
This document was created from the closed caption transcript of the January 31, 2017 4:00 P.M. City Council Work Study and **has not been checked for completeness or accuracy of content.**

A copy of the agenda for this meeting, including a summary of the action taken on each agenda item, is available online at:

<http://www.scottsdaleaz.gov/Assets/ScottsdaleAZ/Council/current-agendas-minutes/2017-agendas/013117WorkStudyAgenda.pdf>

An unedited digital video recording of the meeting, which can be used in conjunction with the transcript, is available online at:

<http://www.scottsdaleaz.gov/scottsdale-video-network/council-video-archives/2017-archives>

For ease of reference, included throughout the transcript are bracketed "time stamps" [Time: 00:00:00] that correspond to digital video recording time.

For more information about this transcript, please contact the City Clerk's Office at 480-312-2411.

CALL TO ORDER

[Time: 00:00:01]

Mayor Lane: Everyone, I think we're ready to start our city council work study session. It is January 31, 2017. It is approximately 4:00. I would like to start with the roll call please.

ROLL CALL

[Time: 00:00:13]

City Clerk Carolyn Jagger: Mayor Jim Lane.

Mayor Lane: Present.

City Clerk Carolyn Jagger: Vice Mayor Littlefield.

Vice Mayor Littlefield: Here.

City Clerk Carolyn Jagger: Councilmembers Suzanne Klapp.

Councilwoman Klapp: Here.

City Clerk Carolyn Jagger: Virginia Korte.

Councilmember Korte: Here.

City Clerk Carolyn Jagger: Linda Milhaven.

Councilwoman Milhaven: Here.

City Clerk Carolyn Jagger: Guy Phillips.

Councilman Phillips: Here.

City Clerk Carolyn Jagger: David Smith.

Councilman Smith: Present.

City Clerk Carolyn Jagger: City Manager Jim Thompson.

City Manager Jim Thompson: Here.

City Clerk Carolyn Jagger: City Attorney Bruce Washburn.

City Attorney Bruce Washburn: Here.

City Clerk Carolyn Jagger: City Treasurer Jeff Nichols.

City Treasurer Jeff Nichols: Here.

City Clerk Carolyn Jagger: City Auditor Sharron Walker.

City Auditor Sharron Walker: Here.

City Clerk Carolyn Jagger: And the clerk is present.

MAYOR'S REPORT

[Time: 00:00:51]

Mayor Lane: Thank you very much. We have one item of note. Even though it is not a work study and not a regular meeting. We generally reserve the kind of announcement to a regular meeting. We will want to note it.

It is final day for Vice Mayor Littlefield as the title. It's been great to have you as vice Mayor. Thank you. Our next meeting will start with councilwoman or will be tomorrow Vice Mayor Suzanne Klapp. Thank you for your work. We welcome that.

PUBLIC COMMENT

Mayor Lane: So the one and only -- do we have cards for comments on any of this? We have a work study session to provide a less formal setting for the Mayor and council to discuss at length and city staff and work study sessions provide an opportunity to receive direction from the council and for the public to observe the discussions. We do generally allow for public comment a total of three -- rather five at three minutes each. As I understand, we do not have any cards.

We'll move on to the first item, which is -- I'm sorry. The first item is as you are probably well aware was the flood control improvement setting. That has been removed by the request of staff.

ITEM 2 – DEFINE OPERATING BUDGET PARAMETERS FOR PROPOSED FISCAL YEAR 2017/18

[Time: 00:02:29]

Mayor Lane: The second item is the defined operating budget parameters for proposed fiscal year 2017-2018. We have with us today of course along with the illustrious treasurer, Jeff Nichols, we have Judy Doyle. It is clearly indicated you are presenting today.

Budget Director Judy Doyle: Yes, I am.

Mayor Lane: it's yours, there's no pass off.

