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#### **CALL TO ORDER**

[Time: 00:00:02]

Mayor Lane: No need for a gavel here. Good afternoon. It's nice to see this type of participation in our process. This is just simply a call to order for the October 6<sup>th</sup>, 2015, city council meeting. We have Councilwoman Korte who will not be attending tonight's meeting due to the fact that she just lost her mom a day or so ago. She won't be able to be with us. We will start with a roll call.

#### **ROLL CALL**

[Time: 00:00:30]

City Clerk City Clerk Carolyn Jagger: Mayor Jim Lane.

Mayor Lane: Present.

City Clerk Carolyn Jagger: Vice Mayor David Smith.

Vice Mayor Smith: Present.

City Clerk Carolyn Jagger: Councilmembers Suzanne Klapp.

Councilwoman Klapp: Here.

City Clerk Carolyn Jagger: Virginia Korte. Absent.

City Clerk Carolyn Jagger: Kathy Littlefield.

Councilwoman Littlefield: Here.

City Clerk Carolyn Jagger: Linda Milhaven

Councilwoman Milhaven: Here.

City Clerk Carolyn Jagger: Guy Phillips.

Councilman Phillips: Here.

City Clerk Carolyn Jagger: Acting City Manager Brian Biesemeyer.

Brian Biesemeyer: Here.

City Clerk Carolyn Jagger: City Attorney Bruce Washburn.

Bruce Washburn: Here.

City Clerk Carolyn Jagger: City Treasurer Jeff Nichols.

Jeff Nichols: Here.

City Clerk Carolyn Jagger: City Auditor Sharron Walker.

Sharron Walker: Here.

City Clerk Carolyn Jagger: And the Clerk is present.

Mayor Lane: Thank you very much. A few items of business. The white cards the city clerk is holding up over her head and that would be for any item on the agenda, as well as for public comment. There are also yellow cards available for any principle comments for any -- written comments for any of the agenda items that we will read during the proceedings. We do have Scottsdale police officers, Jason Glenn and David Schurr with us if you are in need of their assistance. We also have for any medical emergencies, please see the Scottsdale fire representative for assistance, I believe he's right straight back behind us here. The areas mind the council dais are reserved for staff and for council. We do have facilities for your convenience that are located to my left over here under that exit sign.

Today we have Daisy Troop Number 770 with their leader Nikki Coburn leading us in tonight's pledge. Ladies, please come to the microphone. And if you can, please stand for the pledge.

**PLEDGE OF ALLEGIANCE**

[Time: 00:02:04]

Daisy Troop 770: I pledge allegiance to the flag of the United States of America, and to the republic for which it stands: One nation under God, indivisible, with liberty and justice for all.

Mayor Lane: Thank you very much, ladies, if you will just turn the microphone around. Face the audience and if you would, one by one, just introduce yourself and tell us where you go to school and what your favorite subject is.

Abby Fox: Hi, my name is Abby Fox. I'm 7 years old and I go to Sonoran Sky and I'm in second grade and my favorite subject is music.

Kristen: My name is Kristen and I'm in second grade and I go to Sonoran Sky and I'm in second grade and my favorite subject is art.

Claire: My name is Claire Fillipowitz, I go to Our Choice Scottsdale and my favorite subject is history.

Hannah Fox: Hi, my name is Hannah Fox. I'm 7 years old. I go to Sonoran Sky Elementary and my favorite subject is science.

Bella: Hi, my name is Bella. My favorite subject is music. I go to Sonoran Sky. I'm 7, and I'm in second grade.

Caitlin: Hi, my name is Caitlin and I'm in sixth grade and I'm 11 years old. And my favorite subject is math.

Mayor Lane: Thank you very much, ladies. I appreciate you being here tonight.

**INVOCATION**

[Time: 00:04:30]

Mayor Lane: In place of an invocation this evening, I would like to ask that we take a moment of violence for the Umpqua community college shooting victims and their family.

Thank you.

**MAYOR'S REPORT**

Mayor Lane: Tonight, we have a proclamation, celebrating the month of October as Scottsdale McDowell Sonoran Preserve month. I would like to take this time for a -- just for a moment to read the proclamation to you.

Whereas the citizens of Scottsdale have consistently and strongly expressed that preservation of the McDowell Mountains and the surrounding Sonoran desert is a high priority; and whereas, the McDowell Sonoran Preserve, Scottsdale's most valuable resource has protected over 30,000 acres as natural open space; and whereas, the citizens of Scottsdale established the McDowell Sonoran Conservancy, a nonprofit, volunteer-based organization to partner with the city to steward this community asset; and whereas, it's the to recognize the McDowell Sonoran Preserve Commission and making recommendations to the city council on Preserve-related issues; and whereas, it's the desire of the citizens of Scottsdale and its citizens to celebrate this resource and creating and enhancing and stewarding the McDowell Sonoran Preserve. Therefore, I Jim lane, the mayor of the Scottsdale, Arizona do hereby proclaim this month of October, 2015, as Scottsdale McDowell Sonoran Preserve month.

If you haven't been out there to see it or use, it please do. It's a great asset.

#### **PUBLIC COMMENT**

[Time: 00:07:05]

Mayor Lane: Next order of business is public comment and public comment is preserved for citizen comments regarding non-agendized items with no official council action taken on these items. Speakers are limited to three minutes, a maximum of -- a maximum of three minutes with a maximum of five participants in this section of comments. And we have just two requests to speak on the public comment side this evening. And first would be Floyd Marsh. And next Sharon Spencer.

Floyd Marsh: Is this working? Yes it is, I guess. Mayor Lane and councilmembers, I'm Floyd Marsh, residing on east Cheryl Drive for the meeting record. I'm here representing the EQAB board. I'm stepping off this board as I have served six years. This is my last official duty if you will.

The purpose of being here this evening is briefly advise the council of a recent action to establish, as well as I think a public rollout if you will of a second environmental achievement recognition program, and highlight the specific purpose and the process of this item. This newly established recognition actually compliments a previous recognition program established in 2013 also by the EQAB board to recognize deserving employees teens and operational divisions of the city for the exemplary achievements. Some background this previous program recognized -- made recognition actually twice to the following city department programs, first of fleet department or the management department in July of 2013 for its alternative fuel vehicle programs. Secondly, the solid waste management in June 2014 for its innovative cost saving programs for your reference, specific details of this new program that are launching in the material distributed by the clerk prior to the meeting. It's printed front to back on a single sheet.

The purpose of the new program, is to showcase and publicly recognize exemplary achievement of those city-based businesses, and organizations who have made environmental sustainability a core value of their ongoing activities and through employing green technologies at each and every moment of their operations. Those businesses who we weave green activities into their routine activities not only does it make good business sense but also because of their pride in the community. And as we all know, there are many. The category is lengthy with examples ranging from retail sales, any and all new services, tourism, industry, manufacturing, medical, and dental providers, hospitals, clinics, research institutes, things such as that. So you can see it's more external to the city than it is internal as the other program was and other levels of government too, such as the school district and numerous others.

The identification process and the selection is quite simple and straightforward and unlike many other awards noncompetitive. The individual candidates will be directly identified by or referred to the EQAB board based upon their stand-alone profile for environmental achievements, which EQAB then will select candidates based on the merit of their documented achievements and approval by a majority vote of the board. The methods of recognition are assorted and may and actually in all cases are likely cases will be combined based on individual circumstances and the nature of the recipient, including the examples, the letter of recognition, the formal presentation such as council events with the councilmember presentation, formal presentations, permanent plaques or trophies of recognition and widely circulated press released or news conferences. The recognition process and the methods, of course is to allow that they be custom tailored to the nature of the recipient, the organization, or the business, or the impact in the community. So that gives you a real brief overview. You have the references in front of new terms of what we set up for criteria and eligibility and things of that nature. So thank you for your time with it and interest in that overview. And if -- we would be happy to respond to any questions or comments that you may have.

Mayor Lane: Thank you, Mr. Marsh. We don't reserve any time for questions. It's not an agenda item. Thank you very much. If they do, they can certainly contact you.

Floyd Marsh: You have the reference document in front of and if you have any questions contact the staff liaison, or the EQAB chairman.

Mayor Lane: Thank you very much. Next is Sharon Spencer.

[Time: 00:11:57]

Sharon Spencer: Good evening honorable mayor and city council. This matter is to address a senior -- a serious issue of discrimination, retaliation, and the reputation of the city of Scottsdale in denial of my \$1,500 voucher for dental work for which I was approved at 9:20 a.m. on September 23<sup>rd</sup>, at the Granite Reed Senior Center. The manager along with two other employees is responsible for this abuse of power. If this is the type of deceptive business practices, this can set a precedent by one employee who has made a horrible mistake.

Ms. M., who I will just use their initials for their last name, asked for my I.D. upon arrival. And I

showed her my passport card as I do not drive. She immediately claimed on my fantastic photo in awe. Then she proceeded to quickly question my U.S. citizenship even though I signed a form and as well as my citizenship is quite visible on the card. And of course, it is issued by the U.S. passport department. She stated she had never seen such a document. Again, questioning my integrity. I advised her that the card was around for ten years. She excused herself for quite a while. I assume she was showing it to Ms. B. When she returned, she said, do you have a book passport. I said, I have an international one but it's at my residence. She then asked, is it the same picture to which I replied yes, it is. She stated if you had brought the book passport, I could have given you the voucher and the packet now. This was the first act of discrimination but she nevertheless approved my eligible at 9:20 a.m. She stated I needed to get the bank -- the book passport to fax it to her upon my return home. She states, I don't want you to have to pay for another taxi here and could she deliver it to me at noon at my resident. I had an appointment but I would call to change that as this was so important.

Upon arrival at home, I faxed a copy of the second passport to her, along with the letter, reaffirming our meeting at noon at my residence. I never had -- I even had a handwritten note which I brought to the meeting thanking her for her personal service along with the small gift. Noon went by and she never showed up. When I finally reached her after several calls, it's now 12:40 p.m. She stated she was in a meeting with another client and would be leaving in her car to my place. She stated Ms. B. wanted to know where I had come from and questioned how I could live in such a nice place with limited income. This was the third act of discrimination. I advised her I had a taxi waiting. She said she was leaving in her auto right now. 20 minutes later, no turn or sign of Ms. M. The taxi driver even heard the entire discussion between the senior center and myself and stated how absurd this was that he would take me to the senior center at no additional charge.

Mayor Lane: Ms. Spencer, you have to wrap this up. It's a three-minute limit.

Sharon Spencer: I thought I had three minutes.

Mayor Lane: You do have.

Sharon Spencer: I called senior center and was told that Ms. M. had the voucher in her car and strangely enough in the way over to me, she had to stop off for something more important, but she would get there when she could, leaving it at the front desk. The taxi driver suggested we go to meet her.

Mayor Lane: I'm going to have to insist you do need to wrap it up. If it's a complaint, you need to make sure you go through the channels as far as this is concerned. We can't --

Sharon Spencer: I wanted to give the details.

Mayor Lane: And I understand, that but we have to end it right now.

Sharon Spencer: Okay.

[Time: 00:16:43]

Mayor Lane: Thank you. That completes the public comment period at this time. We will -- I suppose I should probably say before we go to the approval the minutes that we have a change tonight. I love to start this out by saying we are losing our Vice Mayor but nevertheless, I won't do that. No, I said that before. It always catches me like something drastic has happened to you. Nevertheless, we want to thank the Vice Mayor -- well, the previous vice mayor, Councilwoman Milhaven for her service as Vice Mayor but she's moving away from that position and we have now a new Vice Mayor, and we were waiting on the crown but nevertheless, councilman Smith will be vice mayor now for the next eight months.

You know, just for the record, and I realize that there are certain events that we do have some applause and sometimes other outbursts but this is a council meeting and we try to refrain from all of those exhibits of either accolades or disapproval. But you were worthy of and certainly the Girl Scouts.

## **MINUTES**

Mayor Lane: The next order of business is a motion to approve the minutes. I would like to accept a motion to approve the special meeting minutes of September 8<sup>th</sup>, 2015, the regular meeting minutes of September 8<sup>th</sup>, 2015 and the executive session minutes of June 16<sup>th</sup>, July 1<sup>st</sup> and September 8<sup>th</sup>, 2015.

Councilman Phillips: So moved.

Mayor Lane: Motion moved.

Councilwoman Klapp: Second.

Mayor Lane: Motion made and seconded. No further comment. All of those in favor please indicate by aye. Those opposed with a nay. It's unanimous, 6-0. With Councilwoman Korte absent.

## **CONSENT AGENDA**

[Time: 00:18:44]

Mayor Lane: The next order of business are consent items 1 through 11 and we do have an immediate request for consent item 10 to be removed at the request of staff and just for the record, that consent item 10 is a video services rights-of-way license agreement that was removed and will likely be reagendaized at a future date. In addition to that, there's been a request by councilwoman Littlefield to move item 9 to the regular agenda. And that was the initiation of special events ordinance text amendment. So that will be moved away from those items. So we -- we still have

item 11. So it would be consent items 1 through 11, less 9 and 10. I would ask for a motion.

Councilwoman Milhaven: So moved.

Vice Mayor Smith: Second.

Mayor Lane: The motion has been made seconded. I guess we are ready to vote, unless there's any further comment.

Before we vote, I wanted to make once comment about the salinity rebate program. Number one, just accolades to the water department and our acting city manager Brian Biesemeyer. I think this is an interesting and a good start and it gives us some indication of the direction we want to move in consolidating some of this effort into more acceptable area. But just nice report and I appreciate those efforts. It's very important. Thank you on that.

With that, we are then ready to vote. All of those in favor, please indicate by aye. The motion passes unanimously. 6-0.

#### **ITEM 9 – INITIATION OF SPECIAL EVENTS ORDINANCE TEXT AMENDMENT**

[Time: 00:20:41]

Mayor Lane: Since we moved the item 9 to the regular agenda. It looks like Brent Stockwell will be moving to the microphone. It's Councilwoman Littlefield and Vice Mayor Smith who are interested on some explanation on this.

Assistant City Manager Brent Stockwell: Certainly. If you recall, where we left the meeting on September 21<sup>st</sup> was with direction to start a public outreach process to -- there was a lot of other direction that was given at that time but the gist is to start a public outreach project with an intent in early of 2016. Under the zoning ordinance, where the special events ordinance currently resides, there is a requirement that whenever you make changes to that ordinance, for example, even to delete that entire section out of the zoning ordinance, that actually requires action by the city council, formal action by the city council, to initiate that amendment. So that's what this item was intended to do was to act in direct response to the informal direction that the council provided at the special events work study and get this process in motion so that the public outreach could be seen at the times and dates on the screen, at the last council meeting. That's the information I have. I'm able to respond to any questions or concerns that councilmembers might have.

[Time: 00:22:21]

Mayor Lane: Thank you Mr. Stockwell. Any questions? Vice Mayor.

Vice Mayor Smith: Either one of us maybe, but the one question I had was on the dates that you have chosen to have these meetings. I'm sure it was just coincidental, but it's -- I would recommend

or prefer that they be on a different date. They are on Thursdays, and obviously for many of the interested parties in this, special events, free ride, Thursdays we continue to hope is a busy night during downtown. So you can pick a time where these meetings are more available to all the interested parties.

Assistant City Manager Brent Stockwell: Mayor Lane, members of city council. Yes, there was no intent to not make those times and dates unavailable to any members of the community, when it was originally put together, there was a daytime and an evening time trying to make them convenient to people but we can certainly put together additional dates that don't conflict with events.

