.

Dariusz Marghzar-Hariri said he was the landlord of the building for the past twenty-eight years. He said, currently with the economy in a downturn, he was not able to find a suitable tenant so he came up with the concept of The Event consisting of a restaurant and bar setting for short-term rental.

Council Member Cunningham stated his office met with the landlord and President of the Housing Association and was under the impression that there were no further issues with the license moving forward. He asked if there was anyone else in the audience who wished to speak on this item.

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

## **6. CALL TO THE AUDIENCE**

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

- a. Ken Johnson spoke about upcoming festivities at the American Legion, Post 7 and current fundraising events for veterans.
- b. Mikki Niemi spoke about money raised for the Elvira Neighborhood to build a much needed walkway.
- c. Robert Reus spoke about general partisan elections in Tucson and upcoming City election issues.
- d. Erin Wilcox, a performance artist, read an installment of "*Tucson, The Novel, An Experiment in Literature and Civil Discourse*".
- e. Roy Warden spoke about the lawsuit brought against City officials regarding the misappropriation of City funds.
- f. Eric Shepp, Highland Vista Neighborhood Association, spoke about paving neighborhood streets, citing Council Member Kozachik's efforts to reallocate saved funds from Ward 6 to street repairs.

- g. Raj Kohli spoke about the revitalization of downtown Tucson and his plan for redevelopment.
- h. Keith Van Heyningen spoke about projects providing jobs for Tucsonans and government spending.
- i. Stuart Green spoke about priorities of police protection with regard to marijuana violation enforcement.
- j. Jim Hannley, El Rio Neighborhood Association President, spoke about the poverty rate and growing economic stagnation in Tucson, and praised Council Member Kozachik for reallocating unused Ward 6 funds for street repairs.

**7. CONSENT AGENDA**

a. APPROVAL OF MINUTES

- 1. Report from City Manager JUL06-11-289 CITY WIDE
- 2. Mayor and Council Regular Meeting Minutes of March 22, 2011 and April 20, 2011

b. FINAL PLAT: (S11-006) THE DISTRICT BLOCK 1

- 1. Report from City Manager JUL06-11-291 WARD 6
- 2. Staff recommends that the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

c. REAL PROPERTY: TERMINATION OF THE DEVELOPMENT AND EXCHANGE AGREEMENT OF THE FORMER YMCA PROPERTY AT 6TH STREET AND 5TH AVENUE

- 1. Report from City Manager JUL06-11-292 WARD 6
- 2. Ordinance No. 10905 relating to Real Estate; authorizing and approving the Termination of the Development and Exchange Agreement previously approved for the former YMCA property at 6th Street and 5th Avenue; and declaring an emergency.

d. FINAL PLAT: (S10-054) 44 EAST BROADWAY CONDOMINIUMS, UNITS 101, 201, 301 TO 304, 401 TO 404 LIMITED COMMON ELEMENT "C-101" AND COMMON ELEMENTS A AND B

- 1. Report from City Manager JUL06-11-293 WARD 6

2. Staff recommends that the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

e. FINANCIAL PARTICIPATION AGREEMENTS AND INTERGOVERNMENTAL AGREEMENTS: WITH VARIOUS OUTSIDE AGENCIES

1. Report from City Manager JUL06-11-296 CITY WIDE
2. Resolution No. 21781 relating to outside agencies; authorizing and approving the Financial Participation Agreements between the City of Tucson and various outside agencies and the Intergovernmental Agreements between the City of Tucson and Pima County for Fiscal Year 2012; and declaring an emergency

(This item was considered separately at the request of Vice Mayor Fimbres.)

f. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR HOUSEHOLD HAZARDOUS WASTE AND SMALL BUSINESS WASTE PROGRAMS

1. Report from City Manager JUL06-11-303 CITY WIDE

(This item was continued to the September 7, 2011 meeting, at the request of staff.)

g. FINANCE: REALLOCATION OF FUNDS FROM THE WARD 6 FY 2011 OFFICE BUDGET SURPLUS TO THE TUCSON DEPARTMENT OF TRANSPORTATION FOR RESIDENTIAL ROAD REPAIR (CONTINUED FROM THE MEETING OF JUNE 14, 2011)

1. Report from City Manager JUL06-11-300 WARD 6
2. Resolution No. 21774 relating to Finance; approving and authorizing the reallocation of Seventy-Five Thousand (\$75,000) from the Ward 6 Council Office Budget Fund to the City of Tucson Department of Transportation (TDOT) for residential road repair within Ward 6; and declaring an emergency.

h. WATER: FISCAL YEAR 2012 WATER CONSERVATION PROGRAM RECOMMENDATIONS (CONTINUED FROM THE MEETING OF JUNE 28, 2011)

1. Report from City Manager JUL06-11-301 CITY WIDE AND OUTSIDE CITY
2. Resolution No. 21750 relating to water; approving and authorizing the Citizens' Water Advisory Committee (CWAC) FY 2012 Water Conservation Program funding recommendations; and declaring an emergency.

