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This document was created from the closed caption transcript of the May 11, 2021 City Council Work Study meeting and has not been checked for completeness or accuracy of content.

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#### **CALL TO ORDER**

[Time: 00:00:02]

Mayor Ortega: I call the meeting, May 11<sup>th</sup>, 2021, city council work study session to order. City clerk Ben Lane, would you please conduct the roll call.

#### **ROLL CALL**

[Time: 00:00:17]

City Clerk Ben Lane: Thank you, mayor. Mayor David Ortega.

Mayor Ortega: Present.

City Clerk Ben Lane: Vice Mayor Betty Janik.

Vice Mayor Janik: Present.

Clerk Ben Lane: Councilmembers Tammy Caputi.

Councilmember Caputi: Here.

City Clerk Ben Lane: Tom Durham.

Councilmember Durham: Here.

City Clerk Ben Lane: Kathy Littlefield.

Councilmember Littlefield: Present.

City Clerk Ben Lane: Linda Milhaven.

Councilmember Milhaven: Here.

City Clerk Ben Lane: Solange Whitehead.

Councilmember Whitehead: Here.

City Clerk Ben Lane: City Manager Jim Thompson.

City Manager Jim Thompson: [No response]

City Clerk Ben Lane: City Attorney Sherry Scott.

City Attorney Sherry Scott: Here.

City Clerk Ben Lane: Acting City Treasurer Judy Doyle.

Acting City Treasurer Judy Doyle: Here.

City Clerk Ben Lane: City Auditor Sharron Walker.

City Auditor Sharron Walker: Here.

City Clerk Ben Lane: And the Clerk is present. Thank you, mayor.

[Time: 00:00:48]

Mayor Ortega: Well, thank you. We have Scottsdale Police Officer Tony Wells and Firefighter Logan Adcock, should anyone need their assistance.

At this time, we would move on to public comment. We did not receive any requests to speak this evening. Public comment is open to the public to comment on anything not on the agenda.

We are ready to begin our work study. The work study session as posted provides us a less

formal setting for the mayor and the council to discuss specific topics with each other and the city staff and provide direction to the staff. So they can move forward accordingly. The first item on our agenda is the board and commission membership procedures. Our presenter is Shane Stone. The management associate and so let's bring it forward. Thank you.

**ITEM 1 – BOARD AND COMMISSION MEMBERSHIP PROCEDURES**

[Time: 00:02:06]

Shane Stone: Thank you. Good afternoon Mayor Ortega and city council. I'm Shane Stone. Our boards and commissions in Scottsdale have the responsibility to advise the council on areas of expertise.

They fill a vital role in our city and accordingly, suggestions made in this presentation seek to continue the high standard to which they hold themselves already. You may notice that these suggestions are at times mutually exclusive to one another, and are at times would work well in concert with one another.

This menu of initiatives that we bring before you tonight is not meant to be say list of complete recommendations but more a catalyst to start the conversation tonight on boards and commissions. Next slide, please.

This slide provides an overview of the boards commissions within the city of Scottsdale. They are staffed by five different divisions. They are separated by the task that they do. There are 13, and in gray, two quasi judicial bodies. Next slide, please.

In February of 2019, the city council held a work study session to begin developing the most recent reforms for boards and commissions. At a roll newspaper meeting the council directed staff to bring back an ordinance change that any board or commission member having more than a 25% recusal rate would be removed from that board or commission automatically.

On September 8<sup>th</sup> of 2020, ordinance 4410. It clarified resignation procedures and allowed for a nonconsecutive term for board and commission members. The automatic removal was removed by staff.

Tracking these figures did prove to Tom at a great cost to staff resources and there were nuisances to the calculations such as if one item came up in front of a board or commission three times would that count as one recusal or three?

If a board or commission member recused -- or were absent for an item which they otherwise would have recused themselves, would that count as an absence, recusal or both? And how would an automatic mechanism have them not recuse themselves when they should. They curbed and governed recusals from board and commission members.

In, we will talk about those existing measures that can curb recusals and then we have potential initiatives developed by staff to enhance or build upon these tools. Next slide, please. The first can be found in Scottsdale revised code. Members of the appointed boards and commissions serve at quote, the pleasure of the city council. In essence, this allowed for the council to remove members at any time, such removal could be for any reason, such as excessive recusals or the council may wish to see that member's service discontinued. This leaves the hands in the power of the elected council and grants you the opportunity to consider each matter on a case-by-case basis. Next slide, please.

The next tool present to address recusals lies in 2.49c this section of the code requires that city officials must upon refusing themselves update their personal interest disclosure form, which is kept on file by the city clerk.

This process provides the city with information which would aid in predicting the likelihood and/or the specific cases which a board member or commissioner would need to recuse themselves from in the future.

[Time: 00:06:28]

And in the third available tool can be found in Scottsdale revised code 2-241h this provision provides an avenue for the chair of a board or commission to notify the mayor of excessive absence or tardiness, as well as unwillingness or inability to serve.

A potentially attractive feature of this section of code is that the chair of a board or commission, who is elected by their peers to lead that body, is granted with the oversight to maintain the productivity of that body. Next slide, please.

As members of the Scottsdale community apply to join a citizen advisory group, they are asked to commit a written form detailing who they are, how their experiences would serve the city, and their perspective of current issues.

As you can see up on the slide, there are three questions which they respond to. The first requesting their name, address, and length of residency in Scottsdale. The second question asks for them to apply their experiences to the specific board or commission for which they are applying, and the third question asks them about the top issue facing that board or commission. Next slide.

Staff suggests adding an additional reading, do you have any conflicts of interest which might require you to recuse yourself from the business of the board or commission for which you are applying? If yes, please explain. We still may be working on the exact wording within this to say, do you anticipate having a conflict of interest?

But regardless this would give you the council more information on the likelihood that any given applicant would become a frequent user of recusals. And we may flag any potential conflicts

which are similar to current conflicts on the board or the commission. During the March 16<sup>th</sup> city council meeting. Having multiple recusals on the same item is especially troublesome and this could address that exact issue. Next slide, please.

City staff also developed several additional potential changes to the nomination process. The first bullet point addresses the change on the previous slide. The second potential change is condense nominations and appointments into a single meeting this could reduce the likelihood that recusals would compact boards or commissions which can have a similar impact to multiple recusals on a single item.

If you have a recusal and a vacancy, it's like having two recusals without a complete vote. The next recommendation could expedite in filling vacancy. That is to have a reserve pool or a board and commission applicants.

They could step in the moment a board or commission member ends their term, leaving no meetings with an incomplete board or commission. The final potential change on this slide is to require that board and commission members serve a full year once appointed before they may apply for another body.

Which a board or commission member leaves for what is a more desirable position. That is a less than complete citizen advisory group. Next slide, please. The potential changes address recusals in a more direct manner.

[Time: 00:09:52]

First is to look at 2-241h to clarify that the chair of a board or commission may consider excessive recusals to qualify as the inability to serve. As previously presented when a chair finds a member unable to serve, they notify the mayor who may agendize the potential removal of that member.

This proposal would allow for boards and commissions to govern their behaviors and determine when recusals become an issue that causes ineffectiveness. Such an amendment could be drawn up strictly to require certain actions from the chair's of boards and commissions or more broadly, in order to give them more discretion.

The second potential change outlined here, brought forward by staff is to create a mechanism that allows for boards and commissions to recommend removal of a member with a supermajority vote this also places the power of oversight within the board or commission but cede ultimate authority back to the city council this could work in concert with that first bullet point so that way there's something for both the chair and for the other members of the boards and commissions.

The third potential change would be to appoint alternate members to boards and commissions. Particularly those with a high frequently of necessary recusals. Those alternate members could

step in in the event of a recusal to give a full vote on each item and potentially serve on the board in the event of a resignation or removal of a member.

Just a step is more involved than the previously mentioned reserve pool because they would be attending each meeting but would address more concerns and from a quicker more immediate manner. This would also address potential issues connected to the lengths of vacancies on boards and commissions. And finally, staff could monitor and review recusals that cause a split vote.

When ordinance 44-10 was being drafted the constant monitoring of recusals proved to be a burdensome task but that could be mitigated by simply reviewing those votes that would cause -- or recusals that would cause split votes. Next slide, please.

A final potential change created by staff is to add board and commission appointments to the council rules of procedure. This would stand to enhance clarity in the entire process, especially as changes such as those that may be discussed this afternoon, would be made. Next slide, please.

[Time: 00:12:16]

I thank you for the time and the opportunity to present to you this afternoon. At this point, staff would request your discussion and possible direction of staff and we appreciate that. I'm happy to answer any questions you may have. Thank you.

Mayor Ortega: Thank you very much, Mr. Stone. At this time, I'm working without one of those electronic boards, one of those scorecards. That's okay. Give me a nod if you would like to comment and I will keep track.

I think I will open up with a couple of brief comments and call on my peers. First week in office, I encountered a situation, a friendly call to a commissioner and as we were talking it turned out he told me moved out of town. I said, wow, that's news.

And it was a friendly conversation down a lot of great things and I informed him immediately, we will have to resign and replace you. That was just my first week in office. There was another time when an individual was reported that they had missed for out of five meetings and so that was also the person stepped aside.

The other subjects we are dealing with today have to do with recusals. I have a few other thoughts which I can mention but let me move to Vice Mayor, did you have some comments?

Vice Mayor Janik: I do have some comments. And I just kind of wrote down some notes that I think what we need to do is review of candidates and I think number four, conflicts of interest, I think that's a very important question that we should ask when someone applies.

My problem is what if the person doesn't seem to answer it truthfully? So then you have to figure out what mechanism will you then use in deciding if this person is a viable candidate for a commission? So I think what we need to do is review the candidates. We need to see who is taking care of attendance.

And perhaps what was suggested is if there's a split vote, that as when we would need to be more careful on who is attending and who isn't. And if it's a problem. I also think we need to consider how we notify people if we decided that we don't want them on that commission or that they are not serving the people properly because of conflict of interests and recusals.

So I think if we could deal with those three main issues, I think we can come up with a better way to be respectful of all of those people who serve on the commissions and do a better job in treating them in an appropriate fashion. So I don't know if that answers or gives us much direction but that's what I would like to see us be able to accomplish today. Thank you.

[Time: 00:15:37]

Mayor Ortega: Thank you. Councilwoman Milhaven.

Councilmember Milhaven: Thank you. I feel very strongly about recusals being right? When there's a conflict of interest. There's the legal statutory conflict of interest, but then there's also the perception of a conflict. And everything in upon, and the potential conflict and so I believe we want our boards and commissions to act with the utmost integrity and err on the side of caution.