Vice Mayor Smith: Okay. And I do have a second question and this time I will turn on the microphone for it. I apologize to anybody who was trying to listen before. Will you be going out in these public meetings with a draft ordinance rewrite? And do we as a council have an opportunity to opine or calibrate or have our input on that, more than what we did on the 21<sup>st</sup> of September?

Mayor Lane: Excuse me. And with all due respect to the line of questioning, this particular item really does not involve the items of the outreach and/or the process that we put in place, does it not? Or is it -- does it formulate the time schedule.

Assistant City Manager Brent Stockwell: Mayor Lane, members of the council, the public outreach plan and timeline that were presented to the council on the 21<sup>st</sup> are included in this item as an attachment.

Mayor Lane: Okay.

Assistant City Manager Brent Stockwell: That seems to be to be fair game for discussion at this point.

Mayor Lane: Okay. All right.

Assistant City Manager Brent Stockwell: So I don't know if Brian is able to actually get up that attachment to that item or not. But you will see that that public outreach plan is actually scheduled in three phases. The first phase is really kind of listening phase and so that's the opportunity to do with the community what we were able to do with the city council through those two work study sessions. It's an opportunity to identify issues and concerns in that first space. That's the October phase.

In the November phase, that's the opportunity to flesh out concepts in more detail and so that's when we would take items that the council gave direction on at the last work study. Additional items that we heard from the community and flesh out some concepts. Then, in December, the third step in that process would be the point where we would start to bring forward some draft language and get feedback on that to take, that that draft language address the concepts, address the issues and concerns and so it's really set up as a three-phase process to do that.

I think when we initially fleshed this out, that we would come back with a full-fledged ordinance. I

have think with the two conversations that we with the council that we will bring it back for you and you will probably have another work study on those items and we will schedule it for action at a future meet, just to make sure that everyone has ample opportunity to weigh in on this and provide their feedback on these important issues.

Vice Mayor Smith: Thank you, Brent. That's all I had mayor.

[Time: 00:26:18]

Mayor Lane: Thank you, vice mayor. Councilwoman Littlefield.

Councilwoman Littlefield: I wanted to say my concern was for the timing the meetings to make sure that it made times available for everyone who would be interested in coming and Thursday nights is not a good night for that. Thank you.

Mayor Lane: That looks like the extent of questions on that particular item, item 9.

Assistant City Manager Brent Stockwell: Mayor, if I may make one more comment. Another item that was directed by the council or we -- that is part of the outreach plan, is that a website will be created and we will have additional dates that won't pose so great a conflict to members of the community and post those up on the website and that website is available. People with go to [Scottsdaleaz.gov](http://Scottsdaleaz.gov) and search special events ordinance update and the dates there are as the additional information is there, that will be all be added and included in there. That's a great resource for anybody that wants to stay up to date on this, where they can go.

[Time: 00:27:24]

Mayor Lane: You created another question, when we about a month ago, when we have the special events text amendment, I understood at that time it was simply to open up the process that there wasn't any format, there was not any content to, other than to initiate the process. Has it changed since then? I mean is this more formulated by virtue of the direction given at the work study?

Assistant City Manager Brent Stockwell: Mayor Lane, and members of council. My understanding is what initialization of zoning text amendment does is it starts a process. It starts the process which includes public outreach and does include a timeline and it ultimately results in that ordinance coming back. Yes, you are right, it's initiating, and it sets up the public meetings and getting feedback, et cetera.

Mayor Lane: I think we are complete on that. We are ready then to vote on that item, item 9, which is the initiation of special events ordinance text amendment.

Councilwoman Milhaven: I move that we initiate a text evidence of the Scottsdale Revised Code Article VII, general provisions Section 7.900-7.930 to update the provisions of special events.

Vice Mayor Smith: Second.

Mayor Lane: I think we are now ready to vote. All of those in favor, please indicate by aye. And register your vote. It's unanimous, 6-0 to accept that initiation process. Okay.

**ITEM NO. 12 – MARICOPA ASSOCIATION OF GOVERNMENTS ANNUAL MEMBERSHI DUES**

[Time: 00:29:25]

Mayor Lane: We will move on to the regular agenda, items 12 through 15, starting with the Maricopa association of governments annual membership dues. This is resolution 10240, and there are for the dues in the amount of \$40,898. Mr. Brad Lundahl.

Government Relations Director Brad Lundahl: Good evening mayor and members of the council. As the mayor described, I'm here tonight to go over the information for the payment of dues to the Maricopa Association of Governments. Just a brief background, Maricopa association of governments or what we call M.A.G., was established back in 1967. It was designated as an M.P.O., or metropolitan planning organization in 1973, and that is a federal designation to organizations like that for urbanized areas with a population greater than 50,000. There are currently 27 incorporated cities and towns who are members of M.A.G. Three Native American Indian communities and Maricopa and Pinal counties are also members of M.A.G. It's developed by M. A.G.'s several communities but most exclusively by the executive committee, of which Mayor Lane is now the chair. He's officially the chair of M.A.G. and we have Vice Mayor Smith who is on the transportation policy committee and Councilwoman Klapp who is on the domestic violence council.

The annual dues are based on the city's -- oh. I forgot one. Sorry. The annual dues are based on the city's population, and several years back, when the economy was not doing so well, M.A.G. cut the dues to -- the amounts due to the member cities by 50%. That went on for several years and then last year, that amount came back up. So right now, what you are going to see is the annual dues are \$40,898. And the resolution 10240 would authorize the payment of dues for this year. And with that, I would be happy to answer any questions.

[Time:

Mayor Lane: Thank you, Brad. You might say obviously that what the percentage of increase was this year on the basis of that readjustment, number one, but it was something that M.A.G. a few years back in the recession cut the dues by 50% in order to accommodate the cities' shortfall in revenues during that period of time, as I think we probably all understood. But they were able to fund that through some reserves that they had accumulated through a period of time. But now in order to get back to where they are supposed to be they have adjusted the payments upward. Now, I don't know what the percentage increase was but that was an item of corresponding interest when you talk about that cut of 50%.

Government Relations Director Brad Lundahl: It came back up roughly 50% but it was adjusted for

population and new members.

Mayor Lane: Okay. Thank you. Councilwoman Klapp?

Councilwoman Klapp: I move to approve resolution number 10240, authorizing payment of annual membership dues in the amount of 40,898 to the M.A.G. for 2015/16.

Councilwoman Milhaven: Second.

Mayor Lane: A motion has been made and seconded. Any further comments? Seeing none, I think we are ready to vote. All of those in favor please indicate by aye. Those opposed with a nay. Aye. The motion passes unanimously, 6-0. Thank you very much, Brad.

**ITEM NO. 13 – FOREST AND WATERSHED HEALTH INITIATIVE MEMORANDUM OF UNDERSTANDING**

[Time: 00:33:13]

Mayor Lane: Next item is the forest and watershed health initiative memorandum of understanding and this is a request by -- for a resolution 10248 authorizing contract 2015-227-cos with the national forest foundation in the amount of \$120,000 to be spread over three years for conservation program investment in the northern Arizona Forest Fund. Mr. Biesemeyer.

Acting City Manager Brian Biesemeyer: I'm here with the other hat on. This is the Scottsdale water hat on.

Mayor Lane: I sort of recognized you.

Acting City Manager Brian Biesemeyer: I wanted to remind you who I was. In any event, I have a short presentation on the forest and watershed health for you. This is the second largest surface water provider. It provides approximately 20% of the city of Scottsdale water supply, and that's through the Salt and Verde watersheds. Those watersheds, there's four national forests that collectively are part of those watersheds. Those national forests are the Kaibab, Prescott, Coconino, and the Tonto, and they are collected in the Salt and the Verde Rivers and through the dam network and canals and brought into Scottsdale and other valley cities.

What's the problem we are having? It's really about unhealthy forests and the impact that it has not only on those forests and the forest communities, but on the city of Scottsdale as well. On the left, you can see a decade old picture of a healthy forest, with trees separated and lots of space in between. On the right, you can see what would be an unhealthy forest in just the density of that forest.

And so what is the result of that dense forest? When you first look at, it it's hard to say what is healthy and what's unhealthy. But the results are when you get a crowded forest and a dense forest like that, it results in disease for the trees and, insect infestations, and most prominently, catastrophic

wildfires.

It's interesting to note that in the 1980s, the wildfires in those four forest area burned about 85,000 acres of forest to me, that seems like a lot, but then in the whole decade of the 1990s, 227,000 acres of forest was burned. So you can see it moving up. But then in the -- since 2000, there's two notable fires, the Rodeo-Chediski fire, which burned about 460,000-acre and then the Wallow fire, which burned over 4 -- over 500,000 acres of forest. So those two fires alone almost a million acres burned in just two fires. And then additional fires occurred since 2000 result in over 2 million acres of forest being burned in that full forest area. Not only in the state of Arizona, but the four forest area. So you can see there's a dramatic impact that the fires have had on the forest.

What's the impact to Scottsdale? It's in our water supply. The erosion events occur in the forest. We get a tremendous amount of sediment, ash, cinder, all coming down into the rivers and collecting in the dams and ultimately coming into the canal system. On the upper left, you can see some of the erosion. Down below it, it's sediment. On the right is turbidity. And turbidity is a measurement of the clarity of water. And it's generally our canal waters is fairly clear. I mean, sometimes if you look in it, you see green. You see some algae and some sediment but generally if you pulled a water bottle out of that, it would be fairly clear. You can see the bottle on the right open the left side and then the fire in the Verde River is represented in the middle and then the Val vista plant where that taken from is one of the first plants on the canal system that pulls it out. Like I say, our Chaparral plant is the next plant that pulls that out. We are right behind that.

That's the quality of water that comes to us after a catastrophic fire event. What does it do to us? It adds intense treatment costs and increases our chemical dosage, particularly granular activated carbon. We had invest a considerable amount of capital to increase our ability to handle this sediment loading to the tune of approximately \$12 million that we invested in the Chaparral treatment facility to upgrade our capabilities to handle the sediment loading that occurs. And on top of that, we see added sediment that causes premature replacement of pumps, strainers and filters.

So this proposal is really what we want to think is success through a partnership. The Salt River project has come in partnership with the national forest foundation and formed the northern Arizona forest fund. That fund -- the objectives of that fund is to fund projects in the water shed that reduce wildfire risk, improve stream and wetlands and enhance wildlife habitat, and restore native plants and limit erosion and reduce the amount of sediment knowing into the Salt and Verde Rivers. The investments in that fund are used for restoration projects on the Salt and Verde watersheds, specifically listed above, forest thinning, stream and wetland restoration, habitat improvement and most importantly sediment and erosion management.

Our commitment as proposed here -- Brian, the Elmo? Nope. We'll get there. What is proposed before you is the commitment of \$120,000, it's \$20,000 out of the current budget, which would come from savings that we have incurred in the salinity rebate program. And then \$50,000 in the next two budget years, those, of course, would be approved up to approval by budget, as those budgets are presented through council.

The switch, Brian? Here is an example of six different projects that would be available for investment for the city in the four forest area that would be available for this year. Our funds, of course, we have control of what projects we would like to invest in, and these are just examples of those -- those projects. The direct benefits to the city are lower treatment costs and delivery costs, protection of the reliability of our watershed. So we get the -- we can expect a sustainable runoff and it minimizes the risk of continued costs that we pay. In summary, I believe this is a prudent investment and a long-term sustainability of our second largest water supply. Pending your questions.

[Time: 00:41:53]

Mayor Lane: Thank you, Mr. Biesemeyer. We do have some questions. I will start with Councilman Phillips.

Councilman Phillips: Thank you, Mayor. Mr. Biesemeyer, I understand this is a good idea, and I think it's a good way to use this money, especially if you are using it through your water resources, but I still have some questions. Who is the National Forest Foundation?

Acting City Manager Brian Biesemeyer: I have Bruce Holland from SRP who I think has another gentleman with him that could answer that in more detail than I could. If you give me a second, they should be right up here.

Bruce Hallin: Good evening, Mayor Lane, members of the council, my name is Bruce Hallin. I'm the director of water rights and contracts for the Salt River Project and I would like to introduce you to Marcus Selig, who is with the National Forest Foundation. He would be the best person to answer that question.

Marcus Selig: Thank you, council. As Bruce said, my name is Marcus Selig. I'm interim vice president for the National Forest Foundation. We are a congressionally chartered 501(c)(3) nonprofit. We were set up by Congress in the early '90s with the distinct mission to enhance national forest system lands and engage communities in the stewardship of those lands. We have a budget of around \$14 to \$16 million per year and have a number of on-the-ground accomplishments across the country.

Councilman Phillips: Is that 14 to 16, that's for the whole country?

Marcus Selig: Yes, that's nationally.

Councilman Phillips: As far as Arizona is concerned and you are coming to Scottsdale, do you go to every city in Arizona then and see what you can get or how does that work?

Marcus Selig: No, this is really geared around this Northern Arizona Forest Fund, and we have been working with our partner Salt River Project on this. This is our main effort. We have several other efforts in Arizona, but in is our primary effort, and so no, we aren't going around to the cities but the cities that are served by the Salt River Project surface water supply, we will have been talking with

them.

Councilman Phillips: So all of those cities, they will come to their city council asking for funds to help this program?

Marcus Selig: Hopefully. Bruce can address that too. We did recently enter into a partnership with the city of Phoenix and Bruce can address the other cities.

Bruce Hallin: Yes, we are planning to visit with each of the cities in the valley on participating in the Northern Arizona Forest Fund. The city of Phoenix and Scottsdale understand and participate in the fund.

Councilman Phillips: Without the city's help, the funds are still available through the national forest service fund or whatever, but this is just a supplemental for each state and then this is a program you are doing for Arizona?

Marcus Selig: This is a targeted program for Arizona. We actually don't have many other programs like this across the country. This is the area where the need is pretty clear and obvious, and that's why we have been working with the Salt River Project on it. We have a number of other supporters of the Northern Arizona Forest Fund, a mix of corporations, individuals and philanthropic foundations.

Councilman Phillips: Okay.

Bruce Hallin: Councilmember, if I could also add the Northern Arizona Forest Fund is the Salt and Verde watersheds that is what Brian referred to earlier.

Councilman Phillips: And then the other question is and it may seem silly, 20,000 and two \$50,000 a year, it doesn't seem like it's enough to do anything. It seems like it's somebody's salary for the year. Maybe you can explain to us how that can actually help do something.

Marcus Selig: Yeah. You are absolutely right. That on its own is not going to solve the problem and to be honest, the northern Arizona forest fund will reduce the risk but it won't solve all of your problems. It will reduce some risks and it will improve the watershed greatly, we have identified priority projects for that. We have the six projects that were shown that we're attacking this year. We can't do it all at once and that's another thing, though, we are trying to leverage additional funds. So far we have around \$1.5 million in support for these projects over the next three years. It won't solve the problem, but it will take a bite out of it.

[Time: 00:46:38]

Councilman Phillips: Thank you, can I ask Brian a question? Last question is: If all the cities help with this and he's already got 1.5 million kind of promised to help this program get going here. Can you tell us what the real benefits are to Scottsdale? Will it be worth the amount of money that we will be giving to this?