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

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 – h, with the exception of Consent Agenda Items e and h, which were considered separately, and Item f, which was continued, be passed and adopted and the proper action taken.

**7. CONSENT AGENDA – ITEM E**

**e. FINANCIAL PARTICIPATION AGREEMENTS AND INTERGOVERNMENTAL AGREEMENTS: WITH VARIOUS OUTSIDE AGENCIES**

1. Report from City Manager JUL06-11-296 CITY WIDE
2. Resolution No. 21781 relating to outside agencies; authorizing and approving the Financial Participation Agreements between the City of Tucson and various outside agencies and the Intergovernmental Agreements between the City of Tucson and Pima County for Fiscal Year 2012; and declaring an emergency

Roger W. Randolph, City Clerk, announced the first item to be considered separately was Consent Agenda Item e at the request of Vice Mayor Fimbres.

Vice Mayor Fimbres stated that questions had arisen regarding the Intergovernmental Agreement (IGA) and Financial Participation Agreement with the Pima Animal Care Center. He noted that in the Mayor and Council Communication, there was a funding figure for FY 2012 of \$2.9 million; in the Agreement the effective date of the IGA was July 1, 2011 through June 30, 2013 and in Attachment 1 of the proposed IGA, the only figure listed for enforcement costs was \$1.26 million. He asked staff who initiated discussions about a two-year agreement when historically; these agreements have always been for one year.

Marie Nemerguth, Budget and Internal Audit Program Director, said Pima County requested that the IGA be for two years, which was in alignment with other IGAs the City had with Pima County. She added that the County asked for this IGA to be extended to two years for administrative and timing purposes with a standard out clause.

Vice Mayor Fimbres asked what made this IGA a better proposal than the standard one year agreement.

Ms. Nemerguth said it did not make the IGA any better; it was just a contract for services whereby the City continued to pay the County for their animal control care expenses over the course of two years and did not need to bring it back to Mayor and Council and the Pima County Board of Supervisors for approval. She said the IGA had the clause that both parties could terminate the contract with six-month notice. She noted if the Mayor and Council wished to create this IGA as a one-year contract, it could be revised.

Council Member Fimbres asked what would happen to the unused funds involved if the IGA was only for one year.

Ms. Nemerguth said there would not be any unused funds. She mentioned that in April 2011, there was an item before the Mayor and Council which provided for Pima County Animal Care to collect revenues on behalf of the City; however these funds would be remitted back to the City and any billings to the City would be specifically for services. She stated the Mayor and Council were advised of that during the budget process.

Council Member Uhlich asked for a clarification of what the cost was for one year's worth of services and if there was an increase in the second year of the IGA.

Ms. Nemerguth stated that the cost of enforcement activities on behalf of the City, equated to approximately \$1.2 million billing which was almost half of what the City could pay as well as other services provided.

Ms. Nemerguth clarified that the amount of \$2.9 million that was allocated for the two year period covered services provided; this number was based on actual services provided and the actual amount could be more or less. She stated it was basically a payment-for-services contract.

It was moved by Vice Mayor Fimbres, duly seconded, and passed by a roll call vote of 7 to 0, that Consent Agenda Item e, be passed and adopted and the proper action taken.

## **7. CONSENT AGENDA H**

### **h. WATER: FISCAL YEAR 2012 WATER CONSERVATION PROGRAM RECOMMENDATIONS (CONTINUED FROM THE MEETING OF JUNE 28, 2011)**

1. Report from City Manager JUL06-11-301 CITY WIDE AND OUTSIDE CITY
2. Resolution No. 21750 relating to water; approving and authorizing the Citizens' Water Advisory Committee (CWAC) FY 2012 Water Conservation Program funding recommendations; and declaring an emergency.