Budget Director Judy Doyle: Thank you. Good evening, Mayor and Council. We continue our fiscal year '17-'18 development discussion with tonight's focus on defining the operating budget parameters. The annual budget process is an opportunity for you to identify your priorities what services and programs the city will provide, and what level the services will cost. The decisions can be difficult, but the process does not have to be.

I'll quickly share with you the budget development process that we have developed, highlighting dates and topics that we have had or will bring before you for discussion. Last week we did meet to talk about the capital budget parameters. Tonight we're looking for direction on the operating budget parameters. February 21st our human resources department will bring forward a proposal on medical and dental benefits. We will share with you any proposed rate and fee changes, any new fees, or changes to existing fees. We will hold march 7th and march 21st for any budget-related items in the event a topic comes up through the process that you would like additional information or further discussion on. For example, we could use one of these dates to have the capital funding options discussion that you had requested last week.

We plan to release the proposed budget on April 4th. We will present it on April 24th. May 9th is another date available for budget discussion. Tuesday, May 23rd, will be your opportunity to adopt any new or modified rate changes, and it will be the evening of the tentative budget adoption. June 13th will be the final budget adoption in a property tax truth and taxation hearing. Finally on June 27th, we will adopt the final tax levies. I will note that with the exception of the budget and property tax adoptions, the dates and discussion items are subject to change.

As you know, the budget development process can be rather fluid. While you will see anticipated re -- revenue gross in the participation, and you know the strides that we have taken to reduce and limit spending, difficult decisions will need to be made. We again will not have enough revenues to meet the

needs -- all of the needs and priorities of our city. Tonight with the presentation we hope to get your input into two areas: sources and uses. At the end of the presentation, we could like to identify what you are willing to support and what you will not consider. Setting those budget parameters at the beginning of the process will make the city manager's job that much easier in developing a budget that's realistic and something you can feel comfortable adopting.

[Time: 00:06:03]

Beginning with the sources, the largest two revenue sources that you have control over are local sales tax and our property tax. You can see from the pie chart our current '16-'17 budget local taxes are 47% of our general fund sources at almost \$131 million. And 90% of those local taxes is our 1.1% sales tax at \$118 million.

This chart details the breakdown of the local sales by category. Originally when we adopted the 2016, 2017 budget, we forecasted \$117.6 million. We have revised that up about \$600,000 or about a half a percent based upon the trends we have been experiencing. We are forecasting 17/18 at \$120.7 million, which is a two and a half million or a little over two percent increase based on updated 16/17 forecast. I will mention that the 17/18 amount may be modified when our proposed budget is released in April as we will continue to evaluate collections including the holiday numbers that we will receive in February.

I will quickly highlight the category with significant changes or are noteworthy beginning with the miscellaneous retail stores where an increase of almost 4% or about \$800,000 is projected primarily due to trends in increased sales from online retailers. Other activity is actually seeing about a \$200,000 increase. It just looks more significant when compared to that 16/17 forecast which we lowered primarily due to a large refund.

Automotive we are forecasting a decrease of about \$700,000 as sales have slowed in recent months. Additionally a car dealership closed in October, and additional car dealer closures are expected mid-summer due to the new Salt River Auto Mall. This was something we assumed and included about \$1 million decrease in the category for '17-'18 when we adopted the '16-'17 budget.

Hotel/motel. This has been coming in slightly better than expected. We have been seeing a lot of conventions taking place in our city. I will note of the \$4 increase we are projecting about \$165,000 of this is new revenue for short term rentals for the air b & b bill. I'll talk more about the short term rentals later on a future slide. Dining and entertainment we're projecting an increase of normal growth that we typically see in this category. Then finally construction. We are projecting this category to remain flat in the five-year forecast compared to our current forecast. I will explain the justification for our conservative approach later in the presentation when I share possible legislative impacts on our revenues.