Acting City Manager Brian Biesemeyer: Mayor, Councilman Phillips, I do believe it's worth the amount of money given the volume of money we have spent already, and what a large pump or motor will take to replace and when I can spend \$20,000 on a large pump or motor that's prematurely aged, while it is a small investment, one of those projects and I can't remember which one was only \$20,000 investment. So it leveraged some areas. Now, granted there's a huge amount of forest that we need to be taking care of, but it does jump start the process. Starts the process moving so that, you know, it gets moving, otherwise, we continue to see this escalation of forest fires and the escalation of the effect upon us in the valley as well.

Councilman Phillips: Okay. Thank you. I believe this is a good use of funds for this purpose, so I will make a motion to adopt resolution 10248 authorizing contract 2015-227-cos with the national forest foundation in the amount of \$120,000 to be spread over three years, for a conservation program investment in the northern Arizona forest fund.

Mayor Lane: Second. Motion has been made and seconded. And there's no further comment on the subject. Thank you very much, gentlemen, all, the responses and the presentation on a very important area. This is maybe just one small step but I would have to say, it's a very, very important one and one of the things that probably wasn't touched upon is that we also have not only the savings from what happens to our water supply and the denigration of it, because the contamination after the wildfire and the erosion that brings down the biomaterial, that causes us such great difficulties and cost. You mentioned one pump wearing out but it sounds like the process itself generally we incur a great deal more than what we are talking about here, with just one. That doesn't mean they all go away, but the other is really in this day and age, our concern about making sure that we ensure and enhance our water supply from the watershed. And when these forests of devastation that's been brought upon us, there's less in the way of dollars and cents even though ultimately it may be in a big, big way, but it's got a lot to do with making sure that we ensure our continuing active watershed area and that water supply. So thanks, again, on that.

I think then we have the motion and the second. So we are ready then to vote. All those in favor please indicate by aye. Aye. It's unanimous, 6-0.

#### **ITEM 14 – ESTABLISH CITIZENS' BOND OVERSIGHT COMMITTEE**

[Time: 00:50:05]

Mayor Lane: Our next item is item 14, the establishment of the citizens' bond oversight committee and this is a request to adopt ordinance 4225, establishing a citizens' bond oversight committee in the event that any or all of the bond questions are passed by the Scottsdale qualified electors at the November 3<sup>rd</sup>, 2015 election. We have Mr. Earle here at the podium, our city engineer to address this issue.

City Engineer Derek Earle: Good evening, Mayor Lane, members of the council. I have a very brief presentation followed by any questions that you will have. We would like to address tonight the

establishment of an oversight committee to review any of the questions if they are passed in the election, in November, for the bond program.

Going back to Bond 2000, this is a very similar process to that one utilized then. Prior to the election in 2000, the city council formed a Citizens' Bond Review Commission. That was subsequently dissolved in 2011. That Bond Review Commission thoroughly reviewed all the proposals, all of the questions that were approved in that particular bond program, and made recommendations to council for any changes or modifications to the program. With that, though they also tracked the progress of the program and did periodic reports.

Fast forwarding to today, in resolution 10139, which council approved to call the election for this year and for November, council added the Proviso specifically that if one or more of the bond questions are approved, that the council does authorize and direct an oversight committee to be formed. The action before you tonight is that action. It forms the commission and it will take effect if any of the bond questions are approved.

As far as formation of the commission, it will be very similar to all of your other commissions. We begin by staff advertising for volunteers for service. We would bring a list of possible nominees to council. Council would then at one meeting nominate representatives for the commission. In this case to fill the entire commission. We usually only do one or two on the board or commission at a time and then subsequent to that, we would bring those nominations back for both interviews and a subsequent vote and approval by council. So similar to the process that you use now.

The group that would be formed, we see actually a very limited role because part of the way this bond program was formed, there's very limited authority for this type of group to make any changes in the program, but, again, we begin with educating this group, much as we did with the bond task force when it was formed, teaching about the infrastructure of the city, the nature of the specific projects that they are familiar with those. Any proposed modifications to the program would be brought forward to this group for analysis and recommendation and those recommendations once they are made will be brought to city council for approval. Again, this is only a recommending body. In terms of the bond program, council makes all of the final decisions.

With that mayor, members of council, I would be glad to answer any questions. Our request is to adopt Ordinance 4225, establishing the Citizens' Bond Oversight Committee.

[Time: 00:53:47]

Mayor Lane: Thank you Mr. Earle for the presentation. Any questions on this item? Seeing none -- Councilwoman Littlefield.

Councilwoman Littlefield: There we go. I will turn mine on too. I just -- I had a question. The oversight committee has seven members on it. That's how it's set up to be formed.

City Engineer Derek Earle: Mayor, Councilwoman, that's correct.

Councilwoman Littlefield: Okay. And I had a question, is it possible to change the way that these members are appointed or elected by having each councilmember appoint one? And the purpose for my suggesting that is a lot of what I have been hearing has been a lack of trust, a lack of faith. People who are interested in this committee, they could then apply to be on it, and we could ensure that there is a representation of all of the various parts of the city and interests to the city to be on it and represented.

City Engineer Derek Earle: Mayor, Councilwoman Littlefield, I actually have to ask the city manager if that would invalidate the ordinance that was done tonight and whether that would require us to modify it and bring it back.

City Attorney Bruce Washburn: We could theoretically amend the ordinance on the fly, but I would not recommend that. If that's council desire, I would prefer that we get direction to bring it back after we had a chance to revise it.

Councilwoman Littlefield: Well, this is merely a thought that would possibly add trust with our citizens, that the oversight committee would be in their best interest because they would have a lot of say in what was going on to it.

Mayor Lane: Well, thank you, Councilwoman Littlefield. I suppose if you want to make a motion to that effect. I understand your concern and there have been occasions in different circumstances where we have done something like that. And it has reflected a one to one kind of approach to maybe the standing of individual councilmembers to appointees. And so I do understand where you are coming from on that. I'm not necessarily adverse to it, but I also feel that we generally speaking, have a pretty good -- and you can always solicit people to volunteer -- I don't know what the outpouring of volunteers might be for something like this put to solicit and ask for volunteers to apply and then go through the normal process either which way. I think what I understand from our esteemed city attorney, we would end up with at least a situation where we would have to come back to this, if we were going to, you know, structure it somewhat differently than what we have right now. So -- and, of course, it would be subject to whether we want to give that direction here on council.

Councilwoman Littlefield: Right. I would like to make a motion to amend this, to go in that direction to have citizens submit applications for the bond committee as presented but then have the ability for each councilmember to appoint one member to this task force oversight committee. Thank you.

Mayor Lane: So the motion has been made to adjust or amend this particular design of the oversight committee as indicated.

Councilman Phillips: I will second it.

Mayor Lane: The motion has been made and seconded. Would you like to speak toward it?

[Time: 00:57:41]

Councilman Phillips: Yes, mayor, the other question is if we did do that, you know. The bonds can last for years and years. Look at Bond 2000. For whatever reason a member comes and goes, if I appointed somebody and then five years down the road, and they had to leave, would I be the one to appoint or would the council be the one to replace that person? That's something you have to think about. So it's a little bit more than us appointing one. It's what will we do about it in the future.

So I don't know if -- maybe what we should be doing is instead of establishing a citizens' bond oversight committee, maybe we should establish a criteria for establishing the citizens' bond oversight committee, and once we establish that and the parameters then we can go ahead and vote to approve.

Mayor Lane: The motion is on the table that you seconded. Are you satisfied with that motion as it stands?

Councilman Phillips: Well, I guess I'm making an amended motion to that motion.

Mayor Lane: Well, that motion hasn't been made yet, unless you second it.

Councilman Phillips: I seconded it but then you asked for me to speak to it.

Mayor Lane: There's no motion right now. The motion has been made but it hasn't been seconded except by yourself. If you are not satisfied with the motion as it has been made, do you want to second it or not?

Councilman Phillips: If I take away the second to amend it, then that's what I'm doing. So I don't know where you go from there.

Mayor Lane: I'm not sure if I do either. I'm just trying to say if --

Councilman Phillips: The attorney knows.

Mayor Lane: Well, if councilwoman Littlefield has made a motion. You seconded it, does your second stand or are you trying to amend the motion?

Councilman Phillips: I guess I seconded it so I could speak because I had my request to speak on but then I think what we should do is amend it. So if that takes away the second in order to do, that then that's what I would be doing.

Mayor Lane: If you don't second it, we can wait for another second or you can make another motion.

Councilman Phillips: Okay. I get what you are saying. So I have to take away the second in order to make an amendment so someone else has to second it.

Councilwoman Littlefield: Mayor, can I accept the amendments as described to my original motion.

Mayor Lane: Okay. Now if that's the case, you can do that. But why don't you delineate exactly what you are suggesting in this motion then once again, please, councilwoman -- councilman, rather.

[Time: 01:00:32]

Councilman Phillips: We are amending it from establishing a Citizens' Bond Oversight Committee to establishing the criteria for forming the Citizens Bond Oversight Committee. So we would have to come back and talk about the parameters of how we are going to do that, once that is established then we can vote to approve it.

Mayor Lane: That effectively is the motion.

Councilwoman Littlefield: Okay. I will second that.

Mayor Lane: I guess we will reverse it.

Councilwoman Littlefield: We will reverse. If that works.

Mayor Lane: That's the motion and that's second. Okay. Does that -- is that understood, Mr. Washburn?

City Attorney Bruce Washburn: Thank you, Mayor. Yes. It's my understanding this motion is adopted, then staff is to bring back criteria for establishing a bond oversight committee that would provide structure whereby each councilmember appoints a member rather than we do the usual process where the nominated and elected by the council is all? If that's not correct, then I would appreciate if somebody would tell me.

Mayor Lane: I think there was a change to establish a new criteria for the selection process and it may be that criteria.

City Attorney Bruce Washburn: As I understood councilmember Phillips he was raising, for example, the concern about what happens when somebody leaves who has been appointed by a particular councilmember. As you may remember, we ran into this when we had this process before when somebody would be appointed and then the person who appointed them, their term had expired. And then when they resigned or the term expired, would be appointed them? So staff would have to think through the best way to do that so it would be a rationalized process and we can bring it back.

Mayor Lane: I remember it well and it was an issue. So I'm not sure whether the criteria or that -- that process is a better one or not. I do understand where they are coming from. But with that explanation, and understanding of where that motion is, we'll proceed with some additional questions that have apparently maybe have arisen. Vice Mayor Smith?

[Time: 01:02:43]

Vice Mayor Smith: Thank you, Mayor. Addressing the counter motion or the motion, or whatever it was, to individual appointments, I personally would not be in favor of that nor setting up criteria to that end. I too lived through the individual appointments process back in years when I was a member of the budget review commission, and as some people remember, it's not a pretty process, because the people do resign, retire, whatever. You lose track of who is supposed to appoint whom. I think what people are trying to get away from is just having the council presented with a slate of candidates, vote up or down, take it or leave it and I would -- I certainly don't want that either.

I'm speaking -- for myself, I would be perfectly happy with the process that brings forward individual qualified applicants from our 200 and some odd thousand citizens and let us choose by individual appointments the people would have applied and could represent. We are all represent the entire city. So I would think as we vote for candidates, we would be inclined to vote for candidates who could represent the entire city.

I hate to see us get bogged down in establishing criteria for a committee, because we had a pretty good process back in 2000. It worked for a good number of years and I think the citizens were well represented with a citizens' oversight committee to monitor the spending on the capital program and report to council. So it was a good system. I think it worked and it worked well and in the citizens' interest. So I'm not in favor of laundering the thing down in favor of the process nor to individual council improvements for all the reasons I state. Thank you, mayor.

Mayor Lane: Thank you Vice Mayor. Councilwoman Milhaven.

Councilwoman Milhaven: I agree with the comments of the Vice Mayor, and criteria for forming sounds almost like the qualifications to me and in my opinion, any tax paying citizen should be qualified to sit on this task force. I'm not sure we need to articulate what the criteria is.

In addition to the concerns about what happened when a member is termed out or resigns from the commission, who appointed them, I ran into the other, which was when I will first elected the persons who were -- who -- as a new member, they asked me if I wanted to reaffirm the people who been appointed by the people I replaced, which I did but it creates a complexity that says, um, the person -- in the person who appointed you doesn't get reelected, you are off and that creates some issues with consistency and fairness that I'm not sure you want to go to. And I know I very intentionally moved away from direct appointments. So -- from direct appointments so I agree, would vote for them individually but I'm not crazy about the idea of the slate.

I will take another minute and talk about councilwoman's comment about folks' concern about the trustworthiness of the members of this body and while I may not always agree for a policy perspective with my colleagues, I believe that every single one of them are trustworthy and every one of them do what they say and say what they do. I would also like to point out that we have been so transparent in putting this bond package together. There is -- we have listed every project in the bond question.

So only those projects can be built. We put dollar amounts in the bond question to identify exactly what it's going to cost. If folks go to the city's website, they get three-page descriptions with pictures and maps and preliminary budgets that break out in amazing detail what each of these projects are to be about.

I know that every single one of us is committed to making sure that that's how it happens. I want to take exception with folks who suggest that we are not trustworthy. I believe every single one of us are trustworthy and when these bonds are approved, live up to the promise that we made in putting it on the ballot. Thank you.

[Time: 01:07:17]

Mayor Lane: Thank you Councilwoman. Councilwoman Klapp.

Councilwoman Klapp: I'm not in favor of direct appointment either. It's far more objective to have a group of people that we all vote on rather than each of us individually picking a person that we like and we want on the bond committee. The criticism that has been created in the past with this process is that we pick somebody who is an extension of us, that this is my representative on the bond committee, and so I direct their activities and I tell them how to -- what their job will be, versus I vote for seven people who have applied for the position, and I can be far more objective on that, but if I'm going to be asked to appoint a person, it will be somebody I know, and many times when I'm voting for a commission, I don't know the people. I just listen to their -- their presentations. I listen to the information about their background and I make my judgment on that I think that's a more objective way.

I really don't want a representative for me on the budget -- on the bond committee. So I would rather follow the same process that we follow with we appoint other commissions in the past few years. I think that particular process has been far better than -- I did experience several commissions when I was first on the council, where we were directly appointing people and it created a lot of problems and one of them was pointed out, by several people, and that is if you leave, what happens to your person? That person goes, because the next person is going to come on the council is going to pick somebody else. And that does not work well, for particularly a long-term committee of people who have to understand the projects that are being funded and there's going to be a big learning curve every time we have to replace somebody just because a councilmember might leave. So I have wouldn't support that proposition.

[Time: 01:09:18]

Mayor Lane: Thank you, Councilwoman. I would have to concur with most of my colleagues up here, with regard to some of the complexities when you try to do an individual one-on-one appointment. We have used it in the past in a much shorter time frame. This is a commission that really will likely be over a longer period of time under any circumstances than even the budget committee. The budget committee even though they may seem like it's ten years in the making, you know, if it's confined to one year.

So it's a -- but there is an element when you are talking about the selection whether or not you want some kind of one-on-one immediate representation for what's here on council or you want a broader spectrum of the ideas on it. I also -- and this is not to denigrate this particular commission, but it's really confined to establishing the very things that Councilwoman Milhaven mentioned, and that's what's been set out, what will be, if, in fact, it's passed, to be done. And so the recommendations are only going to be that, recommendations. If there's some kind of change, in either scope or cost, in a given area. Not to move things around, not to change anything dramatically. And even though I do understand some of the politicizing of this kind of thing, I don't think it's necessary here, and I think it would be counterproductive, really in the long run. So I won't be in favor of the motion as it stands right now.