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

Council Member Cunningham said Tucson should be proud that it was one of the leaders in water conservation; in 2006, it became one of the first cities in the nation to enact commercial rain water harvesting and many other water conservation measures since then. He said that according to a recent study, a large amount of money was spent on conservation videos which instead could be used more wisely on toilet rebates. He

said he would like to see these funds be reallocated for a pilot program to incentivize residential rain water harvesting.

Council Member Uhlich said what she was hearing about the concerns with the program was how the money should be moved into concrete mechanisms to conserve water rather than educational materials which currently existed in the City literature. She said incentives should be provided to residents to make a difference in their water bills and to conserve water. Council Member Uhlich said Council Member Cunningham's recommendation appeared very supportable.

It was moved by Council Member Cunningham, duly seconded, and passed by a roll call vote of 7 to 0, that Consent Agenda Item h, be scheduled for discussion at a future Mayor and Council Study Session.

**8. PUBLIC HEARING: TUCSON CODE - AMENDING (CHAPTER 7) - PROPOSED IMPLEMENTATION OF AN ANNUAL ALARM PERMIT AND NEW ALARM ORDINANCE**

Mayor Walkup announced City Manager's communication number 302 dated July 6, 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 for the proposed implementation of an Annual Alarm Permit and a New Alarm Ordinance. He said staff wanted to make a brief presentation before beginning the public hearing. He said the public hearing was scheduled to last no more than one hour and speakers were limited to five-minute presentations.

Richard Miranda, Deputy City Manager, said after speaking to the Police Chief who stated he had given his presentation on this item during the Study Session the Mayor and Council could proceed with the public hearing.

Greg Rice, Young Alarm, spoke about his support for alarm use and in opposition to the new emergency false alarm ordinance.

Roger Score, Tucson Alarm Company, said he agreed with the comments made by Mr. Rice. He said the industry's problem consisted of alarm equipment failing due to inadequate installation and the people who profited from the industry should be held responsible, not the citizens or the business owners struggling to secure their business.

Eric Aultman, Advanced Protection Systems, said the companies who spoke that evening, were the ones who represented the locally owned alarm companies, not the Arizona Fire and Burglar Alarm Association. He said their proposal from the beginning had been to charge the alarm companies for false alarms. He asked how the City proposed to prove anything as this ordinance was a disincentive for the citizens of Tucson to protect their homes, businesses, lives and livelihoods. He said it was also a way to put local alarm companies out of business.

Maria Malice, Arizona Alarm Association (AzAA), stated it was difficult to find a happy medium so everyone would be satisfied. She said alarm companies were not responsible for everything that happened at their locations. She said false alarms charged to the alarm company violated the constitutional right for due process in Arizona and United States constitutional law. She said AzAA wanted to work with the Mayor and Council.

Mikki Niemi said he spoke to people who sold alarms and it made sense that if the sellers were charged a fee, they would make the alarm work; if the customer was charged with the fee, the sellers would not care if the alarm worked or not.

Richard Miller, Central Alarm Inc., said the new ordinance was not the idea of the alarm companies; rather it was brought upon them through the Tucson Police Department (TPD). He stated his company did not see any reason to add new charges to their customers in an already worsening economy, but after realizing it looked like something would change, they tried to make it as fair as possible for everyone.

Joe Osborne, Alarm Solutions, said there was a national standard that was followed by the majority of alarm systems installed in Tucson which ensured no problems would arise if followed correctly. He added there were alarm companies who saw being charged a fine as a money making opportunity, although, most alarm companies did not want to be charged for something beyond their control. He said there were some important issues here that needed to be addressed before a decision was made.

Robert Reus spoke in opposition to the proposed ordinance. He noted that the citizens of Tucson were heavily dependent on alarms due to the lack of police enforcement. He stressed better funding for police protection was needed instead of imposing fines and urged the Mayor and Council to vote no on the item.

Mayor Walkup asked if there was anyone else who wished to speak on the matter.

An unidentified man spoke using the handheld microphone which was inaudible.

It was moved by Council Member Cunningham, duly seconded, and passed by a roll call vote of 7 to 0, to close the Public Hearing.

Mayor Walkup asked the City Attorney to explain what the next steps were for the item.

Michael Rankin, City Attorney, said the ordinance was not before the Mayor and Council that evening for adoption due to notice requirements. He added an option was to give any appropriate direction for changes before it was brought back for approval.