I was always taught if there's a remote perception of a conflict, you should declare that conflict and this is throughout my professional career, not just in my time as an elected. For us to do anything that creates a disincentive for folks to declare a conflict, I think, puts those people and the city? A compromising position.

And so one, I feel very, very strongly that we do not want to put in a rule about recusals. Along the same lines, some of our boards and commissions and I know planning and zoning and development review, in particular, get a lot of visibility. And opine on projects that people have very strong opinions upon.

I know that we have shifted towards having what folks call more regular Sens on planning and I think by regular, they mean folks without any professional expertise in the area. I think we have shifted too far that way, because I believe that professionals on those boards bring a great deal of expertise. I finished my rotation.

City council takes turns chairing the development review board. They look at all the design and the aesthetics of new projects. And I was so incredibly impressed by the design and building professionals on that were on that review board, through my whole tenure but particularly that tenure.

There were projects that they continued for upgrades several times and they talked about things I had no idea. I learned a lot. As design professionals they held those projects to a higher standard. It made those projects better, and made the designer and the developer go back and improve those projects. And so if we have got successful professionals who live in Scottsdale, they will do business in Scottsdale.

It's only reasonable to think that some of those people may have conflicts. So for us to say we don't -- we want to avoid having professionals on our boards and commissions that bring expert tease because they might have to recuse themselves, we miss out on some great citizens who have a great love for our community to serve on those boards.

If that means they will recuse themselves every now and again, then and how many is too many, we can argue about that. But any rule against recusals really starts to compromise the integrity of our process. And I want to remind us too. These are advisory boards. They are not taking any legal action. We do or not do what they want.

Most recently the planning said don't move forward with the parking ordinance and the majority of folks said, oh, yeah, we will do that. There's no legal binding to anything that they do. They are advisory and I think we are way over engineering this and so for my two cents, I'm not interested in making any changes, particularly to recusals. In terms of question, I do want to -- even though I don't want to agree with it.

The question on the questionnaire, do you perceive having any potential conflicts. It's almost impossible to predict the future. And as electeds, we fill out an annual disclosure. If we wanted to do something like that, then maybe we do an annual disclosure.

On my annual disclosure, I identify, that you know, I'm employed by a company, so if there was any business between the city and that company that would come up, I have already declared that that may be.

[Time: 00:20:07]

But I don't know that that's a fact, at the time or what might -- might transpire over the course of the year. So if you really want to -- I would rather that we not, but if you insist on it, I think that filling out that disclosure might be more appropriate than the question. Thank you.

Mayor Ortega: Thank you, Councilwoman Littlefield.

Councilmember Littlefield: Thank you, mayor. Well, Councilwoman Milhaven, in large part I agree with you. I don't want us to get into a position where we're using a sledge hammer to swat flies. How much of a problem is this? Okay?

Let's not overreact to that problem yes, there is an problem occasionally and we have run into



issues. I do have some things we might consider working forward to see if we can't tighten things up a little bit and maybe that would help.

First off, all of our boards and commissioners -- our board members and our commissioners serve at the pleasure of this council. They should be removed they pleasure of the council also, not by a board chairman. So I think that power should stay with the council.

We are the ones that put them there, we make the determination if they are doing a good job and we want to keep them. That's our duty as far as I'm concerned. So I would not want to have a chairman in that position. It could lead to more problems that we really don't want to go into at this time.

There could be personality conflicts and all kinds of things like that. Also, I had one simple suggestion as I was looking through the application forms the nomination form and all of this kind of thing.

Would it be possible to move the question that is currently on the nomination form and put it on the application form of do you foresee any possibilities of recusals or conflicts of interest so that the council when we're first looking at the applications, not after we nominated anybody but when we are first looking at the applications, we can see if they think they might have a problem with that and we could call 'em up and ask them and talk about it.

And so that might be something that would kind of screen right then and there before any nominations or -- you know, people are accepted on the boards. That was one easy possible solution to some of it conflicts of interest. I said that one.

And then chairpersons from each board or commission, if they have -- if they are seeing an issue with too many conflicts from board members so they don't feel they have an adequate board at time to make the decisions that they need to make, whatever area they are in perhaps we should set some sort of a parameter, a measurable parameter that has something to do with personality or character or anything like, that so many -- a percentage of recusals from the board, perhaps that should be a trigger that the council should be notified and it should be sent as this may be an incoming or possible issue that we might want to address before it becomes a really big problem.

[Time: 00:23:46]

I'm trying to manage it to keep it down. I don't think there's been a huge problem with this overall. And I don't want to, you know, use a sledge hammer to swat a fly, basically. But I think some of the ideas that staff has put together are good. I do very strongly believe we appoint them. We are responsible for those appointments. And we need to take that responsibility if anything does come up. Thank you.

Mayor Ortega: Councilwoman Caputi? And then Councilwoman Whitehead.

Councilmember Caputi: Thank you, mayor. So far I like the conversation. The easy things first. I think that idea of condensing nominations and appointments is pretty good. I don't know what everyone else feels but it feels very clunky to me to go through the same process two times. People have asked many of these as well, you know, why do we have these two steps? I'm totally fine with condensing that into one.

My thoughts on this topic, are similar to things that have already been said. I do feel like we have got a lot of boards and commissions that have requirements, professional requirements, and I think there's a push towards well, we just want regular folks on boards and commissions and I think that's great.

It is really important to reach out to the community but, whatever that might mean, because of course, if you have a job in this community, you are also part of the community, but having served on a board and also now serving on the council, I think we build these boards and commissions to advise us on things that we need help on and to repeat, we are obligated to take their advice.

Why do we build a board or commission for who are not experts. Otherwise it's opinions. We have our own advice. I can echo councilwoman's Milhaven's comment, the three years I served, we had a landscape architect, who continually pointed out things I never would have known. Maybe this isn't the right particular plant for this application. This would be better. I thought, wow, that's fantastic!

We had a civil engineer who was able to give, you know, opinion on drainage. We had myself who I'm a material supplier. I understand a lot about the construction process. We had someone who was in the development business himself who understood certain things and we made -- I felt like we made the projects better, which is the whole point of these advisory boards and commissions.

So I do think that we need to really think about not just -- we need to make sure that we appoint people on boards and commissions who are giving great advice that we need and I think that's more important than worrying so much whether there is a potential conflict down the road. I agree, it's possible that if you are a professional in a certain industry, you are going to have some sort of a conflict and that's why we allow people to come clean with that.

[Time: 00:27:01]

I like the idea of having someone that could rotate in. I think that's great. I mean, maybe we have an alternate person who is kind of up to speed, from the pool, maybe -- maybe we have someone on tech and then when someone needs to have a recusal, they have read the agenda. They are ready to step in.

And we can always make sure that we have a full seven folks whenever we need them.

Then that person is trained and ready to go as well, because I know having served on a board, first few months are really awkward. You don't really know what you are doing. You are nervous.

I kind of love the idea of training someone up and having them ready to go as an alternate. So maybe that's a solution to having -- I think because the main problem of recusing yourself is that you are left with not a full slate and that's not fair to the citizens. I agree. Maybe we do have someone ready to go. I don't know just a thought. I think making boards and commissions full of people who have very different expertises and different opinions.

We have different backgrounds and different opinions, the same with our council and I think that's why we make good decisions. Not just echo chambers, but people who contribute different things.

Mayor Ortega: Councilwoman Whitehead.

Councilmember Whitehead: I agree with a lot of what has been said. I want to emphasize what Councilwoman Littlefield said that I'm uncomfortable with having a board chair or a board or commission member remove a member from that board or commission.

I think that is -- I do like the idea of having parameters that trigger a letter to the mayor and/or council, having to do with absences because I think that's where the real issue is I think the idea of having professional requirements on these boards and commissions is great. We do that with JAAB, we do it with DRB.

If that's needed on a commission, we establish that and then we don't worry about filling the other positions with regular folks, as people have been calling them. We're all regular folks and we can spend time and figure out these developments and our votes really count. We're not advisory.

[Time: 00:29:39]

So I don't -- my position is on planning you do want a mix. As far as having experience -- and telling the future, I like the question. This is not about -- if you are working on a major project, you are aware of that project long before it comes to council. You are aware of that long before it comes to the planning commission. We just want to know that. It doesn't mean we will exclude you. We make exceptions when we need a certain profession. We just did that with TDC.

If somebody is -- there are a lot of residents in this city that have a tremendous amount of development experience and never work in Scottsdale. They are very valuable without having to recuse themselves. So the idea that we either choose someone who knows something about development or someone who has no recusals is mutually exclusive, I don't buy that. I think what we are looking for is the type of situation where every meeting or almost every meeting

there is a recusal. I think that is a problem. I think the alternate is clunky.

The advantages after an alternate, there's one more person that gets to serve in that capacity and I think there's a lot of interest in serving. The disadvantage, I don't know what the bureaucracy of having another person out there is. I guess I don't have an opinion. I want to talk about another issue that I think is sort of tied to this. I think it should be included.

We had an issue over the last couple of years when this was put together -- when these requirements were put together, it was before we had social media. So we have had a situation where a board or commission member is uncivil to members of the public on social media. That seems to be a problem on social media.

And we don't want to limit anybody's free speech but I wonder if we shouldn't include some information or maybe that they sign off understanding that civil discourse is a priority at the city and that's something that the council would take seriously if there was something that was outrageous. So we're a golden rule city.

We expect that you will treat members of the public in any form of communication with them in a way that you would treat your mother or sister or your colleagues. So something to that effect. I think it would really go a long way. Again, these are aberrations, not the rule. Our commissioners show up for most part. Our commissioners don't have to recuse themselves. We are trying to tweak this to make it better. Thank. That's it.

Mayor Ortega: Thank you. Councilman Durham.

[Time: 00:32:35]

Councilmember Durham: Thank you, mayor. I think the recusal problem is one of degree. No one cares if someone occasionally has to recuse themselves and we want people with skills and experience and that will occasionally happen, but we do have to keep control if it gets out of the hand which it has not very often, thankfully.

I think our rules need to be more transparent in that situation so that it's clear and everyone knows the rules we are playing by. In the last situation we have encountered, I think there was sort of an ad hoc approach that should have been clearer. So he think a system such as Councilmember Littlefield proposed where we keep track of this and we get notified for it.

I also dislike the idea of having the committee chairman have the power to dismiss somebody. I don't think that's a good idea. So I think this solution is that we have reporting on it, to the mayor, and the council so that we can be kept aware of it. And hopefully work with that before it becomes a problem.

We want people's expertise, but if they are going to be recused a significant amount of the time, that means we are not getting their expertise. So we should be able to deal with that. I do like

the upfront question. Question number four that staff has suggested, I think we should figure this out as fast as we can. I would even maybe put a question on there about occupation so we can see what a person's occupation is.