So see that there's any further comment on this right now. So the motion on the table right now and that is to take a different course of action. So if, in fact, you are in favor of the motion, please indicate by aye. If you are opposed, please indicate by nay. Nay. The motion fails 4-2 with Councilwoman Littlefield and Councilman Phillips in the affirmative. So thank you very much, Mr. Earle. I appreciate your presentation.

Councilwoman Klapp: We need a motion.

Mayor Lane: Oh, yeah, I think just automatically goes to it, right? Okay. Please. Yes.

Vice Mayor Smith: Is it over to me to do that? Mr. Mayor, I make a motion that we adopt ordinance number 4225, establishing the Citizens' Bond Oversight Committee in the event that any or all of the bond questions are passed by the Scottsdale qualified electors at the November 3<sup>rd</sup>, 2015 election.

Councilwoman Milhaven: Second.

Mayor Lane: Seconded.

Councilwoman Milhaven: Mayor, I would like to speak to my second. I was at a community event where we were talking about the bond oversight committee and one of the women there looked at me and said, well who is going to get to serve on this? Is it going to be all chamber types and as a businessperson in the community, I'm very friendly with the chamber. I just for one would say I think when it comes time to elect people to this commission, I'm far more inclined to appoint regular old citizens because I have every confidence in the staff and the transparency and the quality of the program that any citizen could sit on this committee, understand the detail of how the city works and be proud of the job that the staff and the council does. And so I for one am going to second it and support this appointing it by majority to the council, but I'm inclined to appoint just regular everyday people to oversee this process. Thank you.

Mayor Lane: Thank you, Councilwoman. And with that, and with the motion we are now ready then to vote on this item. So those in favor, please indicate by an aye. And those opposed with a

may. The motion passes 5-1 Councilman Phillips opposing. Thank you again.

City Engineer Derek Earle: Thank you, Mayor.

**ITEM 15 – ARTISAN MARKETS PETITION**

[Time: 01:13:16]

Mayor Lane: Okay. We have come to our item 15, which is of the Artisan Markets petition. And specifically, it is a request -- or a presentation, discussion and possible action regarding the Artisan Markets special event permit, 109-se-2015, based on a petition from the Scottsdale gallery association. We have Brent Stockwell here. Let me just say that we've got a number of cards here that will want to speak to that and I will talk toward that a little bit in a minute when that comes up, but I just want to remind everyone this is specifically on the petition. This is on that and that alone. So I'm going to ask that everybody comply with that item and that item alone. We have got other things certainly to discuss that we know are associated, but right now the agenda item is the petition, denial or to accept. Or to accept, I should say, maybe the request or the suggestion to rescind it. With that, Mr. Stockwell.

Assistant City Manager Brent Stockwell: Good evening, Mayor and City Councilmembers. As you just mentioned this item is a petition request to rescind the special event request, to Artisan Markets which is held on Thursdays and Sundays at the Scottsdale Waterfront. The petitions are included in the report. It's clear to me that a lot of information has been shared with the city council on the past few months on this so I just want to add a few points from the staff's perspective on this issue. This is the first time that we're aware of that the city council has ever heard a request to revoke a permit that's issued by staff and we are covering new ground here. We are also not aware of any event that has evoked such a strong and united response from the downtown business community, and we understand and emphasize these with the concerns that have been raised. With we have listened to all the concerns and we strongly desire a resolution so we can continue to work with gallery owners and downtown merchants so that businesses can be successful as possible and we can have a fair and clear process for all people proposing events in Scottsdale EQAB board we can host successful events for residents and visitors of Scottsdale and supports by downtown merchants and hoteliers alike.

This is more than one of 250 special events approved in a year and yet this one. Seems to have attracted more attention than all the others combined? Why? Because it's a unique activity. It's a recurring event rather than an event of short duration. It's an event held simultaneously on city, federal and private property and it's an event that includes a major component direct sales of arts and crafts which is also a major category of retail sales in downtown Scottsdale and it's an event where there's strong opposition from existing merchants throughout downtown. So unique, first time this has happened and unique circumstances around this.

For context, the Artisan Market's location is shown on this map. Let me give you a little bit of context on this location. At the time of construction of improvements in this area, so the council approved the construction of improvements in this area in 2003, the area was specifically designed for special

events, such as art shows, and farmer's markets, that's in quotes because that's from the direct report. The bridge was designed for vendor tents and has outlets to provide electricity for these activities. The project was designed to link the business districts and the parking garages north and south of the canal. It was designed to be a civic space and a public amenity. It is possible that the council's direction today is different than the council's direction a dozen years ago, and at the work study you gave us direction to come back with possibles on how this area might be used in the future.

This is a close-up that shows the location of the market for the Sunday event. It takes place along the south side of the canal, across the Marshall Way bridge and along both approaches to the bridge. The Thursday night event does not extent along the south side of the canal. So that long outreach piece that you see there heading up to the northeast along the south end of the canal is not included on Thursday night. This slide refers to maps containing the report, the special event location is cited on city, federal and private land. The green is private land at the Waterfront. You see a portion of the event there. The blue shows land owned by the city of Scottsdale and the remainder of the Artisan Market event area without shading is area that is owned by the federal government, and that land is managed by Salt River project. And yes, those are areas that the city has made improvements and those are areas that would be considered city right-of-way.

So city right-of-way crosses federal government property a number of places throughout Scottsdale. Where it crosses over the C.A.P. canal or the area where WestWorld is, where, you know, even just east of us where Scottsdale road crosses the canal and the canal goes underneath. So that's a fairly common situation for city right-of-way to be on federal government property. But that's what makes this area unique, and important to downtown Scottsdale.

So I will pause on this slide for just one moment, and I know that nearly all of us, or perhaps all of us have been really familiar with the application and special events processes but I want to quickly review this. The purpose of the special events ordinance and specifically the special events committee function is to -- and this is straight from the ordinance -- promote special events, protect neighborhoods, protect public health, safety and welfare and ensure safe traffic control and emergency care. The special event committee is an administrative body made up of city staff with expertise in the areas needed to review special events application, and it's a committee that's created by ordinance. It was created by the city council at the time ordinance was approved. This is similar to other application and permit review processes. Other types of applications other than special event applications are reviewed by staff members or a group of staff members that individually have specialization in one area or another. This is a common staff responsibility that has been delegated by the city council to staff.

The Artisan Market application followed the special event review procedure. The application was received, concerns were identified and discussed and when the application was deemed complete for review by the committee, each staff member reviewed it and as committee member they discussed the application content and made a decision. Early on the concerns were expressed and those were discussed with -- those who made the concerns, the other merchants the applicant and staff. It was clear to the committee at the time of the review and approval that not all the concerns could be addressed. So the committee under the ordinance had to make a decision. In short, they felt that

they were not grounds under the current ordinance to deny the permit. They were also where concerns regarding the event were voiced previously in 2012 and 2014 from the perspective of the committee, each time the applicant was asked to work with merchants and to mitigate concerns. The committee was also aware that the ordinance review process was underway and thought that that might be the most appropriate way to address the concerns. Following that the decision, the decision was forwarded to all the interested parties. You received an email immediately following that and we forwarded it to others as well.

In your staff report, included as attachment two is the Artisan Market application as it was reviewed by the special event committee in August. It was intentionally provided in that format. Okay? So that you would exactly see the information that was reviewed by the committee, at the time it was approved. Because that in part is what you are asking to weigh in. Was the application, did they make an incorrect decision in approving that application? In addition, included in your packet are the stipulations that were included in the ordinance was made. You can see the information that was put by staff as stipulations on this issue.

So this slide shows the petition request and the council report provides context and discusses each petition elements. I will go quickly over each one of these. I know you had an opportunity to review all the material but I want to make a few quick summary points that were provided in that report. The first one, direct the special events committee to immediately rescind the permit issued to Artisan Markets on the canal bank. Staff's analysis that the council cannot direct them to revoke but ask them to look into validity, but it cannot revoke it directly or ask staff to revoke it. Number one on this now, lack of authority to grant permits on public property. Staff's analysis is that the authority exists to grant permits upon public property through other sections such as Scottsdale's revised code, 46-41 which states special events in the right-of-way are subject to the requirements of the zoning ordinance.

Number two, that the permit fee constitutes a prohibited gift. Staff's analysis is this, granting of the permit does not constitute a gift under charter or state law for a number of reasons including that the fees charged were per the approve fee schedule and there were no other fees for the use of this area. If additional fees are proposed they require 60 days' notice under the law, under state law. It's agreed that there's a policy question of whether the city wants to continue to allow this type of event at this location for this duration, but it's staff's analysis that the city did take into account the factors available and appropriate for the charging structure and since council gave direction on September 21<sup>st</sup> to work on a new Phi schedule that's underway to come back for approval as quickly as possible.

Third point, negative impacts of permit violate the special events policy. Although it's recognized that businesses have said that the event negatively impacts them due to a decrease in customer sales and available parking, this did not a -- does not appear to be a condition for which the committee can verify to deny approval or revoke the permit under the current ordinance. In addition, while the petition is directed to this one permit, the decision on each of these petition items affects significant numbers of other events. But the impact on those other events is not being considered at this point as part of this item. That's another thing that we wanted to mention to you as well.

Here's the revocation criteria. The zoning ordinance contains criteria for designing whether to revoke a special events permit. This is failure to conduct the event as presented on the application. The first event day is not until Thursday, October 8<sup>th</sup>. None of the event days have occurred. So that criteria can't be applied at this point. Failure to comply with special conditions and approval. Because the event has not taken place, no conditions have been violated. So the second point there.

And the third one is this, if the event poses a threat to public health, safety or welfare. At the time the application was presented, there was no indication of a threat to public health, safety or welfare. The emails from the community have expressed concerns about the Artisan Market event. We understand that. But from a staff perspective, those concerns appear to be beyond the criteria for revocation. However, we understand that the city council may have additional feedback for the special events committee to consider after review of all of the input that was considered.

So everything that has been considered, since the time the application was considered approved. And because the special events ordinance is being reviewed, the approach recommended by staff has been to consider addressing concerns through the ordinance update. And that really gets to, you know, a major point here. And I know this is a concern that a lot of people have addressed to me and I have talked to a lot of people about. This and staff is trying to weigh two things. We are trying to weigh our support of existing businesses in the downtown, with the rules and the procedures that the council have given staff to follow to make sure that we follow those consistently and appropriately in each case. And in this -- in this case, that's where we have gotten to that dilemma. And our advice, our recommendation is any time when you have a conflict on something like that, when you want the people that are applying for permits to be subject to different criteria, you change those rules.

So you go through the process and change those rules and then have them apply rather than going through a process where either staff -- you know primarily this, staff has been asked to use considerable administrative discretion in what can be considered in approving or denying an application or a permit. So that's why we are coming to the conclusion that we feel that the ordinance needs to be changed. The fee schedule needs to be changed in order for this type of event to be denied or this type of event to be subject to increased fees for use of public and other property.

So finally, last slide. Some options for you to consider. Standard part of any report that staff makes to city council. The first one is this ask the city manager to review the permit. What does that mean? What that means is that the acting city manager will ask the special events committee to review this permit again, given the additional information since the permit was initially received in August and take into consideration such things as the city council may not -- may tonight ask to be taken into consideration.

Here are some things that might be taken into consideration based on what we have heard. One, the opposition from nearby merchants and property owners to the event. Number two, a desire to keep the bridge open at all times for trolleys and for carriages. Third, the negativism pact on limited parking in the area. Fourth possibility, a desire to eliminate the use of city-owned property for this event. Or another possibility is to limit the duration and the timing the event due to impact on art

walk. If this is the council's direction, then it will be scheduled for the next available special events committee, which is scheduled for Wednesday, October 16<sup>th</sup> and a decision on whether to revoke the permit will be made at that meeting.

The second option is to ask the city manager to use the special events ordinance to address concerns wax does that mean? That means that the acting city manager will take direction from this meeting along with the direction provided at the special events works study and last language for public input and city council approval to address the concerns but that would allow the permit to go forward as approved and the third option is to take no action -- further action on the petition. That's always an option. That's really the default we include in any council report. And there may be other options that the council will consider.

The whole thing it to identify a few things from the staff's perspective and we wanted to lay these options out for you for discussion purposes.

[Time: 01:28:37]

Mayor Lane: Thank you, Mr. Stockwell. We will go right to some of the public comments, the requests to speak. We have some 26 cards in total and what I'm going to ask is that we -- the individual cards were assigned two minutes to address the issue. We have several instances where some of these have been combined. I haven't even a total -- oh, they do have an indication of donated time from others. And I will announce who that is and assign some additional time depending upon the number of cards that are associated with it. I would just remind you, again, and I understand even from the presentation that even in some of the responses that may be available to us, there still is the issue at hand as to whether or not rescinding this is consistent with the law. The only comment I would say consist and equal application of the law is paramount in this. So making exceptions is a tough path to take.

So with the request to speak, though, I would start with Andrea Zakrzewsk.

Andrea Zakrzewsk: Good evening councilmembers, my name is Andrea Zakrzewsk. I'm co-owner of Gallery Andrea on Main Street. I will keep it very brief, but I just want to say, I am against the tent show. I believe that it takes away from our art walk, which has been a tradition for over 30 years. And I think it's important that we support our galleries and we listen to their voice and what they think is important to keep the galleries alive and well. We are a tourist attraction. We as gallery owners bring in a ton of money, tax dollar-wise. We are a reason why people come to Scottsdale. They come to Scottsdale to the arts district. Are they coming to Scottsdale for the tent show? I don't think so. Nothing against the tent show, but I think it really distracts from the art galleries and art walk and I believe that we should keep that energy alive and keep the galleries alive. You know, you look and see there's actually quite a few vacant spaces in old town. If we want to see that continue, then maybe -- then if you let the tent show continue, you may see more galleries start to drop out. Do we want that? That's the question. Do we want to authorize this? So I'm against it as well as my co-owner, the other Andrea of Gallery Andrea. So, you know, the shop owners have a high overhead. You know, that's the other thing, you know, I don't believe these tent shows have the

overhead that we have. So -- right? And so that's an important point as well. So I'm not going to take a lot more time. I'm just going to say that we should try to do events that help support the arts district, not take away. If we did the tent show in collaboration with art walk, that would make sense for a Thursday night art walk.

Mayor Lane: I understand.

Andrea Zakrzewsk: That and all I have to say.

Mayor Lane: No, your time has expired.

Andrea Zakrzewsk: I'm done. Thank you.

[Time: 01:32:39]

Mayor Lane: Next is Audrey Thacker.

Audrey Thacker: Good evening, Mayor Lane and members of council. The Artisan Market is a splendid individual street fair that draws vibrant activity downtown adding to love of place adding to the waterfront area. When you support local small business you help to build community and that's what we are all about. Artisan Markets has been a staple in Scottsdale for the past five years and every year the city has issued our permit. Every rule, stipulation and process that is currently in place has been followed. We have not manipulated anything. Artisan Markets is utilizing the area as the intended purpose as stated in the council report. Over the years, my team and I have in good faith reached out to the area business community to create a collaborative environment. This has been met with much resistance. As a business community, it's important to regularly collaborate and provide a sense of inclusion. If there's a problem, let's find a solution. The gallery and shop owners are great business people who have built successful and important businesses here in Scottsdale. Successful communities work together and each of us have contributed to the vitality of the area. We would not be here today if the market was not popular and successful. As I have mentioned before, arty San markets will pay all reasonable fees under the much talked about new special event ordinance. I strongly believe that Artisan Markets and all the owners. We are working on businesses that we are passionate about and bring joy to the people that we serve. This is America and free enterprise is our right and the foundation for economic vitality. There's plenty for everyone. If a vote to rescind occurs this restraint of trade will undoubtedly put myself and several others out of business. I trust that whatever decision is made here today will be based on facts and will be made with the best interest of Scottsdale in mind. Thank you.