Council Member Kozachik directed some questions to TPD. He said the Mayor and Council were given definitions that afternoon during Study Session regarding false alarms. As he understood it, an alarm was a signal, a sound or a message which resulted

in a response by the police or fire departments where an emergency did not exist or was not caused or the result of a criminal act or unauthorized entry. He asked if someone coming up to a door, whether or not he had the intent of breaking in, set the alarm off, ran away, and the TPD showed up, did that constitute a false alarm.

Roberto Villaseñor, Tucson Police Chief, said it depended on the information received once TPD arrived at the scene. He stated if there was nuisance, disorderly conduct, or attempted burglary, then that was not a false alarm if proven; if there was no way to prove this without a witness to confirm a criminal act, then it was considered a false alarm.

Council Member Kozachik said in that instance, the alarm was doing exactly what it was intended to do which was to provide a disincentive to break into a building.

Chief Villaseñor stated Council Member Kozachik was correct and if there was a witness to verify the alarm performed its function, this would not be subject to the ordinance.

Council Member Kozachik said it was unlikely there would be witnesses to someone breaking in and running away. He asked what constituted a false alarm with TPD responding to something which did not necessarily indicate they were dispatched inappropriately. He asked if the Mayor and Council were proposing to charge people fees for a would-be burglar who got spooked and ran away.

Chief Villaseñor said of the eighteen thousand phone calls received by TPD, there were an actual two hundred twenty-three criminal offenses and he could not say how many of those were from door rattling and run aways. He added from personal anecdotal experience, that was very rarely the case.

Council Member Kozachik asked if the goal of the Mayor and Council was to reduce unnecessary false alarms, would the ordinance serve as a disincentive for people. He said there were already \$10 million in cuts for TPD, so it seemed to him that there should be an ordinance proposal encouraging people to install security systems. This ordinance seemed to be going in the opposite direction. He asked if currently there was a system in place which involved escalating fees for operator error.

Chief Villaseñor responded that currently there were escalating fees for false alarms.

Council Member Kozachik commented that the discussion boiled down to whether the customer or the company should be charged the fee. He brought up some cases in Fontana and Avondale, California where there were lawsuits against companies who charged these fees. He asked how operator error was identified.

John Leavitt, Assistant Police Chief, said the cases in Fontana, CA and Avondale, AZ were not relevant to the present item being discussed as they were different issues.

The Fontana case was a Superior Court cases based on a specific California law. Avondale had not implemented their ordinance but had been threatened with litigation. He explained and commented on the complexities of those cases which involved fines for false reporting.

Chief Villaseñor said operator errors were on a case by case basis, adding his concern was for those alarm calls that were not valid as far as reporting a burglary or robbery. He added if there were exigent circumstances to explain that, it would be put in the documentation on the alarm response. He said he could not give one concrete description of how TPD would verify operator error; all they would be interested in verifying was the alarm report of a valid burglary or robbery attempt which is what an alarm was designed for.

Discussion continued regarding operator error issues and how those were identified.

Vice Mayor Fimbres asked about alarm laws in effect in other towns in Arizona, the process for formalizing the proposed ordinance, stakeholders and alarm companies involved and how long TPD had worked on the project.

Chief Villaseñor replied that alarm laws information was contained in the handout distributed earlier that evening and listed all the Arizona cities and towns that employed fees as well as fines and their current programs.

Assistant Police Chief Leavitt said the alarm companies were the latest formal group of stakeholders; they also dealt with neighborhood groups, as well as, input from people from across the spectrum for over a decade producing a constantly evolving response protocol for alarms.

Chief Villaseñor also commented that the original iteration of the alarm ordinance started in 2002-2003, adding the current alarm ordinance was passed by Mayor and Council in 2004. He said the revisions being proposed came about during the Budget Option Balancing System (BOB'S) process for the establishment of the FY 2012 budget which TPD had been working on since then and presented it to the Core Tax Committee through the budget process and then to the Mayor and Council with it going forward from there.

Vice Mayor Fimbres asked how many alarms, false alarms and the type of impact they had on TPD during that time.

Chief Villaseñor said the number of twenty-two thousand calls for false alarms in 2002 had been brought up, but that was before criteria were implemented whereby TPD responded to all those calls for service. He said after the current false alarm ordinance was implemented, guidelines were set up which helped eliminate some of the calls. He said that was why the number given out earlier indicated TPD had responded to so many

calls this past year and it was portrayed that false alarms were reduced by fifty percent when that was not the case.