[Time: 00:09:24]

The next chart shows the previous five years of history and the five year forecast for our 1.1% sales tax. Trying to illustrate in the history what we thought we would collect, compared to what we actually collected. Looking at the actual activity from fiscal year 12/13 through 15/16 those blue columns represent the actual collections and that yellow dot at the top represents the forecast for that year. I

will note that fiscal year 15/16 was somewhat of an anomaly. We received a high number of large one-time audit payments, which is why the budget to actual variance is higher than normal at about \$5.3 million. As you can see the folks in our tax audit department do a pretty remarkable job when forecasting such a large and complex revenue source. For 17/18 we are forecasting just slightly above our previous peak of \$120.2 million in '06-'07.

Another major revenue source for the general fund you do have control over is the primary portion of the property tax, which equates in the current year to about \$26.4 million. It is the darker blue pie wedge in the current fiscal year. This primary property tax and detail shows in the first column for the current year '16-'17 we're collecting about \$26 million from the base of the prior year plus an additional \$400,000 for new construction. We're forecasting about \$26.6 million for '17-'18. I will note that the forecast is subject to change as we have not received any levy information from the county. As we typically receive this in mid-February.

The optional increase is what we would like to get input from you on this evening as we move forward. As you know, council has opted to forego the statutory allowance of 2% over the last six fiscal years, which equates to about \$3 million. We will ask for direction on whether you were like to include the 2% for the prior six years and if you would like to include the 2% allowance for the '17-'18 proposed budget. For illustrative purposes only, we've included that 2% allowance for '17-'18 which is about \$500,000 in the total primary levy amount. And then finally later in the presentation, we'll ask for direction on a tort recovery of about \$1.1 million. I will note council did authorize tort recovery in the current '16-'17 budget of \$1 million.

I also wanted to remind you that during the '16-'17 budget adoption, you authorized the use of GO debt service undesignated, unreserved fund balance each year in an effort to follow the advice of our bond council and keep a minimum reserve of 1/12th or one month in the year which equates to about \$3 million in '17-'18. We currently have a balance of approximately \$11 million.

As you may have heard, there's a house bill that would require us to levy net all cash remaining from the prior year. Basically meaning using all remaining reserve from the prior year versus the 600,000 we have displayed here on the slide. Use of the entire, undesignated, unreserved fund balance will mean a one-time reduction in the secondary property taxes. I've also heard different scenarios being floated around using the entire balance in one year, using it over two years, the latest scenario I heard was having a 10% carry forward over a five-year term. Again this relates to the secondary portion. Tonight in the presentation we're just looking for direction on the primary piece.

[Time: 00:13:57]

Mayor Lane: Real quick, Judy, what's the status on the bill that's been offered with regard to the reserve on the secondary?

Budget Director Judy Doyle: Mayor and members of the Council, the last I've heard is we're looking at a 10% carry over. We would keep a 10% of our total debt service.

Mayor Lane: As a reserve.

Budget Director Judy Doyle: As a reserve. We could drawdown over the five-year period. It is still in the negotiation period.

Mayor Lane: It is in the negotiations. But the prospect -- i realize that's a weighted issue. If they are negotiating on it, it sounds to me like some form of this is going to come forward.

Budget Director Judy Doyle: I would agree, yes.

City Treasurer Jeff Nichols: Well, I'll just add one thing I heard today Judy is right on the reserve of 10%. My understanding is that the cities of Chandler, Phoenix, and ourselves are negotiating basically with ATRA right now on the issue to reach consensus. It's been made very clear they believe they have the votes to bring it across the line. So it will be happening in one shape or another. The latest information we had is what Budget Director Judy Doyle provided.

Mayor Lane: The League of Cities and Towns is engaged on this as well. I think the determination was made simply that it was not defeatable, so let's see what we can mitigate some of the concerns that we have.

City Treasurer Jeff Nichols: I would say that sums it up well.

Mayor Lane: Excuse me.