[Time: 01:34:46]

Mayor Lane: Thank you, Ms. Thacker. Next is Bobby Harr.

Bobby Harr: Thank you, council. I want to take a position that we haven't heard, a way to benefit all concerned. Artisan Markets is successful at making the waterfront a place where people want to

be. Why not incorporate that success to benefit all and with all of the marketing efforts. One collaborative idea we proposed is to take the trolley on Thursday night, and to repurpose it and make it the Scottsdale -- I don't know if this will come up or not. The Scottsdale art walk trolley this is my render. This would take the traffic that's at the Artisan Markets through 5<sup>th</sup> Avenue, Marshall Way to the galleries and back, therefore, benefiting everyone. You are not taking an either or position. And how about this, if we do a ribbon cutting, we invite the press, and we make this a big -- this is what Scottsdale is doing for the artists.

Mayor Lane: I don't want to take away from your time. But this is regarding the rescinding or not --

Bobby Harr: That's what I'm getting to, sir.

Mayor Lane: But other plans and you have limited time. We'll hold it at that point but I want to make sure that we stay on topic.

Bobby Harr: What I'm saying is that there's no reason to rescind the permit because there's a way to make it work for all. That's all I'm suggesting, is make it work for all. Thank you.

[Time: 01:36:28]

Mayor Lane: Thank you, Mr. Harr. Next is Brian Moore.

Brian Moore: Good evening Mayor Lane, city council, my name is Brian Moore. My wife and I, Beverly, own Beverly Moore Studio and Gallery on 5<sup>th</sup> Avenue. We are also Scottsdale residents and current paid members of the 5<sup>th</sup> Avenue Merchant Association. I could talk about a multitude of relevant issues in regard to the Artisan Markets, however, I will focus on only one issue. The false and misleading information submitted on the permit application for the Artisan Markets. I have some documentation here. I don't know if that's legible or not. As my time is quite limited allow me to immediately direct your attention to the list of current paid members of the 5<sup>th</sup> avenue area merchants association. This information was provided to me by the treasurer of the merchants association yesterday. Those highlighted in blue are current paid members. They total 17. Of those 17, seven marked with the asterisk, signed the September 21<sup>st</sup> petition against Artisan Markets which equates to 41% of the current paid members of the merchants association being vehemently against the so-called special event. Of the nonpaid members totaling 12, the four marked with the check marks also signed the petition against Artisan Markets. The most noticeable piece of information that I can provide is the special event permit input formed and signed by Scott Yanni, the president of the Merchants Association. It states that there are no concerns in regard to Artisan Markets. This matter was never on a Merchant Associations meeting agenda, nor was it vetted with any of the members. Other than, of course, Ms. Thacker would is the vice president of the Merchants Association. I have an email that from -- from Audrey to Scott, please note the email saying that she has -- she has full support of the merchants association. I have not been able to find a discussion or a vote on this matter in any of the Merchant Association minutes. Artisan Markets 2015 approved permit should be immediately rescinded due to the total misrepresentation to the Merchants Association on this input form. We as members of the Merchants Association are totally

appalled with this yet again self-serving circumstance. You know, it's come to light as a very disturbing issue.

Mayor Lane: Mr. Moore, if you would, please wrap up.

Brian Moore: I'm sorry. I will wrap it up with that. All I can say is, you know, we have a great city here. We have a great opportunity. I understand we have many people here that have different opinions and, you know, different opinions on this subject. I would just ask that we find, you know, a solution to this, and given the evidence I just presented, that the permit be rescinded. Thank you.

[Time: 01:40:05]

Mayor Lane: Thank you, Mr. Moore. Next is Shira Shnier.

Shira Shnier: Good evening, councilman.

Mayor Lane: If you would identify yourself.

Shira Shnier: Shira Shnier. Did I write clearly enough? I'm the operator of the Zoolikins. It's a brick and mortar children's store. We have noticed a significant drop in Sunday sales, mostly because of parking but as we look at the situation, we realize much as just has been stated nobody has approached us. Nobody has asked us if we are in agreement with this. And we can't wrap ourselves that all of these vendors are out there as a special event. It's not special when it's every Sunday. Not everybody can do a special event every Sunday. There's nothing available. It's been booked right up until end of the season. We live for the season. All of the brick and mortar in this area live for our walk by. I have destination traffic. I have worked very hard to market to them, only to get phone calls in my store on Sundays saying, Shira, we're circling and circle and the kids are crying. I've got to get going. Never mind, we will just order it from Amazon but thanks. So I have done all I can and I do have my destination market people. They come, specifically for me. They can't get to me. And yet what is operating are people that are paying nothing. They are paying absolutely next to nothing, time after time. We have to stay open all year round. We can't have the luxury of closing when it's very hot and nobody is coming. We don't have the luxury of saying I can close the doors and turn off the electricity and not worry about paying staff and I can may hay when the sun is shining and not worry about it for the rest of the year. We are absolutely inundated with people actually walk into my store and show me the cute little thing at the flea market and it will be hair barrettes and tutus and all the cute stuff I can sell. And all I can think about is this is \$20 that you are not spending in any store. It's not an event. It's pop-up retail for profit and subsidized by different levels of government. I can't imagine that restaurants would like restaurant-type settings and menus and wine and whatever in front of their restaurant.

Mayor Lane: You are out of time. So if you could wrap it up.

Shira Shnier: Thank you.

[Time: 01:42:44]

Mayor Lane: Next would be Sima Verzino.

Sima Verzino: Good evening, mayor. Good evening vice mayor, council people. I'm Sima Verzino. I have frequented the market and I have seen beautiful people selling beautiful things up there. However, it gets to a point in season as was just spoken, we have a very difficult problem with parking. We are very successful and we pay a lot of taxes and I pay a lot of H.O.A. cam charges to keep that area very clean, but the problem is the parking. And if this market is there twice a week, maybe we can work to find a solution where we can still enhance the area with beautiful artists that are creating beautiful things but make a special event, perhaps not twice a week where it's taking away money from the brick and mortar businesses, and creating parking problems that people are renouncing their reservation in my restaurant and I'm losing money in season because people can't park. So bringing something, an event to the bridge, which we do have special events and we deal with that throughout the year and that's fine, but twice a week and in season is really creating very difficult problems on parking. I wish there was a solution that we can keep the artists going and everybody happy. Thank you.

[Time: 01:44:30]

Mayor Lane: Thank you, Ms. Verzino. Next is some cards with donated time. The next will be French Thompson. Donated time from Trey Viswen. And someone else.

French Thompson: Somebody else. I kind of like that.

Mayor Lane: So I will go for four minutes on this, if you will.

French Thompson: My name is French Thompson. I'm the owner of French Designer Jeweler in Scottsdale, Arizona. I'm also a board member of the Scottsdale Gallery Association. When we started talking to the city about this, and I think July, something like that, we had no idea this was all going to happen. This has gotten really out of hand because the city didn't listen to us. They didn't listen to us before, didn't listen to us now. I just want you guys to think about the number 300. I think there was a movie 300 something like that. 300 different businesses have come to the city and asked the city, please do not issue this permit. I'm not going to say to city council to issue a permit, I will say that staff did. Staff was aware that there had been so many people, say please do not issue this permit. And it was issued again. Again this year, we asked that they do not issue this permit. This has actually brought more businesses together now than we ever had before. There's 300 businesses that have come to you and said, please do not issue this event.

It's not -- it's not an event. It's a small business. It is directly in competition with the businesses around it. If you are selling art, you are selling art. If you are selling other retail product, you are selling other retail product. There are towns around here that Audrey would be able to take it to and do really well. This is not really personal, because honestly to all the artisans that are showing there, if you went to another city, you are not competing with those things. But the people here you are

competing, with you are hurting them. We are paying attention to what's going on. Some of the writing that will come from the artisan's market says pay attention to your own business. That's exactly what we are doing. We are paying attention to our business. We are also paying attention to the whole downtown. We are watching out for the downtown. That's also what we are asking you to do.

It boggles my mind that one event is being consistently promoted over all of the businesses in downtown. One business takes precedence over 300 businesses. I know we live in democracy. We live in a democracy. Ask the citizens of Scottsdale we live in a democracy. I don't understand how far 300 against one isn't, like -- the math is there. It's a democracy. We voted that this is not good for us. If you want proof that this is harmful, there's 300 businesses that tell you this is harmful. Yes, it's very difficult to prove that there is monetary loss and parking spaces and all of that, but until you go in and get a cat scan, you can't prove that you have stomach cancer either. If you want to spend a lot of money and do studies and just wait for another year and let it happen some more, go get some studies and maybe approve it, but Scottsdale's got a cancer, and it's going to hurt to take it out. And I will tell you what, it's going to hurt. You never had any cancer removed that didn't hurt the patient somehow.

This is hurting Scottsdale. It's dividing Scottsdale. There are newspaper articles out about this now. Many publications. There's a television thing going on right now on Channel 15 about this. I mean this is going to get national news and the city council can make this and fix this. So rescinding this thing, if it has an effect on future events, if they are the same kind of events as this, I would say good riddance to them and I want to thank you for your time. I hope I wasn't too passionate.

[Time: 01:49:15]

Mayor Lane: Thank you, Mr. Thompson. Next is Bob Pejman and he has some donated time from Teresa Lewis, and Beverly Moore. Bob, we will do four minutes.

Bob Pejman: Mayor Lane and members of council, I'm Bob Pejman. I own Pejman Gallery, it's in downtown Scottsdale. And I'm going to tell you something, Artisan Markets is a very popular event. In fact, it's so popular, that in the past four years, it's had six major complaints and petitions against it. I have it on the screen. Let's go over the complaints. June 2012, 85 merchants complained about the show. They claimed business damage, monetary damage. The city looked at it, and they issued the permit. March 2014, 33 merchants complained, monetary damage, business damage. The city looked at it and issued the permits. Fast forward to July of 2015, the galleries start to complain and part of the complaint was that the owner of the show or the president of the show is going to the concierge and basically telling them to come down there after or before Artisan Markets, and they start to compete and the S.G.A. offered a formal petition or actually an official opposition letter to the city to stop the show. There was a big meeting with 40 people stating the case.

What happened? The city issued the permits. After that we went around and collected 200 plus signatures from local merchants and other people, property owners. That petition wasn't only about Artisan Markets but they had three tenants that had applied to them. One of them was exclusivity

for art walk, meaning no Artisan Markets on Thursdays. The second one was the noncompetete situation, where any event cannot have an adverse effect on local businesses. And the third one was to limit the number of the art shows tremendously that was would apply to them. Following that, there was a petition deliver by the S.G.A., representing 28 galleries to rescind the show. And even after that most recently, there was a petition by about 36 south bridge and Stetson drive merchants. The petition was that basically Artisan Market was harmful to their business, and I have to point it out that they are at the base of the bridge. It's not like far away, like the city claims hey, the galleries on Main Street cannot be affected by them. They are at the foot of the bridge and they are crying that this is harmful to them. This is harmful to the business.

So you have, I don't know if it's 300 exactly, but it's 200 plus merchants. I delivered a spreadsheet to you Mayor Lane that shows that there's a cumulative number of 200 plus merchants that are affected. What are you going to do about this? Are you still going to permit it knowing what you know? I will point you to two separate options. The permit for the October to December of this year has been issued. Knowing what you know now, maybe you didn't know it before, but what you know now, rescind it. But 2016 permit has not been issued. You have a simple choice. Don't grant it. Just instruct the staff not to grant it. Knowing what you know now. And look, you know, these are people that are merchants that are the backbone of Scottsdale. They constitute downtown Scottsdale, the merchants and you are going to throw them all under the bus for, what, one event producer? Your choice. Thank you.

[Time: 01:53:34]

Mayor Lane: Thank you. Next is John Binkele.

And he has some donated time from Terry Binkele and Charlie Bink. Four minutes if that's all right.

John Binkele: Good evening, council, my name is John Binkele, I'm 64 years old. I'm from the school of hard knocks and I'm here representing the Artisan Markets. My family created a table top board game called trekking the national parks several years ago. We market this product primarily through venues like the Artisan Markets. And when I got ahold of the petition to rescind, I had to really stop to think, what the heck is this all about. Here we are, made in America product. We are trying to do our best to market the product. We do it primarily through venues like the Artisan Markets and so I'm reading this thing and thinking, well, does the city really -- does the special events committee really have the authority? I think that's been answered. The granting of the permit for \$159 is really not a gift. It's what Audrey had followed through with on the permit process.

The real big issue was does the permit negatively impact surrounding businesses and you hadn't really stopped to think. How does our table top board game negatively impact anybody in the local community? But in all fairness to those who signed the petition, I decided to see things from their perspective. I went downtown. I went downtown last Thursday to do the art walk. I wanted to observe the parking situation. I wanted to look at the product offering and the flow of foot street and try to understand how a special event vendor like myself could pose a threat to anybody in this community. So as a walked the galleries, I had to wonder when was the last time you folks on the

city council walked the art walk or the participated in the Artisan Markets. It seems like a fair question since you will be voting on this.

In terms of parking, I got to Scottsdale and Main Street at about 6:00 that evening. And I walked down Main Street, yeah, parking was a problem. Now, this is an -- the Artisan Markets was not going on. There were no special events on the bridge that evening and parking along the Marshall was really difficult. There's no question -- I got to -- I don't know does this work here? When I got to the bridge, and I had this map in hand, I noticed that there were five parking spots, public parking spaces adjacent to the bridge. So I went in and took a look at the parking to see what it was like. And I noticed that there was plenty of parking in the five public parking spaces. Now there wasn't an event that night but there was a lot of spaces available.

In terms of the product, I wanted to see what product was. The galleries offer incredibly beautiful stuff. This is museum-quality goods. You know, but really, it's vastly different than those goods that we do at the art market. I mean, difference in quality, style, price, et cetera. It's two different product categories and two different customers and two different business models.

In terms of people, when I was observing people, the Artisan Markets on the bridge, where the Artisan Markets is normally held on that Thursday night. There was nobody on it. I was the only one on the bridge. What really surprised me to get to Main Street to walk the art walk, how few people were walking down the aisles. Now this is not when the market was going on. I'm thinking, hmm, has the art walk lost its luster. There wasn't that many people compared to the vibrancy that the Artisan Market brings to the table.

But one of the things that I read in the issues is about the people have claimed that we stole their customers. I have been in business long enough that if you own a customer, nobody can steal them from you. But "the customer," the customer can't be had by anybody. The customer is really free to roam the markets as they see fit, whether that's to walk the art walk, whether that to walk the bridge or do whatever they want. You know, it's obvious from the letters and the emails that the petitioners and the supporters have very strong feelings. We have been preferred to as parasites and poachers. But the feelings don't matter to me. It's what I have been searching for are the facts that prove that we're causing a negative impact what does negative impact mean, besides your feelings where is the hard data that says that I, a game producer is, is creating a negativism pact on your business. One of the emails said I don't know how we prove the negative impact except to show our sales figures.

Mayor Lane: If you could wrap it up.

John Binkele: Vote based on facts not emotionally charged feelings. Let's update the special events ordinance and why don't we work together, not in opposition to create a vibrant downtown experience for visitors and locals alive. Thank you.