Chief Villaseñor said over eighteen thousand calls were received for alarms in the community last year; officers were dispatched on nine thousand four hundred calls using the guidelines that were established. He added that out of eighteen thousand alarm calls, two hundred twenty-three crimes actually occurred were indicated by the alarms.

Vice Mayor Fimbres asked if the proposed ordinance was implemented, what type of educational programs would be available for citizens and companies involved so everyone would be proactive thus eliminating the number of false alarms.

Chief Villaseñor said one of the options discussed was to offer a false alarm school, instead of imposing a fee, which the owner could attend in order to be educated about the proper maintenance of the alarm. He said this was something he was willing to look at with the stakeholders and alarm companies. He said he was open to working with the alarm companies and the industry to help establish more refined content for the alarm school to help owners of alarms.

Council Member Uhlich commented on TPD's work and willingness to work with those involved. She also noted her appreciation of comments made by stakeholders involved.

Council Member Cunningham asked about the process for the item if it was moved forward; would it be brought back to regular session or could it go back to study session.

Mr. Rankin said there were several options; the item did not have to be brought back to the regular session evening meeting, direction could be given to staff to take the input from the Public Hearing to bring something back to study session or, alternatively direction could be given not to bring it back at all.

It was moved by Council Member Scott, duly seconded, that staff meet with all of the stakeholders and council offices, review the Public Hearing feedback, include statistics on what full cost recovery would be and then return to the Mayor and Council at a later date.

Mayor Walkup said he was struggling with the logic of the arguments as to what constituted a false alarm and the determination of what one actually was and how it could be proven. He said there was an effort with the logic of identifying the fault, as well as, clarifying the conditions of whether it was a true fault or a close encounter. Mayor Walkup added this was a major dilemma and more help was needed regarding what happened in the field as there did not appear to be any good solution to the problem.

Chief Villaseñor apologized if TPD caused that type of confusion. He said for their purposes, a false alarm was a trip that was not caused by a crime such as a robbery,

burglary or a public safety hazard. He said from his own experience, in responding to alarms and as an alarm owner, someone shaking a door will not set off a good alarm; if it was a poor alarm system, that could be rectified to get the alarm company to install something better. He explained the exigent circumstances regarding TPD response to alarms.

Mayor Walkup said more time was needed to understand the deeper issues between now and when it was brought back in order to fully understand the logic of this issue and seek a system or situation where it did work in terms of policy.

Assistant Chief Leavitt said TPD had been doing a pretty good job so far and had been praised from all over the country. He said some of the definitions and criteria discussed that evening were over ten years ago but that the bottom line was who paid.

Council Member Kozachik commented he had a tough time charging somebody for owning an alarm system or forcing them to buy a more expensive unit if they were on a fixed income. He said if a firmer or more precise definition was not forthcoming, Mayor and Council should look in a different direction for cost recovery.

The motion for staff meet with all of the stakeholders and council offices, review the Public Hearing feedback, include statistics on what full cost recovery would be and then return to the Mayor and Council at a later date was carried by a voice vote of 7 to 0.

**9. PUBLIC HEARING: ZONING (C9-10-06) - EVERGREEN DEVCO - SILVERBELL ROAD, R-2 TO C-1, CITY MANAGER'S REPORT**

Mayor Walkup announced City Manager's communication number 298 dated July 6, 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 request for rezoning property located on the east side of Silverbell Road, north of Saint Mary's Road. The public hearing was scheduled to last for no more than one hour and speakers were limited to five-minute presentations. He asked if the applicant was present.

Keri Silvyn, representing Evergreen-Devco and Carondelet Health Network, said she was available to answer any questions at the end of the Public Hearing.

Mayor Walkup asked if there was anyone who wished to speak on this subject.

Margaret McKenna, Barrio Hollywood Neighborhood President, said she had worked closely with Walgreens and had seen Evergreen-Devco working with the neighborhood; she believed they had a strong project and she supported it along with many of her neighbors.

Brent Davis stated he wanted it understood this matter was more than just about Carondelet selling its property to Walgreens; it was also about the history of Carondelet properties and their development, especially as there was a pending zoning case for

violations against Carondelet for not complying with what they agreed to comply with in 2007.

Rick Bright, a local architect, stated Mr. Davis asked him to look into this matter. He stated he did some investigations and pieced together some information, noting there were many concerns, legal issues and questions which needed to be answered.