Obviously, we get that information later down the road, but I think it would be good to know a person's occupation right up front. And so I'm in favor of Councilmember Littlefield suggested which is a regular notice to the mayor and the council on recusals so we can look into that and figure out whether it's a big issue or not. And discuss it with the relevant person and, you know, try to see if this is going to be a continuing pattern.

Mayor Ortega: I'm going to weigh in before we go into our next secondary thoughts. Probably we would all agree that our objective is to have full panels. And also to attract expertise that is -- well, Scottsdale has a tremendous resource in volunteers and encouraging that is where we would agree.

And then another certain is whether or not some appointees seem to be locked in for decades or many years which could, to me, appear to be a blockage or an obstacle I want to say to newcomers, other people that would want to participate but feel that they are somewhat outsiders in terms of being qualified but not being able to be noticed.

[Time: 00:36:25]

One of the items asked for two terms and then a third term with a one-year break, but in actuality, what I have seen is with DR board and planning commission, there's been a rotation where people will serve six years, two terms on DR, and then go two terms on planning commission that's 12 years already and then the option to go another third -- a third term, that's another three years, perhaps going back to DR board commission, so you are up to 15 years, and then going from there to planning commission again. That's 18 years that an individual would basically hold a seat, and, you know, subject to reappointment.

I have seen that rotation happen over and over again. I don't think that that is a -- is an open prospective and we also tend to see recusals occurring from those appointees and then I think it's doubly negative. That's an observation but as I said, it's -- it's -- it gets up to 18 years when councilships really don't last that long in terms of terms.

The other thing is as far as the application itself, there's some suggestions made to our clerk, all the applications go through the clerk's office, and so any suggestions, I'm sure he's taking notes and we'll consider that.

Also, you know attendance matters and so forth, there are clerks -- staff assigned to those boards and commissions just as we have a lawyer staff. I do believe that we should have a policy for recusals. I think 25% of the meetings is a minimum threshold.

The reason I say that -- and let me just go directly to planning and zoning, for instance. So

there's basically three areas that planning and zoning handle. One is zoning cases. One is use permits. And one is abandonments. So in most cases, the abandonments are softball.

I mean there may be a road that's given up or whatever, and generally those are not terribly contested or if I look at the record of several people, they may have had one abandonment -- a recusal on an abandonment but they may have had nine on hard zoning cases. So that's where the community gets ignited about gee, how come there's only five people voting on this case, while two out of seven are recused because they were working on it.

And so having our first objective of having a full house, a full panel gets somewhat obliterated by that. I don't think there's -- so the weighting should be I believe on zoning cases and not averaging them all in with abandonments or text amendments, things that are open and -- and in most cases the use permit is just subject to terms.

It's allowed in that zoning or may be allowed in a zoning. It's just that they have to go through the use permit process to show that they have the vestibules on bars or whatever is required. And even though, there have been recusals on use permits. But generally speaking, the representation for zoning cases is really the paramount area.

Why is it so important for the planning commission or the DR board? Well, the importance is they are the first filter for the community. We need that filter. We don't expect to have everything bombarded to us right away. Staff will digest it, applications will be reviewed, they may be pulled or augmented and it's a serious and useful process. So the more recusals there are, it interferes with that process. I also feel that honestly with recusals is not an option. It's a requirement.

[Time: 00:41:17]

So to say someone was extra careful, whether they had a client two years ago or might be putting out a contract with a prospect, for a new job, knowing that well, if you get that job, then they will have to recuse on it.

So there's a lot of factors as a consultant, I know that could be conflict. The requirements in looking at this, I would highly recommend we have the planning commission definitely have no more recusal -- well, 25% -- one out of four -- if you are recusing one out of four, you are off. It's just too many, and from what I have seen, we have had nine, 12 -- I will say nine a year, eight or nine a year consistently and that breaks way over that threshold, maybe 40% of those cases that are heard in zoning.

That's my suggestion. The overall -- I guess the second and -- well, the final thing is that I believe that the monitoring definitely comes to us. And that's a good thing. It's straight up information. And I have heard of other cases where, you know, an advisor, a planning commissioner says, look, I'm getting is busy. I can't do this task. And everyone has done a favor by doing that.

It can be very successful, whether they are an architect or an engineer or a layman or an investor here in Scottsdale and make room for others that will have an equally valuable voice. If they are not the end all, final choice of -- of a commission, we have a lot of willing people. You notice that there's 14 applicants, for instance, for planning commission. So there is an abundance of talent and I think we should be cognizant to keep that door open, and not just confine ourselves to an echo chamber. Did you have another comment? Just a short wrap. Go ahead, Councilwoman Littlefield.

Councilmember Littlefield: Very short. Just to address an issue that I did not address before and that is to have an alternate on board, in case of someone leaving the board or commission. I'm very hesitant to do that. And the reason is, I don't want others who might be interested in DR or planning or any other board, say, well, there's no point in my applying, they've got the next person.

I don't want to do anything that might slow down the decision to make the application for the board because they don't think they have a chance. So that would be just my thought on that. Councilwoman Milhaven.

Councilmember Milhaven: In terms of your concerns about people serving decades, you used the example of DR board and planning. You did make the point to say that it's subject to appointment. So this body or future councils get to decide whether or not somebody continues or not. But if that's a concern, we also have folks who have been on parks and rec and also been on preserve commission.

[Time: 00:44:50]

So there's lots of places where citizens have brought a lot of expertise to a particular board or commission, served this irrelevant two, three year termed and applied to be on another commission. I would be reluctant to preclude someone electric doing that, especially since the council -- it's subject to council appointment. We can decide for ourselves.

I wanted to comment on Caputi and the selection and the election process. PreCOVID, they came in for an interview. And so that's why it was in two steps and so if we were going to collapse them, we would need to think about do we continue with that interview process or not?

So just some more context because I know since you have been on council, it's been -- there hasn't been much reason to do it in two steps. I know we have all gone around and I have heard folks share different points of view. Start with the first, mayor suggested a policy standard for recusals and I have heard other folks say I don't think we may need -- this may not be clear. I don't think we need a standard but we should track it.

And so I thought maybe we could go around and see where folks are. Do you think we need to have a policy standard and/or do you think we need to track it? And so for me, no. No.

Mayor Ortega: Vice Mayor Janik.

Vice Mayor Janik: I feel we do need to track it because it may become too subjective. If a person recuses themselves on planning and zoning from an entire meeting or just one item on the agenda of that meeting, so I think we need to be very careful with our criteria. I do think we can get it done, though and I think we can get it done in a fair way that's reasonable.

So I would prefer that we track it. I do believe that the ultimate decision needs to come back to city council. I think it's a pretty heavy onus to put it on the chairman of that commission, especially when that's a field that he works in. So I agree with both of those comments and I also think that question number four would be a valid question when we start this process. The other comment I have is something that councilwoman Solange said.

It's not mutually exclusive to have someone who is not intimately involved in all the contracts that's being reviewed and get is an expert. I believe that we need experts. It might not be a bad any to identify the areas that we are hoping to get someone who knows this area. So that we kind of know where to look, and what to look for. So again, I would prefer that we do have standards that are measurable, rather than subjective. Thank you.

[Time: 00:48:03]

Mayor Ortega: Councilwoman Whitehead and then Durham.

Councilmember Whitehead: I want to talk about the collapsing. I agree with Councilwoman Milhaven, that I would hate for everybody to come in and then have to leave because they didn't get nominated. I think there's rhyme to that reason or reason to that rhyme and I would rather keep it where only the people who might be appointed show up and speak to us, because that's very, very helpful.

I just want to -- my own personal policy, I'm very uncomfortable with the people that the mayor talked about, the same people. I don't care how experts they are. We have 260,000 people in this town. We have a lot of experts!

So my way of appointing and I call the people often and I tell them, I won't vote you, not because I don't think that you are qualified, but you just came off of DRB. I want to hear what somebody else has to say. I want to give somebody else a chance to serve. I'm more uncomfortable with the third term.

I'm the councilmember who initiated the third term, and that came in handy for the hotelier position, when we found someone who served ten years ago. I'm not sure about using that to keep the same voice on a commission. I don't know -- the same voice on a commission. I don't know if this is something that we want to keep in write as cautionary or preference, but I -- there are people on the transportation commission who didn't finish. Good people.



Didn't even finish their terms and then pops over to another commission. I have the same concerns as the mayor, that I'm actually looking to hear new voices. There are a lot of experts in this town. I don't know how we accomplish that. Also the idea -- I went to Councilmember Milhaven's request, I think that we should track but I think that there should be a bar.

And I think it has to be based on -- I don't think we have ever had a situation where somebody came in and recused themselves from the whole meeting, but we have had situations where they are recused themselves every meeting from one or two items. So I wouldn't mind having a threshold.

That was something I initiated in 2019, where we say, okay, council needs to review and consider removing somebody. So yes, track it but also have a threshold where we remove -- you know, we let that person know that they will be considered for removal because of the loss of their -- of a voice on that item.

And the idea of recusals, people not recusing themselves, hey, we have a good town. I don't believe that the idea that they will be removed from a board or commission would ever make one of our commissioners or board members not recuse themselves as appropriate. So I have full faith in them. That's it. Thanks.

Mayor Ortega: Councilman Durham.

[Time: 00:51:15]

Councilmember Durham: I agree with Councilmember Whitehead's comments. I have certainly taken it into consideration if somebody is moving from one commission to another. I have taken that into consideration and looked for new people on that commission because I think that's something that we can deal with on that basis. I have certainly used it. I assume when you mention one in four meetings or 25% you probably really meant 1 in 4 items. Or cases.

Mayor Ortega: Of the zoning cases.

Councilmember Durham: Right. Right. And when you think -- I mean that's a lot! Missing -- not being able to get their advice on -- on 25% of the items before them, that's a lot. If we want them for their expertise or knowledge in the field, and we are losing that on 24% of the cases coming before them, that's really a problem.

And I'm not sure I would write that into the rules, but I would hope that by tracking them. I do hope we should have tracking. I think we should be able to track and if they are looking at something like that number of recusals, I think this would be time to sit down with that purpose and discuss, you know, their continued participation and make it clear what we -- what we think the issue is.

And, you know, have those conversations with them about whether their continued membership is appropriate. And, you know, every -- it can be a case-by-case basis if for some particular reason some person has run into a number of recusals right in a row and is not expected in the future, then -- then, you know, maybe that's something where they could continue participating, but if it's going to be regular, 25%, that's -- that's just too much for me.

Mayor Ortega: Councilwoman Caputi.

Councilmember Caputi: Thank you. I'm okay with tracking. I think that's important. I'm okay with establishing some sort of a threshold. I agree. We certainly don't want people who can't serve.