Mayor Lane: Thank you Mr. Binkele. That concludes the public testimony on this topic. So we have the question at hand on whether or not or to rescind or to rescind. I'm going to start with Vice

Mayor Smith.

[Time: 01:59:06]

Vice Mayor Smith: Thank you, Mr. Mayor. Well, there's a lot of places to start on this. We're dealing with a problem that has come to council and it probably never should have come to council. It shouldn't have ever risen to this point. Some of the speakers talked about how there's been plaintive arguments from various affected parties in 2012 and they were ignored, 2014 and ignored again and 2015, this year.

300 people say they are being adversely impacted by this event, and one of the principal charges in the city code, in the city ordinance that governs this event is that we will be mindful of and careful of and guard of the public health, welfare and safety. I think -- and the comment was made in the staff presentation that there's no evidence that the welfare has been impacted as that term is commonly defined and well understood. Well, I've got to tell you, staff, it's not well understood by me what you are defining it to be. I even took the liberty of this past week going and looking up what many people may do, look up in the oxford dictionary or thesaurus, what is meant by the word "welfare." And it absolutely covers economic welfare as well as issues like health. We should have been listening to what are the welfare impacts on the business community known as the arts and culture center of the city.

I made the comment several weeks ago when we talked about this, that the importance of this is, from my mind, this is something that the citizens have expressed a desire, that this city be known for its arts and culture presence, reputation, presentation and product offerings. And I don't think you can -- I don't think you can put another event hyped on the most expensive piece of real estate in the city at the lowest imaginable cost for the longest period of time, with free electricity and whatever else on the event nights that have been developed as the event night of the arts community. I don't think you can do that and have them consume parking and have them consume traffic, foot traffic or otherwise. I can't imagine that you can think that this is not in some way affecting the welfare of the arts community, but, you know, this has grown much bigger than just the arts community. We don't have 300 arts galleries here in the city, but we have 300 businesses which are folks that are paying rent and paying overhead and paying employees and paying taxes. 300 different businesses are saying our welfare has been adversely impacted.

And I think the responsibility of staff, frankly, was to listen to these voices sometime over the year. And apparently, they did listen in 2013 because they passed an ordinance specifically allowing special events to be happening on city right-of-way. One can only wonder by what authority we did this before someone thought to pass an ordinance allowing it. We have all started with 2013 and said there's an ordinance now in place that says that private businesses can have public events, special events they are called open public right-of-way. And how did we do this? We said by referring back to the special events ordinance in the city, which is -- which is oddly beyond description because the special ordinance in the city says it's specifically not for public property. So I don't know how we thought we were solving anything in 2013 by creating an ordinance to allow a special event on public property to be governed by an ordinance that deals for anything but public property. That's what we

did. It didn't seem to impress staff that we were affecting 300 businesses and we were giving away the most expensive piece of real estate for \$159 a year or \$159 a season. It didn't seem to impress them that the voters have a sense of arts and culture. It didn't seem to impress them that this was simply a retail event.

And it's many -- many speakers have said and I would reiterate, I don't think any of us have any problem with the retail event. If this retail event went into Marshall way and rented some of the vacant storefronts or went into main street and rented some of the vacant storefronts and did what other merchants in this area are doing, we would not be discussing this business tonight. We would not be having this discussion. It is only because we have gone through the contortion of calling it a special event.

And now, after all of this, we are told that we can't rescind the petition. I have a great deal of problem accepting that as a solution or a belief. I can't believe that the seven of us were elected up here to represent the interest of citizens and when it comes to something like this, when we have a great number of our citizens who are crying out and saying our welfare is being impacted, please help and we have been saying this for three years, that we do not have the power to rescind. I guess I'm moved to rescind this because I don't think it was allowed by the ordinance. I don't care what we say about the 2013 right-of-way ordinance allowing this, the right-of-way ordinance obviously put it back to the special event ordinance on private property only and all the provisions there are for private property. All the provisions of what's allowed, pumpkin sales, tent sales, sidewalk sales, everything is related to private property.

Number two, I don't think this is a special event. But we have never bothered to define that. We are going to define that term. But this is neither special, nor an event. It is a unique and creative retailing venture. And this the proponents and the participants are to be applauded for the retail ingenuity that they have shown but unfortunately you can't do that using public assets. You can't use public property for that purpose.

I think it was -- I think the health, the public health and the public welfare were discarded and ignored. I don't think the special events committee knew that they were supposed to look at public welfare. They felt they were supposed to look at traffic, police impacts trash on the street but the ordinance requires that we look at the impact on public health and welfare and as I understand the term, it is relevant. I think granting the privilege of setting up business on the bridge, that some people said we spent \$9 million to build a bridge and now the only vehicles allowed to cross the bridge are trolleys but when this event is going on, the trolley doesn't even cross the bridge. I don't know where you catch the trolley or where it goes or where it takes you. Pedestrians, if they want to cross the bridge have to walk through the business center of the artisans.

So I think -- I think I have expressed my frustration of all the solutions I have been given up there, I really don't like the three choices I have been given. My preference and I will join whatever councilmembers choose to feel the same would be to rescind the contract. I certainly would instruct staff, if they have any ambiguity about where this council is coming from, that they should not be granting the 2006 requested dates for this event but even for those that are immediately upon us, if

we cannot sufficiently curtail them, so that they have no adverse impact on the health and the welfare of others in the community, I would rescind those as well. Thank you, mayor.

Mayor Lane: Thank you, Vice Mayor. I'm sorry, did I hear you say a motion earlier on in that?

Vice Mayor Smith: Well, I hesitated in making it. I would be happy --

Mayor Lane: I didn't know whether you had made one or not.

Vice Mayor Smith: I was giving people the courtesy of responding before we have anybody make a motion.

Mayor Lane: That's fine then. Certainly, Councilwoman Klapp.

[Time: 02:08:59]

Councilwoman Klapp: Well, I won't go over the many points that Councilman Smith made. If I had my preference, I would rescind this contract also, but I'm told I can't do that. So um, it seems to me that what I would want to do, and I'm not making a motion at this moment. I just want to build on to the comments that were made by councilman Smith and that would be I would like for the city manager to take a look at this, and to consider this strong feelings of a number of councilmen about this issue and that we are concerned that westerly not talking about two businesses that are on private property in often significance to each other. We are talking about hundreds of business who are on private property versus one business that's occupying public property. With the permit that's been given by the city, but yet that permit and that event is affecting the welfare of the other 200 plus businesses. So it would seem to me that there is something that can be looked at here by the city manager in conjunction, perhaps with the special events committee if we are not in a position to actually rescind the contract, then I would like to at least consider directing you to take a look at something like this. And that would be, I guess, option number one.

And in specific, if we can't rescind the contract, there are two major issues that are involved here that I think need to be reviewed right away, and that is that this event is on Thursday night, the same night as art walk and secondly, that the event is occupying the bridge. So that petitions and trolleys really can't use the bridge on those days when it's occupying it. So that seems to be something that could be considered and changed right away, if there is not a way to rescind the actual permit. Those things, I think, are the most concerned from my perspective.

The length of the entire event is also a problem. We do have at least some latitude here in that this contract only goes through the end of December. So what we do now with this current permit, versus what we do in January are two different things. So I suppose I could make a motion that would be that I would like to direct the city manager to review the permit and discuss what kind of changes can be made or whether or not it could be entirely rescinded and bring that review and discussion back to the council as soon as possible because there still needs to be a decision made about the permit in January, and that's not going to be determined by the special events ordinance

because that's not going to be completed until after the first of the year. So some sense of what can be done needs to be brought back to the council so that we can weigh that in order to make a determination about what we want to do with the January permit, beginning in January.

So that's probably a very rambling motion and I'm not sure if it totally made sense. So if you want me to restate it, I would be happy to do, that but I suppose first of all, if anybody understood what I said and they want to second it, that's fine too.

Mayor Lane: I think -- well, if you are asking me and I saw you look this direction. I heard a motion there but there were some elements that didn't cross over -- at first say we can't do it but then consider rescinding of it and I don't know if that's a directive or a consideration.

Councilwoman Klapp: Well, I obviously could say we could direct the city manager to review the permit, but what do we want him to review would be a question that would be posed to the rest of the councilmen. In my estimation, we review whether there's a possibility of rescinding the contract if there isn't a possibility, then we take a look at what kind of changes could be made in the current -- in the current permit that would move the event from Thursday night and also remove the event from the bridge. Those would be the two issues that I think are of most concern in this contract, and I would like to get answers to that to come back to this council for us to consider what kind of -- what kind of action we would want to take related to the actual permit that has not been given starting in January.

Vice Mayor Smith: I will second that, whatever it was.

Mayor Lane: Okay. So would you like to speak towards that second?

[Time: 02:13:59]

Vice Mayor Smith: Well, it -- I will second the motion. I think in the essence of the motion is that we are giving the city manager direction of what I hope he can hear is the sense of council and then you will hear the rest of it, I suppose. But -- and, you know, from my two cents, is that you revoke the contract. Everything that you said throws you back to the special events provision which I don't think applies but if you think it does, as you know points to Section 7.927 permits revocation of a permit. And it can be revoked for any one of three reasons, the third of which -- for any one of three reasons, the third of which is that the event poses a threat to public health, safety or welfare. And I would urge you to look at that provision for revocation. Look at what you are hearing from this council and from 300 businesses. And if I can't tell you what to do I can urge what to do. That's why I support the motion.

Mayor Lane: Thank you, Vice Mayor Smith. Councilman Phillips.

[Time: 02:15:14]

Councilman Phillips: Mr. Stockwell, you mentioned if he beginning that council has no authority to

rescind this permit?

Assistant City Manager Brent Stockwell: I'm looking back on my notes to see exactly what I said. What I was trying to go do was remit information from the council report. Staff's analysis is that city council cannot direct the committee to revoke or rescind the committee. They can ask the city manager to look into the validity of a particular permit but it cannot revoke the committee directly.

Councilman Phillips: Can I ask the city attorney if that's direct and why don't we have that authority?

City Attorney Bruce Washburn: The ordinance adopted by council establishes the administrative procedures for the issuance and the revocation of permits and it does not include a provision that allows the council to implement a revocation. I would point out, for example, that the ordinance adopted by council states that any revocation is reviewed by the zoning administrator and at zoning administrator's decision is final. It would be a very, very unusual to have council revoke a permit and then have the zoning administrator to review it and overrule it. It's not set up for council to act on the permits. So there's no authority in the ordinance for the council to take that action.

Councilman Phillips: Okay. So by default, there's no authority for the council to take that action because it was not put into the ordinance. It also doesn't say that the council can't do it just as much as it says they can do it.

City Attorney Bruce Washburn: Well, I think a fair reading of the ordinance is that the zoning administrator has the responsibility for administering ordinance and there's no reference that the council has that responsibility and just as a general rule, once the council has adopted an ordinance, that establishes procedures, it's the -- unless there's some specific rule for the council in those procedures, then that's the end of the council's responsibility. I think a fair reading the ordinance, my interpretation is that it does not allow council to revoke the permit.

[Time: 02:17:52]

Councilman Phillips: If we can't revoke the permit, it gives the special events committee authority over the council. I can't see where a past council would allow that. It probably didn't think about it. Now that something has come to the council and now we do have to think about, it think we should have the authority to do it. And I wish somebody would have made that motion. You know, the original council approval, I believe when they made this ordinance, they were thinking of fun and exciting events throughout the year. I don't think them thinking about one event that is going to impose the entire season. When it's two nights a week for the entire season, it's not an event anymore. It's a business. And I think that's misrepresentation. I think misrepresentation during a permit process is enough to revoke it right there.

I would like to ask Mr. Stockwell also, does staff -- they talked about the complaints from 2012 to 2015, possibly 200 to 300 complaints. Is that correct? Did staff receive all of those complaints?

Assistant City Manager Brent Stockwell: The prior positions were given directly to the special events

committee. And the special events committee were aware of those when they approved and considered the permits in prior years. Yes, it's also my understanding that the current committee -- the composition of that is very much the same as has been -- you know, when the prior permits were approved, we're aware of those prior petitions as well. You stated numbers of petitioners on that. And my recollection of the numbers that you stated were not the same as the numbers that were presented when Mr. Pejman put the information up on the screen earlier. I wanted to clarify I'm clarifying that one part but I'm not confirming the second part of that.

Councilman Phillips: One gentlemen said 300 and Mr. Pejman said 200. What I'm asking the special events committee, when they get that many complaints why didn't they act on that? Oh, we have 200 complaints, oh, we will just brush that aside. They must have had some kind of thought process?

Assistant City Manager Brent Stockwell: I appreciate the opportunity to respond to that, to the best of my knowledge. Okay. So my understanding in 2012 and 2014, is those petitions were provided to the special events committee and the special events committees, as a kind of unique challenge under the ordinance that was given them, and they have to promote special event while protecting nearby neighborhoods and health, safety and welfare and there are a few more things beyond that. Really the default position of the committee and all circumstances at this point is when they hear concerns about the event, they have the applicant work with the people that have those concerns to try to address and mitigate those concerns. My understanding from the perspective of the committee, they felt that those concerns had been addressed and mitigated in some changes in how the event was structured and done and those were included in the stipulation.

Now, I understand clearly by the comments that were made tonight that people don't agree with that. I understand that. But the committee based on the information that they had in front of them at the time, they made that decision. The comment about the 300 people, I don't dispute that either, but that's also clearly that happened after the event was approved by the special events committee. So I don't think this is fair to fault the special events committee for not knowing the extent to which the additional names and petitions, you know the -- at least three additional petitions that have come out since that time. That's why in good conscience, I said if you want to have the city manager -- have the special events committee relook at this with the information that's new since the time the application was considered, that -- you know, it's possible that they -- you know, especially with the feedback that they would be given by the council tonight that they would come to a different conclusion next week than they would have on August 8<sup>th</sup> based on the information and the application that they had. I hope that answers your question.

Councilman Phillips: That's why I asked that question so we could get a clarification on the events committee and what their thought process was on it. You know, barring that we can't rescind it. I'm in favor of number one and number two, review the permit and hope that the acting city manager was listening to the concerns of all of our brick and mortar merchants and, you know, I think in the future, staff and especially the special events committee should consider maybe doing a council that may be deemed excessive or controversial, so this doesn't happen to us or come back to us. I will reiterate, we have concerned, I would like to do one and two about the Thursday night. I would like to see that taken away. Concerns over actually having a show on the bridge itself. Concerns over

the length of a special event like this. Is special events, one week or two weeks or 52 weeks. And also the parking. That has to be addressed too. If you are going to lose business because people have nowhere to park, obviously that's not fair either. So I said at the last council meeting that in the event that push comes to shove, I will stand with the brick and mortar building people, they were here first. They had a long, outstanding business with the city. They pay their taxes. They do their job. And I think we need to consider their thoughts, you know, these 100 or 200 or 300 people, that come to work every day and pay their taxes to the city. It has to be considered. And I'm sorry, Brian that this is kind of being thrown in your lap now, but that's the choice we were given and so that's probably going along with it. Thank you.

[Time: 02:24:09]

Mayor Lane: Thank you, councilman. You know, seven of us up here are actually elected in a constitutional republic form of government, not just a pure democracy, certainly. But at the same time, we are hired on, if you will to leg, not to just sort of change laws as they suit us or through the course of things. I really take little exception with some of concerns that have been expressed. I think there's really a significant concern as to how far we drive this, particularly in an arbitrary manner. My -- I guess in my respect for the law, and what our job is to legislate, and then frankly, through the city government execute, compliance with those laws, we are -- we are vested with that.