Kacey Carleton said she was a designer and resident of the neighborhood adjacent to the rezoning. She stated she wanted to go on record to say that there had been protests from the Barrio Hollywood Neighborhood regarding the rezoning for a Walgreens which would be permitted to sell alcohol twenty-four hours next to one of the oldest residential neighborhoods in Tucson. She said she was not there to protest the rezoning but to draw attention to the fact that the residents had not received all the structural information they should have. Ms. Carleton said the residents should not have to accept the rezoning without additional data and continued dialogue with the developers.

It was moved by Council Member Uhlich, duly seconded, and passed by a voice vote of 7 to 0 to close the Public Hearing.

Council Member Romero addressed some of the comments and issues raised and added some separate conditions to this matter. She said she thought everyone involved had gone above and beyond in working with the neighborhood and although not everyone in the area was completely happy, she said in moving forward many of the things the neighbors wanted would happen.

It was moved by Council Member Romero, duly seconded, and passed by a roll call vote of 7 to 0, to authorize the request as recommended by the Zoning Examiner with the following additional conditions.

1. Added Condition: “Developer shall meet with the Barrio Hollywood Neighborhood Association to present elevations for the Walgreens building upon submittal of final development plan to the City of Tucson.”
2. Revise Condition #9 to state: “Building height for Lot 1 is restricted to 25 feet, exclusive of architectural features. Building height for Lot 2 is restricted to 25 feet to top of parapet.”
3. Added Condition: “The subdivision plat/development package shall be revised to state Lot 2 (Northern site parcel) uses to be Administrative and Professional Office and/or Medical Service – Outpatient only.”
4. Added Condition: “In areas of the wall offset (where actual wall is facing north/south in the offset area), developer will install wrought-iron or better water drainage.”

5. Added Condition: “Developer will work with the Barrio Hollywood Proyecto Verde Committee and Watershed Management Group to refine design of property boundary along Seminole Park and Sonora Street entry with an emphasis on coordination of plant material.”

Council Member Romero added the Ward 1 office could help facilitate this process, if necessary.

Keri Silvyn said they were agreeable to the conditions and thanked the Ward 1 office and staff.

**10. PUBLIC HEARING: ZONING (C9-05-32) HERMAN MARK HOMES – 29TH STREET, RX-1 TO R-1, FIVE-YEAR TIME EXTENSION, CHANGE OF CONDITIONS**

Mayor Walkup announced City Manager’s communication number 299 dated July 6, 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 request for a five-year time extension for the completion of the rezoning conditions for the property located on the northwest corner of 29th Street and Harrison Road. The public hearing was scheduled to last for no more than one hour and speakers were limited to five-minute presentations. Mayor Walkup asked if the applicant was present.

Greg Marantz, applicant, replied in the affirmative.

Mayor Walkup asked if there was anyone who wished to speak on the item.

Elizabeth White said she lived west of the property in question and had been waiting five years for something to happen. She said her concern with granting the extension was that nothing had been done for five years even though there had been a housing nosedive. She said this situation was unacceptable.

Greg Marantz, the property owner, said in the process of bringing this project to fruition, there had been many meetings and protests and everyone worked together to create a better project, and described the many changes made in favor of the neighbors. He added this small infill project represented the best efforts and cooperation by all and asked for the Mayor and Council’s approval.

It was moved by Vice Mayor Fimbres, duly seconded, and passed by a roll call vote of 7 to 0 to close the Public Hearing.

Council Member Cunningham asked whether the zoning approval was for this specific project only and if it would be altered or the land sold in the future.

Mr. Marantz said if the property was to be sold in this economy, it was doubtful to bring the project to its completion, adding with the Mayor and Council's approval it would be subjected to all the current conditions.

Council Member Cunningham asked Mr. Marantz if there was a possibility of his selling the land in the future and then changing the scope of the project.

Michael Rankin, City Attorney, said this was a zoning authorization with a five-year continuance. Ultimately, if the property changed hands, and the new property owner wanted to proceed, the conditions would attach to the property; the zoning decision was attached to the property not the person. He added if someone wanted to do something different, they would have to seek a different approval.

It was moved by Council Member Cunningham, duly seconded and passed by a roll call vote of 7 to 0, to approve the requested five-year time extension and change of conditions as recommended by staff.

