



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on July 10, 2012.

Date of Meeting: December 20, 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 5:33 p.m., on Tuesday, December 20, 2011, all members having been notified of the time and place thereof.

1. ROLL CALL

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

Present:

Paul Cunningham	Council Member Ward 2
Karin Uhlich	Vice Mayor, Council Member Ward 3
Richard G. Fimbres	Council Member Ward 5
Steve Kozachik	Council Member Ward 6
Jonathan Rothschild	Mayor

Absent/Excused:

Regina Romero	Council Member Ward 1
Shirley C. Scott	Council Member Ward 4

Staff Members Present:

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

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Lisa Cole, City Clerk's Office, after which the Pledge of Allegiance was presented by the entire assembly.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Rothschild announced City Manager's communication number 486, dated December 20, 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.

Current event reports were provided by Council Members Cunningham, Fimbres, and Mayor Rothschild. A recording of this item is available from the City Clerk's Office for ten years from the date of this meeting.

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

Mayor Rothschild announced City Manager's communication number 487, dated December 20, 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.

Current event report was given by Richard Miranda, City Manager. A recording of this item is available from the City Clerk's Office for ten years from the date of this meeting.

5. LIQUOR LICENSE APPLICATIONS

Mayor Rothschild announced City Manager's communication number 490, dated December 20, 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)

Person Transfer(s)

1. Wildcat Liquor & Market, Ward 3
3996 N. 1st Ave.
Applicant: Robert Francis Kelly
Series 9, City 95-11
Action must be taken by: December 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. St. Demetrios Greek Orthodox Church, Ward 3
1145 E. Fort Lowell Rd.
Applicant: George A. Makris
City T117-11
Date of Event: January 6, 2012
(Fundraising)

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

2. The Drawing Studio, Ward 6
33 S. 6th Ave.
Applicant: Lynn M. Fleischman
City T119-11
Date of Event: January 20, 2012
(Fundraiser)

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

d. Agent Change/Acquisition of Control/Restructure

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

It was moved by Vice Mayor Uhlich, duly seconded, and carried by a voice vote of 5 to 0 (Council Members Romero and Scott absent/excused), to forward liquor license applications 5b1, 5c1 and 5c2 to the Arizona State Liquor Board with a recommendation for approval.

6. CALL TO THE AUDIENCE

Mayor Rothschild announced this was the time any member of the public was allowed to address the Mayor and Council on any issue except for items scheduled for a public hearing. Speakers were limited to three-minute presentations.

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

Comments were made by:

Lee Stanfield
Dave Ewoldt
Joe Callahan
Phil Swaim

Jessica Shuman
Enrique Vega
Ken Scoville
Ken Johnson

Richard Kaiser
John Schwartz
Stephanie Torres

A recording of this item is available from the City Clerk's Office for ten years from the date of this meeting.

7. CONSENT AGENDA – ITEMS A THROUGH H

Mayor Rothschild 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 DEC20-11-489 CITY WIDE
2. Mayor and Council Regular Meeting Minutes of May 24, 2011
3. Mayor and Council Special Meeting Minutes of May 24, 2011

b. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH PIMA COUNTY FOR THE AVONDALE NEIGHBORHOOD REINVESTMENT GRANT PROJECT

1. Report from City Manager DEC20-11-488 WARD 6
2. Resolution No. 21837 relating to Intergovernmental Agreements; authorizing and approving the execution of Amendment No. One to the Intergovernmental Agreement between the City of Tucson and Pima County for the Avondale Neighborhood Reinvestment Grant Project; and declaring an emergency.

c. TUCSON CODE: AMENDING (CHAPTER 6) TERMINATING THE BUILDING CODE COMMITTEE, ELECTRICAL CODE COMMITTEE, AND THE PLUMBING AND MECHANICAL CODE COMMITTEE AND CREATING THE TUCSON - PIMA COUNTY JOINT CONSOLIDATED CODE COMMITTEE