And as our agent, staff, starting with our executive team of charter officers, are given that assignment, they are not there to make policy. They are not to change or to play favorites or to go against somebody. It was mentioned to me in this morning's meeting with some of the gallery owners that they believe there's a conspiracy, that we are targeting the galleries. I said, well, I said, that's not really true, but it's a perception. I don't know where that perception comes from, but that's ludicrous!

The tenor of this discussion has been raised to such a level that we have lost perspective on the overall, I believe. And I think that certainly, there are things that are not executed exactly perfectly. There is not a municipal government as high or as great a city government or city staff as I think we have and frankly a council, none of us execute on these things absolutely perfectly. And frankly, it doesn't always match up with exactly what each side might feel in a matter. That's the job we've got. But our job is to legislate. And I think it was Mr. Thompson who mentioned this earlier on, that somehow or other, our job to legislate, as it was brought to us a month or two ago now, to consider something we just passed tonight, a resolution to start an ordinance to open up the ordinance for consideration and outreach and that. As we started that up, boom!

Some of the feelings, pent up, maybe even some of the disregard has been exhibited by maybe misguided, going to staff and in some instances. Staff is not there to create law or policy. They are not. They are there to just execute on the basis of what we legislate here. And so it may have been misguided in some of the previous complaints, even to the event's committee or at least to the extent that it was. But what I would say is we might as well just forget to try to legislate any new ordinance even though I may feel it would be good to define it a bit better. It would be good to maybe charge for services and power and other things, to events. Maybe that's appropriate. Maybe those

things -- maybe even considering certainly the conflict, even though as I mentioned to the group this morning, I find that problematic. Who is going to be defining exactly what works and what doesn't work and who is in conflict and would is not? And not that maybe staff could come up with a magic formula but I would be very concerned about even the arbitrary nature of that. But I think right now, we are faced with -- we might as well not change the ordinance but make it up as we go along and that I think that's a problem. That's a problem for everybody when you lose that sight of the law.

So I'm not for -- and even though there is a valid effort to try to find some middle ground, what I would -- what I would suggest and I will make it as a motion, I do think we ask the city manager to review the permit. Not with an eye toward rescinding it, but with working something out here, to take a good look at this and see if we can't apply what we are trying to get to maybe with some consideration. Get to -- a middle ground aim not sure if I want to find it that way, about you nevertheless, define something that the city can say, may, if we do this, what do we do -- what can we do going forward in our considerations? Now, I'm talking about Artisan Markets specifically, for the second half of this deal. I think if we come together a little bit more open this we could find a good answer and something that could address the preponderance of problems without going overboard. Not eliminating something that this council and the consultants we hired and the conventions and visitors bureau, all tell us, activate your downtown.

I have been around here long enough that we have been working on activating the downtown and whether it's by fool or folly, we somehow maybe stepped on somebody's toes when we said, hey, you know what, it would be great to bring events downtown. Most of our compadre, if you will, municipalities do that and find that to be a good thing. Maybe there's some magic formula that we can work out and make it better. But I think we have gone a long ways and it's frustrated everybody. I even admit including myself.

[Time: 02:29:48]

Mayor Lane: But what I would suggest is that we do ask the city manager and I will pose this as an alternative motion. Ask the city manager to review the permit. Work with the applicant to find where we can be that will find and address some of the concerns. And this does incorporate number two as well. Consider right now, what are some of the concerns that we can work with the applicant and be able to move forward even before we legislate and fix and create a better ordinance for ourselves. But jumping all over the place with all kinds of stories and all kinds of accusations is not doing anybody any good. It's getting everybody irritated. That's an alternative motion. I think it would be a good one but I'm not -- I personally, and if they can turn it down as far as this is concerned.

I'm going to say, I do respect the law. I do respect people who have probably counted on the law and with the permit, which is a license, which is a contract, and I don't know what would happen or what the exposure is to the city, but I don't really care as far as that is concerned. I'm concerned with it being an honorable city when we contract with something and we have a law and follow it and don't arbitrarily say we don't like you or we don't like what you are doing even though it's compliant with everything that we have done for years and we are rescinding it. I'm not for that. That's not direction I think we should go. I do think that we can work out some of the particulars of this.

So my motion would be to have the city manager other the staff, whoever he delegates to work with the permittee, if you will. And -- or the licensee. And see what we can do to work out and get the groups together to see if we can't work something out. If we somehow can mediate this to some better place. Now, that, you talk about a motion, that may be a little elongated, but that's essentially what I mean.

(Off microphone comment).

Mayor Lane: Mediation and work with the parties to see if we can't find ourselves in a good place and addressing some of the concerns and looking towards the next one and frankly work on an ordinance that I think does all the things that I think we all have a bit of interest in, but we may be on different levels but nevertheless we can find ourselves some place and that is timing, booking, potential conflict, duration, definition, those things, I think that we can get some reasonable criteria established, that we can live with and frankly, expect, which is not an easy task all the time, expect staff to be able to enforce and build on.

[ Off microphone comment ]

Mayor Lane: The question was posed by Councilwoman Klapp, am I putting a time frame it. I know time is an issue particularly to the secondary issue. I think we can probably allow ourselves some time and when I say that, I mean if we can work something out and I'm going to say within the next -- certainly within the next month, we can work something out with the parties, we should be able to carry it forward. But at the same time, continue to work on the elements we talked about as far as the ordinance itself is concerned. We have already established. Which this meeting is not about. But in any case, that is my motion. Yes, councilwoman.

Councilwoman Klapp: I want to speak to, that because I think you are saying a lot of what I said. I said that and I -- you know, the implication is that some of us up here may not respect the law and I do respect the law. That's why I said that my preference would be that we could rescind this but we are being told we can't. So that was why I said the city manager should review the permit. And I'm more than willing to agree that that -- that by doing, that he would work with the present permit holder to look at the areas of greatest concern and I mentioned specifically Thursday nights and the bridge. So if we directed the city manager to review the permit with the understanding that he's going to be working with the current older of the permit, to see what can be done to change had the Thursday night issue and the bridge problem, I would probably second your motion because that's pretty much what I said.

Mayor Lane: Well, the only thing --

Councilwoman Klapp: And also I had said let's make it in a couple of weeks because we have a time problem of there is another potential permit that will be requested beginning in January and we have to make a decision early enough for that person to --

Mayor Lane: The more we get into the particulars and maybe this is where my departure is.

Councilwoman Klapp: I think he needs to know what we are asking him to look at.

Mayor Lane: I think we need that scope of things open otherwise we will collapse in. I think they are in a position to be able to do it, but one of the -- on the second side, still was talking about rescinding. And that's where the major departure that I felt was in it. But I'm -- you know, maybe there's a lot of the same things there, but I still go with the separation and, you know, I will consider that an alternative motion. The motion fails for lack of a second.

Councilwoman Littlefield.

[Time: 02:35:43]

Councilwoman Littlefield: Thank you, Mayor. Well, this has obviously been festering under the covers of a lot of people for many years, and nothing has been done about it until it's blown up in everybody's face in a big bang. You know, I will get right to the point. I think the Artisan Markets special events permit needs to be revoked. I believe that for the following reasons.

First, it is a gift to private for-profit entity which is prohibited by both the Arizona State constitution and the city charter. This staff conclusion that giving Artisan Markets the use of prime public property twice a week for seven months for a mere \$246 is not a gift is an insult. It's an insult to everyone of intelligence who looks at the details of this permit. I went to the neighboring cities website, and looked at what they would charge. This idea that it's not a gift is ridiculous. I'm sorry. It's also not true. But even if you somehow believe in some alternate reality somewhere that this is not a gift, the Artisan Markets special events permit still should be rescinded because of the very words in our zoning ordinance. The event poses a threat to public health, safety, and welfare. We have had almost 300 businesses over the last few years come to the city and tell us that and they have been ignored. It poses a threat in two ways. It cheats the taxpayers out of tens of thousands of dollars that the city should be receiving over the years, if we charged a reasonable market price fee for the use of our prime public property. What message does this send to our voters when we are asking them to increase our property taxes to pay for vital city services and yet at the same time, we are throwing money away as a special interest gift.

It also, number two, hurts Scottsdale's economy by unfairly favoring one business over others. In this case, the galleries and the Fifth Avenue merchants. The numerous petitions that the city has received and ignored from the galleries and these merchants and the recent loss of Trailside Galleries and Overland Gallery and Biltmore Gallery, some of the star businesses in the arts market, many others included prove this point. They were all closed or moved and they were a part of Scottsdale's cache and reputation as an arts Mecca. We shouldn't have lost those galleries. And we certainly can't afford to lose any more.

So I believe that we are in violation of state and city gift laws but also in violation of our own special events ordinances and zoning ordinances. I have been told we cannot rescind this permit. Very

well, I will choose number one as the next best thing.

And I have some very specific things to suggest. I find it very interesting that Mr. Stockwell mentioned as concerns in his office and on his commission, the very things that the market have been talking about, the galleries, Fifth Avenue, all of these, the same issues and I would ask the city manager to consider these, take these into consideration, the number of opposition businesses that are saying they are being hurt by this permit. The petitions and the requests that have been ignored over the years. The bridge itself is not open. Many of the times when this market is in force, we can't cross the bridge with our trolleys. We can't use it as was originally designed. The parking concerns, I have heard these repeated over and over and over again. Nothing but being made worse by having people come and park all day long in the spots in front of the galleries. So their customers can't get through this hurts them. Eliminate the art walk, competition. This is something that the timing of which is horrendous. I have no objection for people having other night businesses going on. That's fine but in direct competition to something that the art galleries have put together for 40 years, and advertised and maintained and kept strong at a great deal of personal expense and business expense, this is wrong. And I think it should be stopped.

Also I would like you to take into consideration the statement that was made here tonight, about the falsifying. Permit application, said they were never on the merchant association agenda, they were not vetted by the members and it was a misrepresentation that they all supported this. I think that's important. Also the fact that it is a monopoly. Sundays, no parking. Customers can't find parking. Shows a threat on to the welfare, just as a part of our ordinance. We have not listened to any of these businesses for the past years since 2012, I think it's time we changed our attitude and brought them in to this discussion, and be a part of peppering us to form a new ordinance that will be legislative in nature and that will come through the council for final discussion. Thank you.

Mayor Lane: Thank you, Councilwoman. Councilwoman Milhaven?

[Time: 02:42:17]

Councilwoman Milhaven: I do feel like I'm sitting in an alternate. Mr. Stockwell or someone from staff if you could help me understand. Earlier you said we do about 250 event permits in the city every year. Are those event days more or less?

Assistant City Manager Brent Stockwell: No, that's 250 separate permit applications.

Councilwoman Milhaven: Oh, applications and then how many events does that equate to about, approximately? I'm not going to --

Assistant City Manager Brent Stockwell: More than 500.

Councilwoman Milhaven: So 500 events?

Assistant City Manager Brent Stockwell: More than 500. Yes.

Councilwoman Milhaven: Around. Okay. And how many of those events would you say sell stuff?

Assistant City Manager Brent Stockwell: I remember researching that at one point in time and I think it's -- I think it was less than 10 of those 250 had vendor sales as the primary focus of the event.

Councilwoman Milhaven: How do you define primary focus? Of the 500 events, how many of the events sell something, whether they have food trucks there or ball caps or t-shirts to commemorate the event?

Assistant City Manager Brent Stockwell: If you are asking about the number of permit applications, the number that sells something as a portion of that, it would be much higher, because obviously you include all the extension, the premises and the downtown area that are under special events permit and those all would have sales of liquor and food in that area, and so many of them, if not all of the events have some sorts of sales component, but a -- as we were trying to define a question previously, looking at -- it would actually be more helpful for me if I could try to find that analysis and give it to you. Ask your question again.

Councilwoman Milhaven: Approximately how many of these events do you think are held on city property or on city rights-of-way.

Assistant City Manager Brent Stockwell: We did do that research. About half of the 250 events are held on city property or city right-of-way.

Councilwoman Milhaven: And then you made a comment that I hadn't thought of, when you talk about extension of premises. So if a restaurant or a merchant leases their sidewalk space to extent their shop or their entrance, that would not be considered an event, but would be use of city property or city right-of-way?

Assistant City Manager Brent Stockwell: That goes through the same special events process. If a bar in the downtown area is going to extend their premises on to public sidewalk, public alleyways, public parking lot that would be considered in that number of 250.

Councilwoman Milhaven: And I know we approved lease agreements for folks to lease their sidewalks from the city.

Assistant City Manager Brent Stockwell: No, the outdoor dining license agreements would not be considered in the special events.

Councilwoman Milhaven: But we are renting them for the business purposes.

Assistant City Manager Brent Stockwell: Yes, those are permanent rental, whereas the special events permits are temporary rentals.

[Time: 02:45:44]

Councilwoman Milhaven: Thank you. I will put the city attorney on the spot. Could you explain to us what restraint of trade is?

City Attorney Bruce Washburn: Usually restraint of trade is -- I mean, it's a term that has a lot of different meanings in the law, depending on the context, but in general, it means where one or more parties combine to take advantage of something close to a monopoly power in order to prohibit other competitors from entering the market.

Councilwoman Milhaven: So the way -- one of the things I heard you say is trying to limit competition. And when I hear folks stand up and say shut down this business, because I don't want you to let it compete with me, I just -- it clearly leaves me speechless. It is not the business of government to regulate competition or to pick who the winners and losers are. I'm sorry!

If the issue is about allowing people to use public rights of way or city property, we have lots and lots of businesses that are doing that now. Are we suggesting we want to shut all of those down? Because if it's about use of public right-of-way, that might be an argument, I would understand more than don't allow somebody to compete with me. Whether the business is on the -- the bridge, or in a storefront a few hundred feet away, I don't see how that's material to what the -- that business is doing. It is, I think -- our place, is it a legal use of that property? And I think the answer is yes, and so I think that this has huge far reaching implications.

To the people who stood up today and said we have 300 people don't issue an event permit. In my mind, it's the same as saying don't issue a business license. This in my mind, this is exactly the same thing. I'm sorry. We have rules. We have ordinances. We follow the rules and the ordinances. If we don't like the rules we can go about and change the rules. I have think that was the mayor's point. We have to follow the ordinances we have until we change the ordinances. I certainly don't see that staff has done anything differently than they have been instructed and lined by the ordinances.

Mayor, when you made your motion, I was inclined -- we are moving forward with a process to reconsider all of this stuff and I thought you were moving that direction. In the issue is whether or not to revoke the permit, certainly not. It's not within our purview. It doesn't seem appropriate. But to ask the city manager to review a permit, the conditions of which would require that the event had happened. Right? So it almost -- right, the conditions were that they have followed the applications -- let me see if I can find it. It's on one of the slides. I had it up here a second ago. It was conducted according to the way the application was, that there was no -- let me find it. Failure to conduct the event is presented on the application. Well you can't review it if it hasn't been done this condition yet. Failure to comply with the condition. Hasn't happened. Again, you will review a permit for an event that hasn't happened yet, it doesn't make much sense to me.

So for me, I will move forward with the other discussion around what we want the special events ordinance to look like. I have think we put our tourism community and our downtown at huge risk by

setting precedent that will impact beyond in one event and I certainly do not believe in my core and in my soul that it's government's place to limit competition. Thank you.

Mayor Lane: Thank you, Councilwoman. Vice Mayor Smith.