I do take a little bit of a different opinion, though, on this idea that we should be pushing away institutional knowledge. I just look at this differently. I know having served on a board myself, it took me a while to get up to speed. And there's a lot to learn. And so even when you bring experience to a board or a commission, there's -- there's a lot to learn! And nobody really teaches you.

You kind of get thrown in and it takes a little while. Some of us who are new to council can take the same thing. It takes a little bit and I would imagine the next time we serve, should we have that privilege, we will be that much better. I think there's advantage to having institutional knowledge. I think that the members who serve first on development review board or transportation become better planning commissioners because they understand more about how the city works.

I attended a meeting for all the boards and commissions while I was on one and everybody was talking together. People said we feel like we are in silos. We don't know what goes on on the other boards and commissions or how our decisions impact at the council level. I like the idea of people serving on one board, Councilwoman Milhaven gave the example of someone who has parks and rec experience and maybe they want to be -- you know, environmental advisory board or McDowell Sonoran Preserve. I mean that makes sense to me.

[Time: 00:55:18]

You build a bit of knowledge and then you bring it with, otherwise we're continually training new people. Also, I just want to remind everybody these are unpaid positions that take huge amounts of our time. I mean, I think it's amazing that we have 14 people who are employed, and they want to give up 15 hours of their time a week to serve the city if they want to do it again, wow!

I personally grateful for those who want to give that much time. I don't feel any sort of pushback about encouraging people to build on their knowledge and be a better board or commission member from having had experience and, of course, we need to mix in new ideas and blood as

well. But I like the idea of keeping a mix. Thank you.

Mayor Ortega: Okay. Well, I think we will close that discussion. Okay. Go ahead.

Councilmember Milhaven: So if we are going to track it, then I want to know if a zoning case requires two action items is that two items or one? If an item is continued to another meeting, such that the person has to recuse themselves in the second meeting but it's the same case, is that another recusal or is that the same recusal?

If someone is absent from a subsequent -- so if an item is continued to a subsequent meeting, and the person is absent from the subsequent meeting, but they declared a conflict the first time the item came up, is that an absence and/or is that a recusal? And my understanding from the discussion is we have already narrowed it down to only zoning actions. That was what the mayor suggested, because if it's all items, then is the denominator just zoning items or is it all items?

Which would include approving minutes and C.U.P.s and calendars and things like that? So if we are going to track it and we want to be transparent, then I think we need to be really, really clear, what counts in the denominator and numerator.

[Time: 00:57:32]

Mayor Ortega: Well, thank you for asking that, but I believe that it is cumulative and it does begin with the zoning cases themselves. And if there was a recusal and then the following meeting, that same commissioner missed the whole meeting, that is an absence, and that is assuming that there were seven or other items at that hearing, including the one that he was recused from or she was recused from, that just is an additional absence on the other six matters.

So you know, these become more obvious and I believe that one out of four is the minimum standards. Now, in closing, I would just say for administrative purposes, and for the public, I understand that these appointments will occur once a quarter.

So I'm just mentioning that, and so that's how it seems to be a very orderly way of handling whether it's parks and recs and so forth. So that the clerk can keep up with the vacancies. They are occurring natural vacancies, and any resignations and then we are handling once a quarter.

So I'm just making that statement. I believe we are happy with that system versus a random appointment from now and then. So that's the -- that's the setup that the city is using. Excuse me, go ahead.

Councilmember Milhaven: In closing, we have no clarity about what we are tracking. So -- and then I just want to go on the record one more time and say I could not object more strenuously

for declaring a potential conflict of interest.

[ Garbled audio ]

Mayor Ortega: Excuse me.

[ Garbled audio ]

Mayor Ortega: And they are looking for tracking and threshold and they are looking for a full house. That's exactly what we are looking for. If there's any other comment, we can continue. Councilwoman Whitehead, did you have a statement there?

Councilmember Whitehead: I was going to recommend that it sounds to me like every item counts on the agenda. That's how I view it, but if -- I mean if the mayor, if you wish to have staff provide us recommendations to answer those questions, I'm open to that. But I'm not sure if we just want to just every item.

And I do think -- and maybe staff just needs to make a recommendation to the question of if somebody is going to recuse themselves and is absent from that meeting, in my opinion that still counts but maybe that's something that staff can clarify.

[Time: 01:00:30]

Mayor Ortega: Yes, Vice Mayor Janik.

Vice Mayor Janik: I concur. I think we should look to staff to set some guidelines on how we are going to count recusals and absences, and I think they probably can look to other organizations, other city councils to come up with something that's reasonable. Thank you.

Mayor Ortega: Councilwoman Littlefield and then Caputi. Thanks.

Councilmember Littlefield: Thank you. I agree with what the Vice Mayor just said, but also, I wasn't looking at this just for planning and DR. I was looking at this for all the boards and commissions. So it's not just zoning cases because some of them don't do zoning cases. So it should be you know, an overall participation level in all of these different boards and commissions. They are all important.

You know, we don't want the commissioners for airport commission to recuse themselves 50% of the time because it bothers his flying or something, you know? So I think that this is something that should be considered and looked at for all the boards and commissions. None of them should be filled with people who could not participate.

Councilmember Caputi: I was just going to echo that comment. We have so many boards and commissions, we seem to be focusing on zoning. I'm not sure why, we have airport and building

advisory board of appeals and we have the environmental advisory board. If we make rules, they should definitely apply across our boards. 100% agree with that. Thank you.

Vice Mayor Janik: I concur as well. Thank you.

Mayor Ortega: Yes. I believe now we're concluded and we will move on to the noise enforcement portion of our work study.

## **ITEM 2 – NOISE ENFORCEMENT UPDATE**

[Time: 01:02:19]

Shane Stone: Thank you Mayor Ortega and members of council.

Mayor Ortega: This is where we need background music to fill in, right? This portion will be presented by Raun Keagy, the code enforcement director and Chris Coffee, the officer in the downtown police commander.

Raun Keagy: Good afternoon, mayor and members of the council. Happy to see you again. Again, my name is Raun Keagy, area director for planning and development services, over code enforcement. We are going to do a little tag team this afternoon.

I'm going to be talking about a portion of the presentation, commander coffee will follow me. Then we'll have some discussion by Randy grant and then follow-up and end with Luis Santella. Next slide.

So these are the areas we will discuss tonight. I won't read them to you. We will tag team. We will jump right in and go to the next slide. Special noise ordinance Chapter 19. So as a matter of history this ordinance was passed over ten years ago after a lot of discussion, community output, input, we had stakeholder meetings from both the public, as well as business owners to talk about what we should be doing.

The first thing I want to really make clear here is this is not a genuine, what I would call citywide noise ordinance this is an ordinance that's very specific. It's only for businesses that serve alcohol or have live entertainment. So this is not a general noise ordinance that you might see in some of the other cities. So that's the first highlight of this ordinance itself. But I do want to make sure that we are all clear.

There is a state law that does regulate noise and that's disorderly conduct. That's going to be discussed later by commander coffee. This is only for the businesses, and the rationale or the reason behind this ordinance was borne from the if a account that this, again, go back ten years from now when the entertainment district was really blossoming and we there a lot of homes and neighborhoods, the periphery in the downtown that were really feeling the impact of the vibrancy that was occurring in the downtown, particularly near the entertainment district.

So that was sort of the impetus of why we even started looking at trying to protect those neighborhoods. The other thing about this that is very, very important is while this is a citywide ordinance, it's applicable across the city, again, it's very narrow in its application, but there are several exclusions.

The biggest exclusion is the downtown area. It was discussed at the time whether or not if the downtown, particularly those that are in mixed use area, should be covered by this. And at the time, the discussion was no. The idea was that if you choose to live in a downtown that has vibrancy like many downtowns do, that if you are in that downtown area, this should not be subject to this.

So there's about half a dozen areas within the downtown area that this would be applicable, and the easiest one to kind of think about geographically is the Minnezona neighborhood north of camelback across from the w hotel. That's technically within the boundaries of downtown. It's zoned residential and the noise ordinance is applicable. That seems to be the most impacts. There's a couple of other areas.

When we first adopted this ordinance, we took a proactive approach and we were out literally measuring noise from around the whole periphery of the downtown to determine whether or not this was effective this was done primarily by code inspectors but also the police department had their own noise meters and they were trained to make the measurements as well. So we were proactively looking at these, as well as investigating complaints that would come in.

[Time: 01:06:30]

This ordinance uses the A band level, which is the most common type of measurement that's out there. It measures the frequency of the A. band and I will get to the C in a minute. But that's how it is used, and so that's what we use on our noise meters. There is a reasonable person standard that we utilize here. So the presumption is if the decibels are over 68db, 100 feet away from the source, and it's a residential area, excluding the downtown, then that would constitute a violation of this ordinance.

I can tell you that over the years, we have done many, many measurements throughout the city, but, again, primarily at the periphery of the downtown and rarely have we had a violation actually go over the 68, when this has been times when it has happened, the offending business has been contacted either by code enforcement staff or the police staff, and they have turned it down and so they have come into compliance.

So we have not written any citations off of this ordinance. Now there's been a couple of disorderly conducts that the P.D. has done based on noise but they were typically associated with a special. -- the special event that was occurring. That is the background and the overview.

The other thing that this really did that helped out a lot was it decriminalized an offense. Before

this ordinance was in place, it literally was the only tool that the police department had was disorderly conduct, which is a criminal offense, and so this is a civil offense.

If we had to write a citation, we could go to Scottsdale city court and prosecute if that was the case. Next slide, please. So we did have considerable amount of discussion about whether to add c wading into this. C measures bass. That's the big thing that a lot of people complaint about, not just the noise, the loudness of the music but the bass. And I think we have all felt that rumbling feeling. And you know when that bass is up there.

Was a talk about whether we should include that. If with you go back ten plus years there was not a lot of precedence and the across the country to introduce bass or measuring bass as a way to prosecute and this wasn't a lot of court actions that would support that. So, again, going back and forth and looking at what we did, there were a couple of communities who were doing this but at the same time, the council felt that it was not -- it would not be appropriate to include c into the -- into the measurements of the noise ordinance itself.

So it was therefore, the final adoption did not include bass or include the c. Next slide, please. So if -- so now let's fast forward to the current time and looking at the c. There's a number of cities. You can see them up on the slide that currently utilize both the a and the c. Again, they have got violation ranges there.

[Time: 01:09:35]

You can see the cities that are up there, those of you have been to some of those, you can recognize they have a vibrant community. You know, Austin, Texas, went one step further because they do a very big event there annually, maybe more than that. But they have a permit-based system where they give out permits and they weigh how close they are to residential areas, time of day.