**11. ZONING: (C9-11-04) CASA DE LOS NIÑOS PLANNED AREA DEVELOPMENT (PAD) – 4TH AVENUE, NR-1 TO PAD ZONE, CITY MANAGER'S REPORT, DIRECT ORDINANCE ADOPTION**

Mayor Walkup announced City Manager's communication number 297 dated July 6, 2011, was received into and made part of the record. He said this was a request for property rezoning bounded by 5th Avenue, Helen Street, 4th Avenue, and Speedway Boulevard. The Zoning Examiner and staff recommended approval of the PAD zoning subject to certain conditions. Mayor Walkup asked if the applicant was present and agreeable to the proposals.

Robin Large, Applicant, said they were agreeable to everything, adding it had been a long process but it had come out very beneficial to everyone involved.

Mayor Walkup asked the City Clerk to read Ordinance 10906 by number and title only.

Ordinance No. 10906 relating to zoning: amending zoning district boundaries in the area bounded by 5th Avenue, Helen Street, 4th Avenue and Speedway Boulevard in case C9-11-04, Casa de los Ninos Planned Area Development (PAD), NR-1 to PAD zone and setting an effective date.

Council Member Kozachik said it had been an interesting process and appreciated the adjustments and compromises asked for by the neighborhood. He asked the Zoning Examiner about the wording regarding the structure at 307 East Speedway Boulevard.

Peter Gavin, Zoning Examiner, said the 307 East Speedway Boulevard structure was addressed on page 30 of the PAD document, and recommended that it have the same wording as the 301 East Speedway Boulevard.

Ms. Large said if it was deemed feasible for Casa de los Ninos (Casa) to rehab and utilize the property for however long before Speedway Boulevard was widened, it would ultimately come down as well. She said currently Casa had the property fenced off as it was a hazard in its current condition so substantial renovation would have to take place for them to even occupy it in accordance with building standards.

It was moved by Council Member Kozachik, duly seconded and passed by a roll call vote of 7 to 0, to approve the request as recommended by the Zoning Examiner and pass and adopt Ordinance No. 10906 with the following additional language added after the first sentence in paragraph two on page 30 of the PAD: "The structure at 307 E. Speedway, if rehabilitated, will remain until such time as the Speedway widening occurs. Casa will enter into an agreement with the City of Tucson to continue the use of this structure should the right-of-way be dedicated prior to roadway widening."

Council Member Uhlich applauded the work done on the project, adding great lengths were taken to hear all the concerns and make sure the architecture and structure were compatible and did meet the dual objectives to have development on the corridors at the edges of these historic areas, but to do it in a way that respected and preserved the integrity of those neighborhoods. She also thanked Mr. Gavin for his efforts.

**12. ZONING: (SE-11-04) AT&T - PARK AVENUE, R-2, SPECIAL EXCEPTION LAND USE, CITY MANAGER'S REPORT, DIRECT ORDINANCE ADOPTION (CONTINUED FROM THE MEETING OF JUNE 21, 2011)**

Mayor Walkup announced City Manager's communication number 294 dated July 6, 2011, was received into and made part of the record. He said this was a Special Exception land use request for property located on the west side of Park Avenue, south of Ajo Way. Mayor Walkup said the Zoning Examiner and staff recommended approval of the special land use subject to certain conditions. He asked if the applicant was present and agreeable to the proposed requirements.

Jamie Weiss, Applicant, replied in the affirmative.

Mayor Walkup asked the City Clerk to read Ordinance 10914 in number and title only.

Ordinance No. 10914 relating to zoning; a special exception land use - wireless communication facility use - AT&T - Park Avenue, located approximately one-third (1/3) mile south of Ajo Way on the west side Park Avenue; approving with conditions the construction of a 70 foot tall wireless facility enclosed within an artificial palm tree with associated ground equipment in the R-2 zone - Case SE-11-04; and setting an effective date.

It was moved by Vice Mayor Fimbres, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopt Ordinance No. 10914 and to have the additional revenue put towards opening more Tucson Parks and Recreation swimming pools during FY 2012.

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

Mayor Walkup announced City Manager's communication number 288, dated July 6, 2011, was received into and made part of the record. He asked if there were any personal appointments.

There were none.

**14. ADJOURNMENT: 8:31 p.m.**

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, August 9, 2011 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 9th day of August, 2011, and do hereby certify that it is an accurate transcription.

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DEPUTY CITY CLERK

RWR:tl:yl