[Time: 00:15:40]

Budget Director Judy Doyle: We also just wanted to note a few items that could influence our general fund revenues in the upcoming fiscal year, starting with the short-term rental tax. As I mention previously, we include an additional \$165,000 in the general fund sales tax for the short-term rentals for that air b & b bill. The \$655,000 is a projection that was calculated using the estimates of bed tax revenue who you were provided by the planning department when the short term rentals was discussed back in 2015. This tax did not go into effect until this month. So we could see more. We could see less. This is just a revenue we will continue to monitor.

ADOR collection process, Arizona Department of Revenue, the state has officially taken everything over with the last piece being the license renewals which was effective January of this year. As our city treasurer had mentioned during the December monthly financial report last week, we are beginning to see the signs of a reduced sales tax revenue related to the change in collections. With that said, we are hopeful that it is just time and ultimately our collections will not be affected, but it is something, again, we will want to continue to monitor.

[Time: 00:17:05]

Mayor Lane: Judy, do we have sufficient information to be able to reconcile this?

Budget Director Judy Doyle: Yes, we do. We are receiving a sufficient amount of data -- to be able to do that.

Mayor Lane: to determine it is simply a timing or some other issue?

Budget Director Judy Doyle: Yeah.

Mayor Lane: Okay.

Budget Director Judy Doyle: In potential legislative impacts, first with the universities, the governor's budget proposal was released and contemplates a mechanism to capture state and local sales taxes that are generated on university property and to use them to bond for university capital projects for about \$1.5 billion over 30 years. While the proposal would have the largest impact on Tempe, Tucson, and Flagstaff, the League of Cities and Towns have estimated the loss of state shared revenues collectively would be about \$3 million. Which is about \$100,000 reduction to our general fund. While this is not terribly significant impact to our general fund, it is something we do want to keep our eyes on in the event that the loss of state shared revenue increases.

[Time: 00:18:20]

Mayor Lane: We can also add this could easily be a clear indication of what the other foundation properties and ASU as far as the sales tax generated on a land they control. So I know that Flagstaff and Tucson and Tempe are rolling on this in a difficult way. But at the same time, they've clearly indicated that it is probably a trend toward their capital needs to replace, I suppose, other tax funding for their capital needs with this. It is quite -- i think it is quite an effort. I don't know whether this has -- will gain real traction.

You know, I just want to -- one other thing just to make sure I'm clear on this. The question was raised as to whether or not -- because in our legislative breakfast one of our delegation here of the state legislative folks indicated that the short-term rental item was a volunteer tax. They would only have to volunteer for it. They were not subjected to state statute to comply. I do know as you showed us earlier, we've got a component in there to recognize something. I don't know if that's the sum total and if you mentioned whether that was a sum total or partial. I may have missed that. But -- so we have some indication enough that we might forecast a certain amount of increase in those kinds of receipts from hospitality, if you will. So I guess my question is if it is voluntary, do we have some of these that have volunteered to through a given web site or some service?

City Treasurer Jeff Nichols: Mr. Mayor, the one that we will be receiving, the bill covered air b & b. That's why the League will see revenues from them.

Mayor Lane: That's what is reflected in the numbers?

City Treasurer Jeff Nichols: That's correct. What wasn't covered was the likes of vacation rental by owner and all of the web sites people go through. If it is managed by a company, a conglomerate like air b & b, that's what the bill covered. If it is someone renting out rooms or overnight stays, it is total self-reporting, applying for a license and self-reporting your revenues on a voluntary basis. We are looking at the possibility of contracting with the firm that can identify all of the short-term rentals within

the city limits and then actively sending out information to them on how they can do that. But it would still be on a voluntary basis.

Mayor Lane: Okay. So the other web sites there maybe something within statute that does allow for us to collect from the other managed properties, if you will.

City Treasurer Jeff Nichols: From the managed -- yeah, like the air b & b and who manages it for them.

Mayor Lane: Voluntary. Used to be the entire tax code was honor system. We're not talking about honor system. We're talking about strictly voluntary. They have no statutory requirements to?