1. Report from City Manager DEC20-11-492 CITY WIDE

2. Ordinance No. 10950 relating to Boards and Commission; terminating the Building Code Committee, Electrical Code Committee, and the Plumbing and Mechanical Code Committee; creating the Tucson-Pima County Joint Consolidated Code Committee, to carry out the advisory and monitoring functions of these three terminated committees and also to serve as the Board of Appeals regarding the City's building-related Codes; amending Tucson Code, Chapter 6, Article II by adding new Sections 6-10 and 6-11 and amending Section 6-12; amending Tucson Code Section 10A-134; and declaring an emergency.
- d. TUCSON CODE: AMENDING (CHAPTER 8) ESTABLISHING SENIOR SPECIAL MAGISTRATE STATUS AND COMPENSATION FOR SPECIAL MAGISTRATES
1. Report from City Manager DEC20-11-494 CITY WIDE
 2. Ordinance No. 10952 relating to City Court; amending the Tucson Code Chapter 8, City Court, Article I in general, Section 8-2.1 methods of appointment of Magistrates and qualifications; establishing Senior Special Magistrate status and compensation, and Section 8-2.2 appointment of Special Magistrates; terms of office; compensation; powers; duties; qualifications; setting an effective date and declaring an emergency.
- e. ENVIRONMENT: APPROVING THE PHASE ONE CLIMATE MITIGATION REPORT AND RECOMMENDATIONS
1. Report from City Manager DEC20-11-495 CITY WIDE
 2. Resolution No. 21838 relating to the Environment; adopting and approving the Phase One Climate Mitigation Report and Recommendations; directing staff to move forward with the implementation of a climate mitigation and adaptation program as outlined in the Phase One Climate Mitigation Report and Recommendations; and declaring an emergency.
- Roger Randolph, City Clerk, announced the City Attorney had a correction he wanted to read into the record for Consent Agenda Item e.
- Michael Rankin, City Attorney, stated he had a technical correction to make to Section 1 of Resolution 21838. He said there were no appendixes, there were attachments, so the final clause which read “including its appendix b”, was deleted.
- f. MEMORIAL: SUPPORTING THE REDUCTION OF GREENHOUSE GAS POLLUTION UNDER THE CLEAN AIR ACT
1. Report from City Manager DEC20-11-496 CITY WIDE

2. A Memorial relating to supporting the Environmental Protection Agency Administrator Lisa P. Jackson in reducing Greenhouse Gas Pollution under the Clean Air Act.

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

g. ENVIRONMENT: SUPPORTING THE WESTERN REGIONAL CLIMATE ADAPTATION PLANNING ALLIANCE

1. Report from City Manager DEC20-11-497 CITY WIDE
2. Resolution No. 21839 relating to the Environment: supporting the establishment and efforts of the Western Regional Climate Adaptation Planning Alliance; and declaring an emergency.

h. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH PIMA COUNTY FOR THE BARRIO HOLLYWOOD NEIGHBORHOOD REINVESTMENT GRANT PROJECT

1. Report from City Manager DEC20-11-499 WARD 1
2. Resolution No. 21841 relating to Housing and Community Development; authorizing and approving Amendment No. 2 to the Intergovernmental Agreement between Pima County and the City of Tucson for the Barrio Hollywood Neighborhood Reinvestment Grant Project; and declaring an emergency.

(This item was considered separately.)

It was moved by Council Member Cunningham, duly seconded, and passed by a roll call vote of 5 to 0 (Council Members Romero and Scott absent/excused), that Consent Agenda Items a – g. with the exception of Items f and h, which were considered separately, and to include the amendment to Item e, be passed and adopted and the proper action taken. Consent Agenda Items a – e and g were passed without the emergency clause.

7. CONSENT AGENDA – ITEM F

f. MEMORIAL: SUPPORTING THE REDUCTION OF GREENHOUSE GAS POLLUTION UNDER THE CLEAN AIR ACT

1. Report from City Manager DEC20-11-496 CITY WIDE
2. A Memorial relating to supporting the Environmental Protection Agency Administrator Lisa P. Jackson in reducing Greenhouse Gas Pollution under the Clean Air Act.