They might employ different types of measurements, et cetera. So Austin is sort of an outlier, simply because they embrace this, but they also want to protect their neighborhoods as well. Next slide, please.

So some of the common enforcement attributes of these cities that use them, they use both the a and c. A just like we use with a decibel rating. Again, these are decibels used by a calibrated noise meter. The c weight, you can see the decibel range ranges between 3 and 6, and that translates as sort of a direct correlation between that and the A. rating.

So you can kind of compare the two, but if you know that you are at the top end of the c, that means you are feeling it. You are feeling that bass. Not just hearing it but you are feeling it. And so they also -- in accordance with what they have to do if they actually need no go to court, they take their measurements over a prescribed period of time and take a variety of measurements and then the different cities go off in some different areas in that they look at proximity to the residential area.

So there's no one real uniform distance that's out there. There's a lot of conformity to, yes, if the residential areas that we're trying to enforce, and protect, but the physical distance, there's some latitude there as to how far or how close the different cities take those. The other thing that's consistent with all of these and we will talk about construction noise a little bit later is that the construction noise is not applicable to this. And again, it seems to be uniform for all the cities that have chosen to add c into their noise ordinance requirements. Next slide, please.

So the next thing we want to touch on is conditional use permits for live entertainment. We have a variety, quite a few of those. Many of you have been part of those discussions when reviewing and determining whether or not to issue conditional use permits for live entertainment.

One of the consistencies behind those is that in almost all situations, there's a stipulation that requires the windows and doors to be closed at all times during live entertainment, not canned music but live entertainment. There is an exception that you can have a service window, when they are serving drinks and food inside and outside but that's a stipulation that they have imposed. Have we had violations of this? Absolutely.

[Time: 01:12:33]

Craftsman court when they are up and running during their hey day and a variety of bars and clubs that were there, there was a bit of a push/pull, in making sure that they stayed in compliance. It's interesting a lot of the times where we get a violation of this, it almost seems to be a consistent factor, and that is there's a new night manager or there's a new this person. That's the story we get, anyway.

While they know that's what the requirements are, they try to blame it on the person who happened to be there that night and that's why they fell out of compliance. Again, which we enforce this diligently, which we receive the complaints, we do periodically do night inspections just to go out and randomly check.

We don't announce that to the clubs or the nighttime operators. We go out and we send the inspector out and we will go out and do some spot checks not only for measuring the noise, the decibel levels but also looking for the compliance of the doors and windows.

They typically provide us with a floor plan so we can see where the entertainment, where the stage is set up, where the speakers are set up, and that way, in reviewing the floor plan, the planning staff can make some suggestions on where a particular placement may be better to minimize the impact outside the boundaries of the building.

So again, we talked about the doors and windows and the movable panels will be closed during the operations. And the other thing about the CUP piece, they are not immune from the noise ordinance. The Chapter 19 that we talked about. So just being allowed to have live



entertainment does not automatically mean they are not -- the Chapter 19 ordinance is not applicable. It is. And it does get applied uniformly. Next slide, please.

So some of the other things that we hear about and you hear about through emails and phone calls, et cetera, that are noise-related, these are certainly not as -- we don't get these as often, but we do get them.

Leaf blower, landscape equipment. We hear that on a case-by-case basis, you know, I respond to emails to that -- to that effect, the mayor's office responds to those they typically have to do with the leaf blower and the sound that it makes.

So going back again in time when we did update Chapter 18, the only thing that we have in our ordinance that represents to leaf blowers specifically states that you cannot blow the waste into the public right-of-way.

It has to be contained on the property, and then removed, and then hauled away. That's the only thing that was -- that we were able to get in the ordinance. Why? Because, again, at the time, when we were looking at potentially developing locations, time frames, you can't start before these hours, all the various things that people typically complain about when they are talking about leaf blowers or landscape, there's a very -- there was at the time and I suspect there still is a very strong lobbying effort by certain businesses that this is what they do for livings.

[Time: 01:15:41]

Certainly our resorts use a variety of these things and maybe some of us in our own homes, we use them either personally or hire companies to come in and do those. So it's one of those things, where again, if we were to go down that road, we certainly could explore that further. Enforcement will be the biggest part.

You have to catch someone in the action of doing whatever it is that's related to the noise. For example, going back to the leaf blower, if we -- if we come across someone who is blowing debris into the right-of-way, we can stop and we can make enforcement efforts, et cetera. Mechanical equipment, well, let me stick on landscaping equipment for a second. Another area we get a variety of concerns or complaints typically resolve around golf courses. You live on a golf course, they got to do landscape maintenance. It's just that simple.

And so we have been successful again in not regulating the time, et cetera, but we have been -- we had to a certain extent in doing a good neighbor-type outreach to a golf course. Star fire is the best example. It seems like once a year we have to reach out to them and say, can you start doing it a little bit later than 4:30 in the morning?

And we had good success in them modifying the timing of that, but, again, you know, if you live near the maintenance building, you are going to hear it before everybody else does, that lives

on the golf course. But that's, again, we do hear some of that, it's not as prevalent noise complaint, but we do hear those. Mechanical equipment is another one where we may get a complaint where someone says, year that pool pump, that whatever, fill in the blank is awfully noisy.

It's squeaky. It's loud, it's noisy. There's no ordinance that regulates that. All of our ordinance says is if you have mechanical equipment, it needs to operate in the manner that it was designed to do so. So, again in those kind of scenarios we reach out.

We use our citizen service folks to potentially reach out to a neighbor that's got a squeaky pool pump, for example and say, you know, can you grease it up? Can you oil it? Can you do some baffling, do something?

And, again we have some limited -- some limited success in, that but that's typically how we approach those neighbor-to-neighbor type things. The other one that we hear about is the parking lot cleaning. You have a neighborhood that lives next to a shopping center. They have to clean the parking lot. The parking lot cleaners are noisy. We hear them on our street, et cetera.

Again, all we can do with that is each out to them and appeal to them as a good neighbor to say, be conscious of what you are doing when you are operating these. Typically stay away from the early, early morning hours and again some limited success in doing that. The other area -- and I don't -- we don't necessarily in my area deal with it much but we get some complaints regarding park-related activity and noise negotiated with them.

The big one I had probably six months ago was somebody was complaining about those noisy pickleball players. It was important to that gentleman. What I did is I gave him to Bill Murphy and said, Bill, you take care of that. I'm kidding, but not really.

[Time: 01:18:59]

We have a whole parks department, they will reach out to you and they send staff and talk to them and they help to try to mitigate those issues that are out there. So that's the end of my area. We can entertain questions on this section now or we can continue to go on and take questions and comments at the end. Your choice.

Mayor Ortega: Please continue.

Raun Keagy: Okay. Commander coffee is up next.

Chris Coffee: Thank you, I'm commander Chris coffee. I will talk about the nuisance party and the unlawful noise ordinance for the city. Unlawful gatherings means any party gathering or event where spirit or liqueur is served to or in the possession of or consumed by any minor or illegal drugs are in the possession of or consumed by any person regarding of whether it would otherwise qualify as a nuisance party. Next slide, please.

So under the nuisance party and unlawful gathering order, SR-18-122. It means any assembly of persons for a social activity or for a special occasion in a manner which constitutes a substantial disturbance of the quiet enjoyment of private or public property. This includes but is not limited to excessive noise or traffic, obstruction of public streets by crowds or vehicles, public drunkenness, the service of the alcohol to minors fights, disturbances of peace and litter. Next slide, please.

So when we do go out to a nuisance party or unlawful gathering, we have a three-step process. They determine if this is a nuisance party or unlawful gathering. They issue the notice of violation to the responsible party.

If nobody answers the door, then we leave the notice of violation on the door. That notice then gets -- there's a field information card that gets completed and goes to our crime prevention officer or the district P.A. They scan it. They document it and it goes into our master list. The CPL and the district P.A. verifies the owner of the property, forwards that information to co-enforcement and then sends a copy to the owner via certified mail. Next slide, please.

If there are crimes that the officer does observe, disorderly conduct and disturbing the peace, they can cite for civil or criminal violations. A person is disorderly conduct if they commit with the intent to disturb the peace or quiet of a neighborhood or with knowledge of doing so, such person and I draw your attention to number two, makes unreasonable noise. And then there is a list of all the others. Next slide, please.

[Time: 01:22:36]

Now, we go into vehicles and basically, noise and air pollution prevention. That's Arizona revised statute 29-955, vehicles must have an emission control device and that is a civil penalty if they don't. Motor vehicles should be equipped at all time with a muffler in good working order and that is consistent, operation to prevent excessive or unusual noise.

So we have these vehicles that if they -- and you know they race up and down the street, if we catch them, then we can give them a civil ticket but, again, there are certain vehicles that are just designed to have a very deep muffler and as long as it's from the factory, then it's not -- you know, it's not a crime according to 28-955.

And then, again, the last one I want to draw your attention to. This does not apply to electric powered motor vehicles. Next slide, please. The other section I wanted to bring your attention to is 19-20. This is sound amplification in vehicles. We get a lot of vehicles in the entertainment district where they want to blare their music.

If you can hear it from 50 feet or more, from the vehicle, then that is a citable offense. And then there's also some time frames that no person shall operate any mobile sound amplification system between the hours of 10 p.m. and 6 a.m. Next slide, please.

This just continues with Section 19-20 with the sound of vehicles so there is a vehicle use for a parade, that's an exception to that. Next slide, please. And that's just the rest of 19-20. So if somebody is in violation of that, then they are guilty of a misdemeanor and it's punishable under this code. Next slide, please. Do you want me to handle the construction noise?

Raun Keagy: I think Randy Grant should be ready -- on board and weighing in on this.

Chris Coffee: Does anybody have any questions over that or --

Mayor Ortega: Yes, Councilwoman Milhaven.

[Time: 01:25:42]

Councilmember Milhaven: We had two meetings of the short-term rental task force and noise and parties is part of conversation, including this nuisance party piece and I guess the general discussion there has been that nuisance parties are pretty vague and challenging when it comes to addressing nuisance parties. I would like to hear more from your perspective about those short-term rentals and noise and then share my thinking right now is I think -- and I would like your opinion on this.

Is that we probably want to have some kind of a noise ordinance for residential areas in order to make it less mushy. And so I would like your perspective on both of those, please.

Chris Coffee: So thank you. So the unlawful gathering and nuisance party was developed and it wasn't specifically targeting short-term rentals. It was enacted for all unlawful gatherings or nuisance parties and that goes to long-term rentals as well as owner occupied rentals. With the short-term rentals, officers do go out there when we do get a complaint and they evaluate exactly what is happening.

Time of day, the -- exactly what the noise is and so if it does call for a notice of violation, then the officer would fill out a notice of violation, and they would give the notice of violation to the renter and also a copy is sent to the homeowner. And then that is their first warning.