[Time: 02:50:03]

Vice Mayor Smith: Thank you, Mr. Mayor. I wanted to clarify, among other things, a statement that was made by others up here. I think we all have a respect for the law. I have mean, I don't think there's some of us that do and some of us that don't and I would point out in terms of myself, I have an incredible respect for the law and it is that respect for the law that leads me to recommend to the city manager that he revoke this contract. Or I should say that he review the permit, but he knows what I mean.

The ordinance provides that a permittee or a person seeking a permit should be determined by the zoning administrator, if the person must have a permit and there's a whole section that deals with that. It's called the procedure, 7.925. And it gives the zoning administrator great authority for determining whether a permit will be required or setting up a committee to determine the compliance with that permit or evaluating the permit, and, in fact, if the little committee that's been set up denies it, the person can come back to the zoning administrator, and say, I have been wrongly treated, please overrule this committee. That's all in Section 7.925.

A completely separate section. 7.927 talks about the conditions under which a permit can be revoked. Now, it doesn't say the zoning administrator revokes the agreement. It says these are the conditions under which a zoning event permit can be revoked. And it is because of that provision that I continue to believe that we as the group of seven, have the authority to revoke this permit. It does not say the zoning administrator can do it. It just says it may be revoked for any of the following reasons. And Councilwoman Milhaven read all of those reasons to you and she kind of went quickly over number three, because number three doesn't talk about past tense. It talks about both present, past, and future. It says if the event poses a threat. And I think that's the whole point that people have been making tonight. This event, because of its past performance, because of its operation, because of what we may certainly expect next year, because it will be the same as it's been for the past five years, it will continue to pose a threat to public, health, safety or welfare.

It's my reliance on that provision and the authority in there that I continue to believe we do have the authority to revoke this permit. I have the ultimate respect for the law. We wrote the law. We published the law, and the law says that any event that poses a threat to public health, safety and welfare should be revoked. I am relying on the written word, not on the actions of staff, not on their interpretations. I'm relying on what we and previous councils wrote as the law. And staff are indeed our agents and it is for that reason I expect them to follow our directive.

The other comment before I relinquish the microphone here, Mr. Stockwell answered the question correctly when he said of the 500 events, only 10 have sales as their focus. That's what we are talking here, folks. It's not a question of whether an event is going to be held and sell hot dogs and

hamburgers and soda pop at the same time. It is whether the event itself is a retail endeavor. I don't think we are arguing that this is an art show. We are arguing only that it is a retail event. People come there to sell their wares, and I said before, I will say it again, if they were located in a private building or on public -- or on private land, we probably wouldn't be having this discussion. There's no restraint of trade here, not even talking about restraining trade. We are talking about the government not creating arbitrarily a competitive advantage for one business over another.

If we would just stay out of it, I think this problem would solve itself. But we haven't stayed out of it. And so I'm proposing we do. Thank you, mayor.

Mayor Lane: Thank you, Vice Mayor. Councilwoman Klapp.

[Time: 02:54:57]

Councilwoman Klapp: I find it's interesting that we keep intermingling the word "event" and "business." Councilwoman Milhaven referred to Artisan Markets as a business. It is a business. It's not an event. So it's asking for a special event permit to run a business, a retail business on public property and that is a real concern of mine, that if we are allowing a business to operate for a long period of time. You mentioned the number of events that sell items at retail, how many of them operate for two months out of the year, the equivalent of two months out of the year? Probably Artisan Markets is it. It's a business operating on the public's property, calling itself a special event, going through the special event committee in order to run its business, and that's where I believe many of us are taking issue. It is not a special event. It's a business.

And because of that, it has to be looked at differently. It has to be looked at from the perspective of what kind of impact this business is having on the other businesses in the area that actually operate as businesses, that don't operate under a special permit. They have business licenses and they have actual physical locations and they actually pay property taxes and they do all the things that most businesses do.

This is a -- this is a new entity in Scottsdale that is causing many people a lot of angst, because of the length of it, primarily. If this was a three-day art fair like we have in the city, in the mall, that's different. That's just an art show. It's an art fair. It sells retail items and art items. I know that the gallery owners and the business owners in the area don't have a problem with that. I know some people that I have heard from are concerned that we are after the food trucks and we are after the farmer's markets and the other types of businesses or operations that are in the downtown area. I don't believe I am and I don't believe the gallery owners are and I don't believe the 5<sup>th</sup> Avenue merchants are or the Brown Street merchants or the people on First Street or the people on Second Street or the people on Marshall Way or Craftsmans Court. All of those people are concerned about their businesses because what's happening at Artisan Markets impacts every one of those businesses. The food trucks and the farmer's markets do not. We are not hearing from grocery stores about farmer's markets. We are not hearing from the restaurants about food trucks. If we were, then we would probably be considering what kind of impact it has, but it doesn't. It doesn't seem to be impacting them but many, many, many businesses are telling us the equivalent of 200 or whatever the

number is, that enough is enough, and that they are tired of constantly asking for action, no action to be continue because we have turned a blind eye to the fact that we have created a real unfair competition situation by allowing a business to operate on the public's land.

And so as the business was mentioned by councilman -- or Vice Mayor Smith would move to private property, probably nobody would have any problem with this, but it's on public property. That's why it's our concern. That's why we need to do something about this. That's why we need to have the city manager take a look at this and see what can be done and take a look at any action that can be taken because right now the permit is through the end of the year but the beginning of the year, there is no merchant. And -- permit and then we will be asked again what should be done.

I think we need to bring this back as soon as possible so we can find out what his recommendations are so that we can determine how we are going to act on the January through the rest of the season permit that's coming. So that's the concern I have about this and I don't think it's inappropriate to be asking the city manager to do what we have asked him to do, because we have -- we have gotten inundated with emails, phone calls, all kinds of information from people about this, and we can't just sit here and ignore it. We have to act. And I'm hoping that we'll get some good information when this comes back from the city manager.

Mayor Lane: Thank you, Councilwoman. Councilwoman Milhaven.

[Time: 02:59:35]

Councilwoman Milhaven: I will concede that all events are businesses. And I think the question is whether or not we're going to allow anybody to use public right-of-way for a purpose other than walking and driving. I think that's the question yes or no. And if the question is yes, then the question is how much do we charge them to use that space, to pick what you can sell or not sell, whether it's food or art is, in my mind, restraint of trade. You are limiting competition arbitrarily. I would suggest that if the bridge is such a great place to sell your stuff for \$159, you too could sell your stuff on the bridge.

[ off microphone comment ]

Councilwoman Milhaven: Then let's figure out what we have to do when there's more than one person who wants to use that space. How many people have been turned away because they made an application and the space was already booked?

Assistant City Manager Brent Stockwell: No one has been turned away, because the space was already booked. In fact, there's a stipulation in the permit that requires the permittee to find another location if somebody else wants to use that space.

Councilwoman Milhaven: Thank you. So we should be so lucky to have more people to want to use that space. And while we don't have -- we don't have restaurants objecting to food trucks yet, I think by letting one industry say you can't let somebody compete with me, you are inviting somebody else in

town to restrict what they do, which, again is not government's place.

Mayor Lane: Councilman Phillips.

[Time: 03:01:27]

Councilman Phillips: While everyone was talking about this it came to mind -- I think last year or maybe the year before, I think it was last year, Glendale revoked the Coyotes contract, and everybody was up in arms and how could they do such a thing. They have the authority to do such a thing, the Glendale city council and the Coyotes contract. The reason they could do it was so that they could rewrite a new one that worked for everybody. We will see what happens here.

I will make an alternate motion to rescind the Artisan Markets special event permit for the same reason so that we can rewrite the new one.

Vice Mayor Smith: I will second that.

Mayor Lane: The motion has been made and seconded. Would the second like to speak to it?

Vice Mayor Smith: I think I probably said enough. I do feel like we should have the authority and we feel like we have the authority on the ordinance to do so. So I do support the motion.

Mayor Lane: Thank you, Vice Mayor. Councilwoman Littlefield.

Councilwoman Littlefield: Mr. Washburn, can I have your opinion?

City Attorney Bruce Washburn: I'm sorry, are you asking my opinion on the motion?

Councilwoman Littlefield: Yes.

City Attorney Bruce Washburn: My opinion is that the council doesn't have the legal authority to revoke the permit.

Councilwoman Littlefield: Thank you.

Mayor Lane: Thank you, Councilwoman. Seeing there's no further comment on this. I guess I will make a comment. I certainly -- I'm sorry, councilwoman Littlefield, did you want to speak further?

Councilwoman Littlefield: I would like to say one other thing, I won't go against the city attorney's legal opinion on this, however, I would suggest to the city manager and to the acting city manager to hustle this long and put it on a real fast track. We need to make decisions and we need this brought before us again as soon as possible to work on the ordinance and to make sure that the laws under place for the coming year. Thank you.

[Time: 03:03:34]

Mayor Lane: Thank you, Councilwoman. My comment goes a little bit to the motion that is the alternative motion on the table, back to the original motion. I was of the impression that Councilwoman Klapp's motion included by direction from the Vice Mayor that it would include the prospect for rescinding and I thought that was accepted at that point in time by the second and thus by the motion maker. And I will say that I'm diametrically opposed to a overt rescinding not only for legal purposes. I have think it's a matter of our standing in the world as far as the city that operates within the law and frankly respects the law, and its execution equally and consistently with everyone. So there's no way I will support the alternative motion. Councilwoman.

Councilwoman Klapp: The motion that we all were considering, what I said was -- if I can remember that far back, was that it would be my preference that we could rescind this, but I'm following the attorney's advice that we can't. So then I ask the city attorney to do other things to take a look at the permit, other than rescinding and come back to us within about a two-week period in order to get an answer from him about what can be done with this permit, and specifically, mentioning a couple of items that should be looked at, but I didn't propose rescinding. That's why I will not also support the motion or the second.

Mayor Lane: If I might just respond to that, and I appreciate the clarification on your side, but what happened with the second is it got further defined and included the rescinding and it's represented by the motion on the table in that area too. If it does not include and now if our legal advice stands and, of course, it stands also then for the city manager, that rescinding is not on the table, in the original motion --

City Attorney Bruce Washburn: Could I address that, Your Honor? The council can't revoke the permit. The staff can go through the review process and look at the conditions that have been discussed here and make a determination on whether or not the permit should be revoked.

Mayor Lane: I see. I was personally looking for sort of just a straightforward honest dialogue with the parties, so that we could figure out a correction to go, not with the idea of the city manager rescinding it. So I will not support the motion -- the original motion. Councilwoman Littlefield.

Councilwoman Littlefield: Yeah, that being the case, I will support the original motion, and I would direct that that happens as quickly as possible. Thank you.

Mayor Lane: Councilman Phillips.

Councilman Phillips: It's obvious that the staff has more power than the city council. Not to waste the time, so I will take back that alternate motion so we can continue with the original motion.

Mayor Lane: All right. So the alternate motion has been withdrawn. City manager?

[Time: 03:07:17]

Acting City Manager Brian Biesemeyer: Yes, Mayor, I would just like a clarification. Is the intent of the motion that I come back and report to council or that I act? I just need some clarification if it's report or --

Councilwoman Klapp: I believe my intention is and that's what I'm hearing from Councilwoman Littlefield, I would like a report back at a council meeting within, say, two weeks because we also are dealing with the situation of another potential permit coming on January 1<sup>st</sup> and we need to deal with that. So I would like to have a report back to the council as soon as possible in two weeks, hopefully.

Acting City Manager Brian Biesemeyer: Sorry Mayor. Just a little consultation there. I think we are straight. And thank you for your time.

Councilwoman Klapp: Do you feel that two weeks is sufficient time to come back and report to the council.

Acting City Manager Brian Biesemeyer: Mayor, Councilwoman Klapp, I don't know as in the schedules of everything that two weeks is possible but I certainly got the message to hustle.

Councilwoman Klapp: Okay.

Acting City Manager Brian Biesemeyer: I have that. Whether two weeks --

Councilwoman Klapp: Okay.

Acting City Manager Brian Biesemeyer: -- it's difficult with current schedules. As you know, I will be out of town next week. So there are some things that are a little different with current schedules.

Councilwoman Klapp: Okay, as soon as you can.

Acting City manager Brian Biesemeyer: Yes, ma'am.

Mayor Lane: Brian, if I could, this includes whether you have the standing to rescind this, without exception, without modification, just to rescind it.

Acting City Manager Brian Biesemeyer: I wasn't clear on that, if I'm going to rescind it. I was clear I was going to relook at it, give you a review of that permit as it went through in view of the facts as they exist today, and what we know today, whether or not that was a valid permit and then to give you my recommendations on where to go from there. Let me stand corrected. The city attorney says if I find it should be revoked, that should be the finding. It's not a council matter according to the ordinance as written. So if the review says it should be revoked, while I will report back, it shouldn't -- as the city attorney says, it shouldn't -- that should be the ruling right there and I will defer to the city attorney for further clarification.

Mayor Lane: So it would be your revocation not anything the council has done?

Acting City Manager Brian Biesemeyer: Mayor, that's correct.

City Attorney Bruce Washburn: Just to clarify, the revocation would be done -- considering whether to revoke would be done with the existing ordinance. Just like it's not a council decision whether or not to revoke, it's not a council decision to revoke after staff has done the reviews provided for in the ordinance.

Mayor Lane: So essentially what we are saying here with this motion is it's in your court?

Councilwoman Klapp: Yes.

Acting City Manager Brian Biesemeyer: I think that mayor, that's my understanding, that it's in my court, I need to report back and let the actual action, if there is an action to revoke, is in staff's court.

Mayor Lane: I think that's a great result. No, I'm just -- But in any case. Okay. Councilwoman Littlefield.

[Time: 03:12:23]

Councilwoman Littlefield: Thank you, Mayor, I wanted to reiterate with what Mr. Washburn's latest comment was, that that be considered in your review of the permit. Thank you.

Mayor Lane: Thank you, Councilwoman. Vice Mayor?

Vice Mayor Smith: Well, I was only getting excited because I thought we had some power there for a moment. It turns out we don't. One thing I want to clarify, at least in my instructions to you and what's embedded in the motion, is to work with all parties and comments have been made earlier tonight, you know work with the licensee and see what we can work out. And I get the impression you all have tried to do that over the past few years but there are far more interested parties and affected parties by this than just the licensee. And I don't know whether you can do it in two weeks' time or three or whatever it takes, but my instructions thousand would be work with all affected parties. And that's going to keep you busy, but that's what have you to do. That's the only way to figure out whether the welfare has been impacted. Thank you.

Mayor Lane: Thank you, Vice Mayor. Well, I guess just a final word on it it's in your court with considerations for everything that's been said here with regard to trying to work with all parties as to whether or not there is a grounds to either revoke or to modify or to move forward, doing that as quickly as possible. That reasonable summary of it? Okay. I think then, unless there's further comment, I think we are ready then for a vote. All those in favor, please indicate in favor with an aye and those opposed with a nay. Motion passes 4-2, with Councilwoman Milhaven and myself opposing.

Thank you, everybody, for your input, and testimony, and staff for the presentation and patience.  
Thank you.

**PUBLIC COMMENT**

[Time: 03:15:22]

Mayor Lane: Andrea Zakrzewsk, are you still in the building and looking to speak? Okay. All right. So there is no further public comment then. We're not in receipt of any citizens' petitions and mayor and council items, I will ask for a motion to adjourn.

**ADJOURNMENT**

Councilwoman Klapp: Move to adjourn.

Councilmembers: Second.

Mayor Lane: Moved and seconded. We are adjourned. Thank you.