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

Council Member Fimbres read a statement on behalf of Council Member Romero as follows:

“I am proud that the City of Tucson will be adopting the recommendations for our Climate Change Committee and I am sorry I could not be at the meeting tonight to vote on this very important action we are taking. I am one hundred percent supportive. I know we need to do more to protect Mother Earth. I am the mother of two young children and I want to respect and honor our land so future generations can enjoy it. With the support of the Center for Biological Diversity and the City’s Climate Change Committee, I propose a resolution to encourage the Federal Government to strengthen and enforce the Clean Air Act to combat the highest levels of pollution in our environment.”

“According to the Environmental Protection Agency, in 2010 alone, the Clean Air Act saved twenty three thousand lives, prevented 1.7 million asthma attacks, prevented 4.1 million lost work days and prevented more than sixty eight thousand hospitalizations and emergency room visits. The Clean Air Act also saves money and protects our economy. In its first two decades alone, the act provided benefits including decreased health care costs and reduced lost work time, where \$22.2 trillion benefits forty two times greater than the estimated cost of regulation. The resolution will be sent to the Federal Environmental Protection Agency with the following resolution from the people of Tucson.”

“Climate change is not an abstract problem for the future or one that will affect far distant places but rather climate change is happening now. We are causing it and the longer we wait to act the more we lose and the more difficult the problems will be to solve. We, the Tucson City Council, on behalf of the residents of Tucson, do hereby urge the administration of the Environmental Protection Agency, Lisa P. Jackson, and President Barack Obama to move swiftly to fully employ and enforce the Clean Air Act to do our part to reduce carbon in our atmosphere to no more than 350 parts per million.”

It was moved by Council Member Fimbres, duly seconded, and passed by a roll call vote of 5 to 0 (Council Members Romero and Scott absent), that Consent Agenda Item f be passed and adopted and the proper action taken.

7. CONSENT AGENDA – ITEM H

h. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH PIMA COUNTY FOR THE BARRIO HOLLYWOOD NEIGHBORHOOD REINVESTMENT GRANT PROJECT

1. Report from City Manager DEC20-11-499 WARD 1

2. Resolution No. 21841 relating to Housing and Community Development; authorizing and approving Amendment No. 2 to the Intergovernmental Agreement between Pima County and the City of Tucson for the Barrio Hollywood Neighborhood Reinvestment Grant Project; and declaring an emergency

Mayor Rothschild announced the last item to be considered separately was Consent Agenda Item h, which was inadvertently left out of the Consent Agenda vote.

It was moved by Council Member Cunningham, duly seconded to pass and adopt Consent Agenda Item h.

Council Member Kozachik requested a brief explanation of the item.

Albert Elias, Housing and Community Development Director, said it was an extension to an existing Intergovernmental Agreement which extended the time to complete the project, from December 31, 2011 to June 30, 2012. He stated the project was almost complete but the extension allowed for final payments to be included in the County's financial system before the existing agreement expired.

Consent Agenda Item h was passed by a roll vote of 5 to 0 (Council Members Romero and Scott absent/excused). Resolution 21841 was passed without the emergency clause.

8. PUBLIC HEARING: AMENDING TUCSON CODE (CHAPTER 3) SIGN CODE, EXTENDING THE SUNSET DATE OF ORDINANCE NO. 10864 TO JANUARY 31, 2013 AND REVISING THE DEFINITION OF GRADE FOR THE SCENIC CORRIDOR ZONE DISTRICT

Mayor Rothschild announced City Manager's communication number 493, dated December 20, 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 a proposed amendment to Chapter 3 of the Tucson Code regarding the Scenic Corridor Zone District. He said staff wanted to make a brief presentation prior to the public hearing.

Ernie Duarte, Planning and Development Services Department Director, and Craig Gross, Deputy Director, gave a brief presentation on the item.

Council Member Fimbres asked what reason the Citizens Sign Code Committee (CSCC) gave for extending the ordinance for a year.

Mr. Duarte said the CSCC wanted to continue monitoring the change to measure its effectiveness in order to see if any other changes might be needed at a later date.

Council Member Cunningham asked if the new measure affected the Tucson Upholstery sign on Speedway Boulevard and Craycroft Road.