Then a second one within 180 days, then there is a fine attached to that. And then the second or the third one, there's a fine attached to that and then we can go into civil charges. If officers go out and they do see that the renters are disturbing the peace or disorderly conduct, they can cite the renter for any of those things that were on that slide. So there are mechanisms in place -- thank you. There are mechanisms in place to hold people accountable.

Again, we look at short-term rentals the same as long-term rentals or owner occupied. So if it's Saturday at noon and somebody has their children in the pool and they are being loud, is that reasonable or unreasonable? Yes, it's reasonable but we understand that to the neighbors who heard that happen throughout the whole week, it's frustrating.

Now that same house at midnight that is having a party, like we would find in the u, well then that's unreasonable and then we would issue an N.O.V. to them and the homeowner. So if that answers your question.

Councilwoman Milhaven: Would it be helpful if we had more specific guidelines around what is reasonable or not reasonable?

Chris Coffee: That's a very good question? It's a slippery slope, because then what is reasonable and unreasonable and what time of day? Again are we saying children playing in the pool, you know, is that unreasonable or, you know, again at 11 children playing in the pool, is that unreasonable? So I think that's definitely worth more discussion. It's a slippery slope.

[Time: 01:29:30]

Councilmember Milhaven: Yes, that's something that I think the task force will get into. And I think if the neighbor can't tell the neighbor that the kids are being too noisy and they have to call the police, I think that's unfortunate. Thank you.

Raun Keagy: Thank you, mayor and council. One the terms I have seen in some of the other noise ordinances out there that goes beyond the reasonable versus unreasonable, because, again, as the commander said, what I think is unreasonable, he might think is reasonable. One of the terms I have seen used is clearly audible. That seems to be something that seems to generate okay, clearly audible. That's something that all of us can probably yes on.

I'm clearly audible but am I creating unreasonable noise because of the loudness of my voice. That might be worth something to add into the ordinance. That takes away the subjectivity of the reasonable and unreasonable. Clearly audible is something that I think is measurable I think to a person with normal sensibilities. Thank you.

Mayor Ortega: Vice Mayor Janik.

Vice Mayor Janik: Can a code enforcement officer issue a citation or does it have to be a policeman.

Raun Keagy: I will answer that. For the unlawful gathering, it's a police officer. They are 24/7. Code enforcement is typically not. It makes sense that they would be the ones that would issue the nuisance party or unlawful gathering that carries the service fees.

However, having said that code enforcement does have the authority to issue civil citations and chapter does have that section in there. We are talking about what's the best most effective way to do that?

And at this point, it seems like if it's the officer that's responded, if it's the officer that has

determined it indeed is a nuisance party, then likely it should be the officer that writes the civil citation. But to answer your question directly, there is that divide.

Vice Mayor Janik: What I have seen and I have gotten numerous complaints on this with short-term rentals is the person that is affected calls the police, calls code enforcement and I know how busy the policemen are, but there's not a response that's timely in the eyes of person that called.

And in that interval, usually the party can break up because they have a pretty good idea they are in trouble because the neighbor probably has mentioned to the people that are partying that they are out of line and they will call the police.

And it's not that you don't have rules, because you do have rules, I think it's that we perhaps don't have enough staffing to address it in a timely fashion. Could you just comment on that?

[Time: 01:32:35]

Chris Coffee: Yes, sometimes on a Friday night where we get a call at midnight, our officers are dealing with higher priority calls, and that could be D.U.I. investigations, assaults happening in the entertainment district, burglary alarms, domestic violence calls. So when we finally do get an officer that is available and they get there two ours later, yes, the party might be broken up or it's quiet now.

What we ask is for the neighbors to video what they see. Because then two hours later and we see the video, they can send us an email and call the nonemergency number so it's time stamped and then we can go back and maced on that video, we can issue an N.O.V.

So it's a partnership with the community to make it better, but, yes, I wish we had more officers so that they could handle called a lot quicker but they have to be prioritized.

Vice Mayor Janik: Thank you.

Mayor Ortega: Councilwoman Whitehead.

Councilmember Whitehead: Thank you, mayor. First of all, Raun, it's a been a pleasure. This is a long time coming, Councilwoman Littlefield and I have spent a lot of time with you over the last few years.

And so I know you are retiring soon. So first of all, thank you for your service. And I'm very enthusiastic about adding, as you know, adding this db C. component. I want to point out, which I for those who are listening to the meeting that when we change this code, it applies to all the entertainment and all the different bars.

Nobody is grandfathered in, I guess I should confirm that, but I believe that to be true. And I

think this address a lot of issues that we have had. -- will address a lot of issues that we have had. I wanted to talk about two other things.

We established that if a certain short-term rental is in violation twice within 180-day period, that's something I think should be explored. I don't think that that's part of this, because if we could extend that so that if there is one short-term rental operator that seems to have problems one way to address it is to extend that period so it doesn't start fresh 180 days later.

I likely the clearly audible. I think clearly audible means you are sitting in your house and you can hear the conversations. You are part of the conversations. It's not just background noise.

Raun Keagy: Yes, that's a good way to describe it. I think clearly audible because I have talked to responding officers about this. If they park their patrol car three houses away from the target property, get out of their car or roll their windows down, and turn off the engine and they can hear music, that is clearly audible. And that typically is their first trigger of saying, we probably have a nuisance or likely have a nuisance party here. But, yes, that's a good way to describe it.

Councilwoman Whitehead Okay. Thank you. I think that's all for now. Thank you.

Mayor Ortega: Councilwoman Littlefield.

Councilmember Littlefield: Thank you. Thank you for all the work you have done on doing this presentation for us. It's a lot of detail and a lot of if this happens or that happens or whatever. I know all of us have receives over the years a lot of emails from people who are complaining about noise.

[Time: 01:36:50]

Most of the ones I have gotten have been from STRs. I will be very blunt about it. They are having parties. They are making noise at all hours of day and night and jumping off roofs into the pools and doing other things in the streets that maybe they shouldn't be doing. I think that's one the reasons why Councilwoman Milhaven and her task force is working very, very hard on trying to put something together to try to solve some of that. Thank you, Linda. Appreciate that.

But I did have a come of things. Agreed with what Councilwoman Whitehead just said. Sometimes more than STRs, it's hotels and venues similar to that who want outside music -- I will call it music.

But entertainment, that can then go beyond the borders of their property. Sometimes into other neighborhoods where people live, and sometimes into the preserve past hours where we want noise to be and so it's in a semi violation of a lot of different quality control things that we want Scottsdale to have.

So those are the kinds of things too that I would like to see -- I know I went a couple of times to

a hotel where they wanted outside noise amplification right next to the preserve at night for weddings and because the people wanted it there.

It's a beautiful location and the preserve is there and they wanted a lot of noise. And they didn't stop to think that it might have affected other things other than their wedding. I think sometimes information, getting that information out to people that this is why we don't want this. And I like your definition clearly audible.

Because that puts it at a level where there is an issue as opposed to background noise and I don't want that. I do really think we need to put c, bass, in our ordinances. That needs to be brought up and top it forward because that's what resonates and that's what booms out there I think that's what a lot of our citizens complain about, is that bass resonance that just echoes down the streets. That's really what I have to say on it. Thank you.

Mayor Ortega: Thank you, commander coffee. I would just, you know, assure you that we want as a council to be sure you have the tools, the training and the funding to, you know, meet these growing nuisances and noise. My first point would be that hotels collect bed tax. That's the next subject.

And so the STRs, is there a class of occasion of commercial use related to your enforcement because of that or is there a barrier in naming the STRs as a commercial use and therefore -- it's hard to track down a private party offshore owner, and yet, it seems like it's a pretty cut and dried commercial operation, with a nuisance factor.

Chris Coffee: So mayor, yes. When somebody opens up a short-term rental, they should register it, and so that's something that the task force is looking at, how to have those that don't come in compliance. One of the mechanisms is based on our citizens.

So when we do get a complaint, we go out and we find out if they are registered or not and then we find out, you know, through utility billing who owns the property, and then that's something that we get with the property owners to make sure that they are registered. Then again, with the hotels, again if they were having amplified music, we would again use this decibel readings and be able to cite them as well.

[Time: 01:41:30]

So the short-term and the hotels are -- I don't know if I'm answering your question. It's -- they are similar. There's not really one classification that is different. Now, short-term rentals and Raun can correct me, they are not for events. You need a permit from you to have an event in a short-term rental. So that's live music is an event. A D.J., a party, you know, that's an event. And so that's something that we look at when we go out to responding to a call, to see if that's a violation and we would do a notice of violation, an N.O.V.

Mayor Ortega: Well, the other question relates to extent of premises for alcohol. Because I have



personally witnessed people walk up to a buggy driving by and kind of exchanging drinks or greeting people right at the curb, basically. And to me, it seems like that's public domain that should probably, you know, add to the noise level, but it certainly is a result with broken beer bottles once in a while on the sidewalk.

I think that's a sure sign that, you know, we also have a noise and a compliance situation. Is there anything else? Because we do have the rest of the presentation, right, Raun? Thank you.

Raun Keagy: Yes, I believe so. If I could just take one more moment and go back to the c, adding the c into the ordinance. Just a couple of observations about the mechanics of that. It's now tried and true and we have a template or a model to look at and it would be, you know, amending the existing Chapter 19 ordinance to include that.

The good news here is that the noise meters we purchased are actually capable to measure c. So there is not an attentional expense, capital expense of having to go out and buying now noise meters. Where an expense may occur is the training. Officers, code inspectors would need to be certified -- certified because if they had to testify in court.

That would probably be the only expense that I could think of at this point of, again, the big capital one would be to buy new meters. I already confirmed with the makers, the manufacturers of the meters that we bought that they are capable of measuring the c.

Mayor Ortega: Thank you. Move on.

[Time: 01:44:14]

Randy Grant: Mayor and members of city council, this is Randy grant. Tonight, I'm filling in for Michael clack who is the chief building official and the associate services director. And I wanted to touch on what you hear more and more about, and that is noise from construction sites.

We often hear concerns of residents about the backup beepers that equipment have that protect the worker safety. Lights being redirected towards neighborhoods and noisy equipment or workers being loud, speaking loudly. There is usually uncertainty about when the project is going to start, and how long it will last how long in the morning and the evening will construction activity be present.

And then weekend versus weekday noise levels that you know, they may be suggest to -- that hopefully are a short-term inconvenience and not a long-term activity. Next slide, please. We have summer and winter hours for construction activities. Summer hours are April 1<sup>st</sup> through October 31<sup>st</sup>. And during those hours, work is within the range of 7 -- or 6 a.m. and must not go beyond 7 p.m.