Mr. Duarte replied it did not.

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

Jude Cook, Cook and Company Sign Makers, stated he was in agreement with the revision to the definition of “grade”. He said, as to the extension of the sunset date to the amendment, the ordinance had already shown its effectiveness in reducing the variances and he did not see a need to extend it. He urged the Council to adopt the amendment as permanent.

It was moved by Council Member Cunningham, duly seconded, and passed by a voice vote of 5 to 0 (Council Members Romero and Scott absent/excused), to close the public hearing.

Mayor Rothschild asked the City Clerk to read Ordinance 10951 by number and title only.

Ordinance No. 10951 relating to Sign Code; amending the Tucson Code, Chapter 3, Sign Code, Article IV, General Requirements, Section 3-33, Grade; relating to amending Ordinance No. 10864 extending the effective date thereof; and declaring an emergency.

It was moved by Council Member Kozachik, duly seconded, and passed by a roll call vote of 5 to 0 (Council Members Romero and Scott absent/excused), to pass and adopt Ordinance 10951. Ordinance 10951 was passed without the emergency clause.

9. FINANCE: WRITE-OFF OF UNCOLLECTIBLE ACCOUNTS RECEIVABLE

Mayor Rothschild announced City Manager's communication number 498, dated December 20, 2011, was received into and made part of the record.

It was moved by Council Member Fimbres, duly seconded, to pass and adopt Resolution 21840.

Council Member Cunningham stated he had gone over some of the accounts and wanted to ask the Court Administrator about the delinquent debtors; how delinquent accounts were collected or written off. He also asked if the City had any future creative ways to collect unpaid debt fines that were being written off at the tune of \$5 million.

Christopher Hale, Court Administrator, said the court did not actually write off particular cases under the write off program. He said cases remained on the books and they continued to try to collect them. The only time a case was removed from the system was when the prosecutor made a motion to dismiss it or the clerk, on his own motion, dismissed a case. He said the current process was when an account became delinquent it was reported to the FARE (Fines/Fees, and Restitution Enforcement) program.

Mr. Hale explained that recently they ran a program in conjunction with the administrative office of the courts where they re-noticed all the languished cases and ended up collecting about three hundred eighty thousand dollars. He mentioned the FARE program had key points that allowed the court to properly motivate people to pay their bills; one was the Traffic Ticket Enforcement Assistance Program (TTEAP) which prevented people from registering their cars on civil traffic violations. Another was the Tax Intercept Program which allowed the Court to intercept tax refunds from people's tax returns, which for the current year netted approximately eight hundred thousand dollars. They also used Credit Bureau reporting.

Mr. Hale stated they were looking for new and innovative ways to collect more of the fines; one was to recall cases run through the FARE program and turn them over to the City's collection agency to try to plug the gap.

Council Member Cunningham asked if there was a program where people under certain circumstances could come in one day a year and settle their cases in an expedited manner.

Mr. Hale stated people could come in anytime to settle their accounts with the Court. The Court did not run an amnesty program or a program where people could pay a reduced amount because the fine amount was not just owed to the City, there were surcharges owed to the State as well.

Council Member Kozachik asked if the Court gave people the opportunity to perform community service in lieu of paying the fine.

Mr. Hale stated that people were given that opportunity in certain circumstances and certain case types. He said the Judicial Officer could approve community service and it was used quite frequently.

Council Member Kozachik asked if the Court knew who the people were, was it effective to extend an offer to those with outstanding debts to abate graffiti. He stated the courts knew who the people were that owed the debt.

Michael Rankin, City Attorney, said in certain instances there was a minimum mandatory fine where community service could not be substituted. But, he said, where the fine could be paid off by community service typically the offer was made at the time the defendant was in court being sentenced and they failed to follow through with either obligation. He stated, in that case, it defaulted to the fine obligation which was the outstanding amount that was trying to be collected.

Council Member Kozachik asked for confirmation that the City contracted with an outside agency for its collections.