On Saturday, 8 to 5 and on Sunday only can be conducted if it's justified in a demonstration in writing through a variance, a construction variance request. Next slide, please.

In the winter hours that go from November 1<sup>st</sup> through March 31<sup>st</sup>, 7 a.m. to 5 p.m. is the range, Monday through Friday, also on Saturdays 8 to 5, and -- 8 to 5 and Sunday only if justified and demonstrated in writing. Next slide, please.

Construction variance criteria are considered and these are related usually to concrete pourers during the summer months when the temperatures get really hot early during the day, it makes it difficult for the curing times that the concrete goes through to become very solid to be achieved and so construction crews will often ask to start earlier in the morning when it's a little cooler so that they can leave a little earlier in the afternoon on large construction site where concrete pours are taking place.

Another consideration is traffic, in hauling debris or bringing in fill or taking out fill and the impact it has on heavily trafficked streets. For these reasons it might be that a variance is considered to prevent hauling during heavy left traffic. Also, the kind of work that's being performed would emit a low level that wouldn't be a significant distribution to the people in the vicinity of work site.

These are all construction variance criteria, and the fourth one, fifth one is that there is an economic hardship that could occur if the work is spread over a longer period of time, rather than longer hours for a shorter period of time. Next slide, please.

[Time: 01:47:42]

Construction variances also are required, the construction foreman is required to notify adjacent property owners. If work is done outside of the approved times without a variance to a stop work order is issued from the construction inspectors and can be issued by any city enforcement officer. Next slide, please.

Noise mitigation plans that would request variances would include a notification of the expected date of completion, milestones related to construction, work that be done during outside of hours, concrete pours and the potential for delays and a number for the responsible person on the construction site. Next slide, please.

The plan may include but is not limited to the use of quieter equipment. Well maintained and quieter mufflers, boom boxes and loud speakers are not permitted, and once dry-in is achieved, the seven-day work week can occur for interior work. The dry-in is when the site work is done and they are working inside the shell of a building. Next slide, please and that's all I have. I would be happy to answer any questions if you any. Thank you.

Mayor Ortega: Vice Mayor Janik.

Vice Mayor Janik: Thank you, mayor. My first question, Randy, would be how are the neighbors notified when there's a variance in the regulation?

Randy Grant: They are required to be notified in writing. They are usually done in person. They can be done through mail, but usually the construction supervisor will go to those adjacent property owners depending on how many there are. 1350 feet is a long distance. So if that includes a large number of properties, they would do a mailing otherwise they would do door-to-door.

Vice Mayor Janik: Okay. Thank you. And I have one more question, and that is, once a project starts, is there any requirement that it needs to be completed within a certain time frame?

[Time: 01:50:03]

Randy Grant: No, there is not, Vice Mayor Janik. There are a lot of things that can contribute to delays in the construction site, and unfortunately, we have seen some construction projects that have gone on for a lot longer than any of us who like. Those types of delays are outside of our control too.

Vice Mayor Janik: Thank you.

Mayor Ortega: I see no other hands. Thank you, Luis Santella.

Deputy City Attorney Luis Santella: Good evening, I'm the deputy city attorney Luis Santella. I'm responsible for prosecution and public safety and victim services. For better or worse, I wrote a couple of the ordinances we're talking about tonight. The special noise ordinance and the nuisance party ordinance. In terms of the different types of ways we can get compliance with people, the first method, obviously is voluntary compliance.

It's a lot better and easier when you can get someone to voluntarily comply with our laws and our ordinances. Beyond that, when it comes to nuisance parties we send an invoice to the person. If they don't pay, then we send them to collections. It's somewhat of an issue. We do have the ability to issue civil tickets. These are enforced by civil citations and civil citations go to city court, and the burden of proof on a civil citation is preponderance of the evidence.

Usually it takes about two months for civil citation to be resolved once it gets through court. Now, some of our ordinances have criminal penalties. So eventually, for example, under the -- the special noise ordinance, you can ultimately get a criminal penalty. Now parties that are usually cited in a special noise ordinance, it's the business would be a business. You can't actually put a business in jail. So when it's not an actual person, they are usually looking at fines. Disorderly conduct, which is a state law is criminal. It's beyond a reasonable doubt that. Would be cited into our city court.

A criminal court can take up to six months to resolve. And when you think about the resources that you are putting out this, it's not just about putting police officers on the street. There's the back end. There's prosecutors. There's court personnel, there's other mechanisms that have to

go into supporting this.

In terms of conditional use permits, the civil citations can be issued and there's the nuclear method where the council can actually revoke the conditional use permit. Those are some of the types of enforcement method and in terms of burden of proof, again just to reiterate, for civil citations, preponderance of the evidence, the formal rules of evidence don't apply it.

Goes to the city court, there's a civil hearing officer, and takes about two months to resolve. Criminal, it takes usually about six months to resolve. It could resolve sooner but it's a much more formal process. Jail time can be an issue if it's a class one misdemeanor, it's up to six months in jail and three year probation. And the maximum law that the city can impose and that's \$2500 and that's done by state statute. That's a real brief, quick overview. And I will take any questions if you have them.

[Time: 01:53:59]

Mayor Ortega: Thank you very much. Any other wrap-up comments? I see nothing -- oh, one from Councilwoman Whitehead.

Councilmember Whitehead: Yes, Raun, I'm wondering if you can talk about technology? I know we are looking at different ways of catching noise without sending P.D. on the call.

Raun Keagy: Are you referring to like a monitoring device for --

Councilmember Whitehead: Yes.

Raun Keagy: Okay. Good. There is an exploration of that, and actually Brent might -- will have more specific information than I do, but certainly those devices do exist, and other cities have used them where they put them out in various portions of the downtown, or the area that's impacted to measure the noise level that's occurring and then once it reaches a certain threshold. It not only records it for future use but can automatically trigger a response. Brent, is that a good way to describe that?

Brent Stockwell: Mayor, members the council, Councilwoman Whitehead, what Raun is referring to is this proposal that we have let you know about that we put in an application to AARP for a grant application to do noise monitoring sensors in and around the entertainment district as a pilot for how we might do this more broadly.

So, you know, if we get funded through that, we will be able to put 22 sensors all the way around and we will be able to -- we had a conversation last week where we can work with a -- what was the name?

An audiology ecologist at A.S.U. that would help us understand how sound works and how it spreads through so that we could perhaps use technology to more quickly respond to these

things, because right now, noise has to get to a certain level where someone in their home notices it, and they have to get agitated enough to call the police and then the police have to come out and do that.

And we thought, you know, maybe there's a way we can use technology to do this. Certainly that is something that could be done in and around the entertainment district, because there's kind of a confined area that that's happening in and there's residential neighborhoods all the way around it.

It would get more complicated to do that on a more widespread basis, unless it was something that was equally applied throughout the city, and then at that point in time, we would have to then, you know, make an investment to have noise monitoring equipment throughout the city, so that if something reached a certain threshold, then that would trigger more quick response than what we have now.

So we're certainly trying to stay on top of the technology and look for ways where it could actually be used to improve livability in Scottsdale. And we're also closely monitoring what other cities are doing in this area. The thing to think about, though, is it does require quite a little bit of work, because if we are putting a monitor up on top of the streetlight pole, that's a different sound level than there might be at street level and so we have to do some adjustments to know if it's at street level what the level is up higher.

But it is a very intriguing proposal to try and see if we can do it this way because one of the key problems that hasn't been mentioned yet, is that atmospheric conditions play into consideration.

So we tend to hear about noise complaints two times a year and that's when people open their windows in the fall and, you know, when they open them back up again in the spring. But it also happens absolutely when there's cloud cover.

[Time: 01:57:56]

And cloud cover or wind or rain because then sound carries differently. And so one of the thoughts with this proposal is that if we are doing that and we are monitoring all along and we have a baseline for this, when you are in a nightclub and the sound level that always worked that doesn't get a complaint? Monterey, perhaps.

When you have cloud cover, then you have a complaint, right? If we are able to do this, we may be able to automate the process and bring compliance. It's still very conceptual, but we are looking for a little bit of support to be able to do that.

Councilmember Whitehead: Yes, that helps. And thanks all four of you.

Mayor Ortega: Councilwoman Milhaven.

Councilmember Milhaven: Mr. Keagy, you don't come here to the Kiva to speak to us very often. I want to recognize your number of years of service. You are very visible to us in emails and trying to balance and arbitrate neighbor vs. neighbor. You have done a good job tonight talking about how you try to get the neighbors to work together.

So you have done a magnificent job and a really challenging position. Know that you will be very much missed, and we wish you all best in your retirement and thank you for your many years of distinguished service.

[Time: 01:59:25]

Raun Keagy: Thank you very much. Much appreciated.

[ Applause ]

Mayor Ortega: Finally, the budget does include a full-time employee for the enforcement of the STR rules. My other question partially is to Luis, is it possible. There are 4600 different platforms and they press a button and however, at last checking with our licensing, only 600 were registered here as businesses or as STRs so we have 4,000 of them that were not paying their license -- their business license fees.

Is it possible to -- well, we'll be tracking them down but also assess some late substantial late fees or if we can prove that they were around for two years or three years and then to be able to assess that and catch up on some of that mischief.

Luis Santella: Mayor and council, I think what you are saying is there are a lot of these are not registered with the city. We don't charge for registration.

What they may owe since they -- if they haven't gotten a tax privilege license, it's possible that they might owe some penalties to ADOR, but since we don't issue those licenses anymore, it's not something that we could do.

Mayor Ortega: I understand about the tax privilege license. I know that they have a business registration license here in Scottsdale, as they -- as an entity. I -- I had that confirmed, I believe, with the treasury, but, you know, there is -- we have a right to know who is in our city.

City Attorney Sherry Scott: Mayor, if I may, Sherry Scott, city attorney. I believe there was a text amendment back when the business licenses transferred to ADOR, which required our businesses to register with the cities for tracking purposes, but I would like to bring the council back to the work study item which is really agenda item for noise.

So if you wanted a broader discussion about tracking of some of these short-term rentals we probably need to come back at a later time with that information. Unless it relates somehow,

mayor to the noise workshop.

### ITEM 3 – DESTINATION MARKETING AGREEMENT ASSESSMENT

[Time: 02:02:35]

Mayor Ortega: Thank you very much. So noted. We're concluded and we'll go to the next work study item, which is the destination marketing agreement assessment. Our presenter is Karen Churchard, and the tourism and events -- she's the tourism and events director.