Mr. Hale stated that their participation in the FARE program prevented them, without permission from the Arizona Supreme Court, from entering into new contracts

for collection. He said one of the things the City was working on, was when they wanted to pull some of the cases back from the FARE program and turn them over to the City's collection agency, whether it was a new contract or an existing contract.

Council Member Kozachik said they should look for creative ways to engage the people, who as a result of financial inability, could not pay their fines but had the physical ability to step up to the plate. He stated people did not necessarily want to stiff the system, but just did not have the ability to pay and would help to clear up their record. He said he did not think they could collect all \$6 million, but maybe a good chunk of it.

Council Member Kozachik questioned the Tucson Convention Center (TCC) write off amount of zero; which he thought was not accurate. He asked if the amount was listed somewhere else.

Kelly Gottschalk, Assistant City Manager and Chief Financial Officer, answered she believed that number was accurate, because of the way the TCC ran their events. She stated events were paid in advance.

Council Member Kozachik said what happened if there was damage done to the facility during an event; where those fees were not paid in advance. He said he suspected the City did not go after those amounts, which were bad debts.

Ms. Gottschalk said those incidents would probably fall under Risk Management. She said the City went after those fees through subrogation so those amounts were listed in a different spot.

Council Member Kozachik said when he went on "ride a-longs" with the Tucson Fire Department (TFD); they called a private ambulance service for non-critical care patients so the bill was between the patient and the private service. He said he did not think the City charged for TFD transporting emergency medical services.

Ms. Gottschalk confirmed he was correct about the billing between the patient and the private service, but the amounts on the list were for TFD transports.

Council Member Kozachik asked if the City charged for TFD transportation of patients.

Ms. Gottschalk stated the patient's insurance was billed first for the costs, and then the patient was billed for the amount not covered by the insurance. She said after the insurance paid their amount, what was left went directly to the collection agency.

Council Member Kozachik stated it was his misunderstanding as he did not think the City charged for that service.

Council Member Fimbres said, in Attachment A to the Resolution, it was proposed that all eight thousand five hundred thirteen delinquent accounts for City Court

finances were written off, yet there was an amount of one million four hundred eleven thousand six hundred forty-six dollars and fifty three cents still listed as active. He asked if that could be explained in greater detail.

Ms. Gottschalk explained the process the City used for the write off of financial record was once the accounts were at least three years old for Court systems or four years with no activity for DUI related offenses.

Council Member Fimbres asked if liens or garnishing of wages were used for any of the accounts. He also asked if the City used other types of on-line payment systems such as Pay Pal to make it easier for folks to pay their fines.

Ms. Gottschalk stated the City did use the lien mechanism in certain cases involving property related bills such as when the City had to go in to board up a house or conduct weed control and those sorts of things. She stated if there was something to lien, then the City did that. She said different departments used different methods to accept payment.

Council Member Fimbres asked how the City determined if the system was off-line, and people had attempted to make payment but the system was not working.

Ms. Gottschalk said that was a department by department issue. She said typically the department received phone calls or e-mails letting them know there was a problem with the system.

Roger Randolph, City Clerk, stated he needed to read the Resolution into the record.

Resolution No. 21840 relating to Finance; authorizing the write-off of certain uncollectible accounts, and declaring an emergency.

Resolution 21840, without the emergency clause, was declared passed and adopted by a roll call vote of 5 to 0 (Council Members Romero and Scott absent/excused).

10. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Rothschild announced City Manager's communication number 491, dated December 20, 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 Vice Mayor Uhlich, duly seconded, and carried by a voice vote of 5 to 0 (Council Members Romero and Scott absent/excused), to approve the appointment of Kate Flasch to the Fort Lowell Historic Zone Advisory Board and the reappointment of City of Tucson Council Member Regina Romero to the Metropolitan Education Commission.

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

Council Member Cunningham announced is personal appointment of Dante Archangeli to the Citizen Sign Code Committee (CSCC).

11. ADJOURNMENT: 6:41 p.m.

Mayor Rothschild announced the next regularly scheduled meeting of the Mayor and Council would be held on Wednesday, January 4, 2012, 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 20th day of December 2011, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

RWR:jr:yl