Karen Churchard: Good evening, Mr. Mayor and councilmembers. A pleasure to be here tonight. So -- and I you for the opportunity to talk to you a little bit about an overview of the city's destination marketing agreement and a potential assessment. You likely recall that back on March 2<sup>nd</sup>, you as a council voted unanimously on March 2<sup>nd</sup> to discuss and consider directing staff to hire a third-party destination expert in marketing to evaluate Experience Scottsdale's current contract, their performance and make any recommendations about future contracts.

Tonight, I will provide you an overview of what a destination marketing organization's purpose is, review key points of the city's destination agreement and items that could be included in a third-party assessment. Additionally, we wanted to let you no he that Rachel Pearson, vice president of community and government affairs is listening tonight. So if you have any questions specific to her, she will be happy to answer those as well. Next slide, please.

Most destination marketing organizations derive from chamber of commerces, and they are known as DMOs. We like our acronyms. DMOs represent destinations throughout the world, and they play a key role in the long-term development of a destination by formulating a travel and tourism strategy. They are usually nonprofit. Membership based, and directed by a volunteer board of directors, comprised mainly of local and national experts in the industry, of tourism, and as well as elected and community leaders. And they ensure that the staff uses strategies and promote to targeted markets.

They are typically occupancy taxes, membership dues, improvement districts and they represent our hotels, facilities, restaurants and other services that all travelers -- that travel -- promoting the travel and the tourism.

This promotion, not only provides jobs and brings taxes, dollars for infrastructure improvements but they also heighten the profile of a destination. They usually have about four distinct properties of work, marketing, communications, convention sales, and tourism. And, again, that's all to really create a tourism and travel strategy. Next slide.

Since 1977, the city's maintained a destination marketing organization through a public/private partnership. It's funded through transient occupancy tax, known commonly as bed tax initially the city contracted through the Scottsdale chamber of commerce. They had a convention and visitor bureau division and then in 2001, this function became organized into the nonprofits

Scottsdale convention and visitors bureau. That rebranded as Experience Scottsdale in 2016.

So for 44 years, Experience Scottsdale has promoted us as an immediate region, premier luxury destination to attract visitors and solicit meetings. Their general strategy is that of a DMO that I just mentioned earlier. Next, please.

[Time: 02:06:19]

In March 2010, the citizens of Scottsdale voted to increase transient occupancy bed tax from 3 to 5%. These collections are recorded in the tourism development fund where 50% of that is to be used for destination marketing and the other 50% is used for tourism related event support, and capital projects that are tourism related and other uses determined by our city ordinance and state law. Next, please.

Prior to the new agreement, being improved by a city council in August 2017, a city audit was conducted in 2016 to evaluate compliance with the terms and effectiveness and the controls with the city's destination marketing agreement. The conclusion stated that the performance results could be more relevant and financial oversight and administration could be improved. The current five-year agreement expires next year on June 30, 2022.

The agreement does stipulate that it may be extended for one additional five-year term, if that's agreeable by both parties. Next, please. Staff utilized the recommendations of the city audit, in preparing our new agreement so that we could increase efforts and provide additional benefits for the cities, and these range from a new marketing objective to promote city owned venues. They now provide at no additional cost for half page advertisements that we can use for old town or other facilities or events that the city oversees. They now equally share in the payment of fiesta bowl funds.

Prior to the new agreement, the city paid 100% of the fiesta bowl agree. And to further enhance transparency they provide procurement policies and transportation, as well as the annual filed I.R.S. form 990. And finally, they -- for the administration and the general expenses and their personnel costs, they must remain in a competitive range and the staff reviews that by reviewing destination in the biannual financial profile guide. Next, please.

So staff is -- recommends that we do pursue an understand \$25,000 contract procurement process to hire a nationally recognized third party destination expert, that could evaluate the city's current contract with the Experience Scottsdale, provide objective analysis of the city's investment, and make recommendations and potential guidelines for either a new request for proposal, or a continuation of a sole source contract, and this would be paid for out of tourism development fund, the bed tax. Next, please.

As noted in the city council report, the town of Paradise Valley, went through a similar experience and I highlighted a few of those items in that report. Additionally, staff reached out to the city auditors and requesting an audit update to gauge contract compliance and whether



additional contract terms are warranted.

The city auditors stated the audit requests would be added to the potential topics for the fiscal year 2021-22 audit plan to be reviewed by the audit committee. Next, please.

Staff proposes that the scope of work for the third-party destination include a detailed review of the existing contract to include evaluation of programming against existing contract metrics and analysis of the return on the city's investment, comparative data analysis with other DMOs in the country, like DMOs and do interviews with key stakeholders, community and elected leaders.

[Time: 02:10:28]

A recommendation from them for a strategic process for a new contract, including analysis of other cities' processes, a summary of tourism best practices and finally, develop recommendations for future performance metrics. Next, please.

If directed by council, this staff would pursue competitive bids from at least three national experts and award that service to the lowest bidder, as required by purchasing. Once awarded, the staff anticipates that the vendor would need three to four months to complete the assessment and we recommend presenting the assessment findings to the city council at either a work study or regular meeting in September or October at the latest, and so that we can seek final direction from the council on a new destination marketing agreement. Next, please.

Thank you for the opportunity to provide an overview of the destination marketing organization's purpose, our agreement with Experience Scottsdale and the potential for a third-party assessment. Mr. Mayor I appreciate and welcome city council's feedback on the proposed scope of work and presenting the assessment findings to the city council at a later meeting. Thank you.

Mayor Ortega: Well, thank you very much. I'm in favor of moving forward and searching for the procurement of specialists that are well acquainted with the field. I have one small comment and I'm not sure if it's entirely applicable, but it seems as though when you are doing a comprehensive data analysis with others, perhaps there are -- in the scope of work that's described here, perhaps there's a very small element of economic development that some other destination oriented organization might use or deploy.

It's obviously about our great reputation, and all the assets that we have, but I think also there is an opportunity for some economic small tag line somewhere, and I would find out whether there are any other comparables tagging on to that, and there is a great opportunity because of this five-year exploration to perhaps look at that as a potential addition to the scope of work.

Otherwise, please move forward, and I see one request. Councilwoman Caputi, and go ahead, please.

Councilmember Caputi: Thank you, mayor. I'm in support as well. I think it is a great idea to have an outside audit. I just have one question which excuse me this might just be a question -- I mean, I'm a brand new councilor, if it's dumb, forgive me. Do we not already audit internally the Experience Scottsdale contract?

City Auditor Sharron Walker: Mayor, members of council, Councilwoman Caputi, we periodically do an audit, because this contract is coming to a close, the topic did come up and that's why it's on the audit plan. It's not something that we just routinely do every certain number of years because there's a lot of areas of the city to look at, but it certainly is something that there has been some interest expressed and it's on the potential audit topics and based open the audit meeting on April 19<sup>th</sup>, I do plan to put it on the proposed audit plan for the audit committee's approval in June. So the long answer is, yes, we do periodically audit them.

Councilmember Caputi: But we are doing a third-party audit because this is so important because there's so many dollars? What was the -- I'm just -- What determines which city contracts get extra audits -- you know where I'm going? I think it's a great idea. I have just want to make sure that we are understanding the why we are doing the additional expense.

[Time: 02:15:07]

Karen Churchard: Mr. Mayor and Councilwoman Caputi being I believe the council had talked about having this third-party assessment. I really can't speak to the reasons why.

Councilwoman Milhaven has her hand raised.

Mayor Ortega: Anything else?

Councilmember Caputi: No. Someone asked me that in the general public and I would love to have a better understanding of which things we need additional audits for and this particular one and let's make sure everyone understands why we are spending some dollars on this. That was all.

Mayor Ortega: Yes. And I appointed Councilwoman Milhaven as the council rep with the Experience Scottsdale. Where are we at there?

Councilmember Milhaven: In my mind, the city auditor's audit is looking at the existing contract so see if both staff and the Experience Scottsdale have complied with the contract. So it's contract compliance and I know sometimes they will make additional recommendations for what might be includes but in my mind this additional party is going to take a broader view to say what else should be in the contract that isn't.

One, the first is the internal audit is contract compliance and then what do we want to put in the contract that we don't already have and look at an industry comparison. Thank you.

Mayor Ortega: Thank you, Littlefield and then councilman Durham.

Councilmember Littlefield: Thank you. I'm on the audit committee, I'm the chairman, and we did do an audit on Experience Scottsdale and what we were looking at is exactly what council Milhaven was talking about.

Are the current conditions set forth with Experience Scottsdale being complied with and what is or isn't being complied with and how do we do that and how do we get it back on track. We would be looking at the city -- we would be looking at what else should we be doing or where should we not be put money and get a better return for our investment.

And looking outside and beyond the parameters of city itself and the current contract. I think it is a great idea.

Mayor Ortega: Thank you. Councilman Durham.

Councilmember Durham: Yes thank you, mayor what were some of the issues that came up in 2016 in the audit, and have those been addressed and dealt with?

Karen Churchard: Yes, Mr. Mayor and councilman Durham. Basically the audit findings were about -- that the contract administrator could do a better job with getting information about the I.R.S. filings and the 990s and the personnel costs and make sure that they are staying within the range of other destination marketing organizations.

They felt that some of the performance many metrics could be increased and a little bit stronger in terms of the goals. And those were the main things that I recall.

[Time: 02:18:30]

Sharron Walker: And if I could mayor add to that, but the audit was not just looking at contract compliance. On the slides are not numbered but the one that talks about the contract terms, they mentioned several additional things that came out as a result of the audience of including an objective to be specifically promoting city-owned venues like the stadium and WestWorld.

And so -- and taking a look at promoting city promotion, city activities and venues and the fiesta bowl event payment, every year Experience Scottsdale was coming to the city asking the city to pay for all of that. There was nothing in the contract that said here's how that is going to be handled. We will brought it up as we're already giving you \$10 million a year.

It would seem that some of that fiesta bowl cost should be coming out of the contract payment we are already giving you. And so the audit did look at compliance with the contract. But we also did look for other ways to make the city's destination marketing payment more effective in terms of the service that we're getting.

So I just would like to add that, there is a slide about the agreement structures and structure and terms that mentions the additional things we will brought to the table beyond just comply with the contract. Thank you.

Mayor Ortega: Vice Mayor Janik.

Vice Mayor Janik: I concur that we should do this assessment at this point in time. Thank you.

Mayor Ortega: Thank you. Are there any other questions or points to make? Okay.

**ADJOURNMENT**

[Time: 02:20:29]

Accordingly, we have concluded the work study items per our agenda and at this point, I would ask for a motion to adjourn.

Councilmember Whitehead: So moved, mayor.

Mayor Ortega: Thank you, Councilwoman Whitehead and seconded by Councilwoman Littlefield. All in favor say aye.

[ Chorus of ayes ]

Mayor Ortega: Any opposed? Okay. We are unanimous and we are adjourned. Thank you.