City Treasurer Jeff Nichols: That's correct.

[Time: 00:20:37]

Budget Director Judy Doyle: Another possible legislative item that could impact the revenue is related to the construction sales tax. As I mentioned previously, we took the category -- the construction category from modest gains over the next five years to flat, because of the uncertainty in the classification. The potential for legislation continues to be a looming threat to future revenues, as there's interest to repeal the contracting classification and implement a materials tax base system. Even if this is unsuccessful, it is likely that the cities will need to make some kind of concession, likely, possibly raising the 35% standard deduction that contractors are allowed. Additionally, the fallout from the 2014 change in construction contracting continues as those contractors who only do maintenance, repair, replacement, and minor alteration jobs no longer need to be licensed. There's also concern with losing contractors that will not become properly licensed now that ADOR has taken over. So again with -- we kept construction flat over the next five years, just because of the uncertainty in the classification.

Another possible legislative impact is there's currently a senate bill that was dropped where retailers could deduction bad debt prior to remitting their sales tax. So similar to any year, we'll continue to monitor bills with the financial impact and keep you updated if we determine that we need to modify our revenue estimates.

Moving on to general fund expenditure impacts. A couple of items worthy of noting that could impact our general fund expenditures are the public safety personnel retirement system and the Arizona Department of Revenue administration charge. Now bear with me. There's a bit to mention during the public safety retirement piece. New legislation was created to better fund public safety pensions and established three retirement tiers for public safety employees.

Going out of order here beginning with tier three, this is for new employees that are hired on our after July 1st of 2017. We will have a retirement rate based on the plan type they select. What do I mean by plan type? Tier 3 employees will have two choices. They can one, select a defined benefit plan, much like the existing pension plan. But it is funded with the 50/50 split by the employee and the employer, similar to ASRS. Or two they can select a defined contribution plan, more like a 401(k), where there's a 9% split for both the employee and the employer and offers the same mobility you would expect in a type of plan like this. Because Scottsdale Fire does not contribute to social security, their defined benefit option would be a hybrid option which includes the component for defined benefit at the 50/50

split, but also includes the defined contribution component with a 3% contribution rate for both of the employee and employer. Basically to make up for not contributing to social security.

Tier two was created during the 2011 pension reform and includes employees hired on or after January 1st, 2012. In addition to other benefit changes, tier two offers the fire department the option to participate in the hybrid plan, which is their existing defined benefit plan with an employee contribution rate of 11.65% plus the defined contribution plan component of 3% employee or employer split. There's a nuance to this. The employer will pay a 4% contribution annually for a number of years depending on the hire date, to play catch up if you will.

Tier one employees are employees that were hired before January 1, 2012. If you recall during the pension reform of 2011, these employees saw their contribution rates increase from the then cap of 7.65 to 11.65. The increase was done over several years with the employer picking up the difference. A lawsuit related to these increases in contribution rates was previously filed. The lawsuit was known as the Hall case. It was specifically related to elected officials and was found that increasing the employee portion of the pension contribution rate was unconstitutional. A similar lawsuit has since occurred known as the Parker case. This case is seeking to reduce the employee contribution rate for tier one employees back to the 7.65%. This court action is pending and awaiting final outcome of the Hall case. But is believed to rule in favor of the employees, reversing the contribution rates back to the 7.65%. The ruling as we understand it, is expected to be retroactive. This will require refunding the contributions to affected members, covering the period of July 1, 2011 when the rate went into effect, through the date when the funds are distributed.

Our initial estimates indicate the cost will be about \$7 million. Public safety retirement has indicated that a service credit model will be deployed. Meaning we'll have a credit with public safety retirement of the estimated \$7 million to apply toward future retirement payments. We can suspend our contributions to public safety until we reach the credited amount. The city, however, may want to consider not using that credit and continuing to pay retirement contributions as planned. The \$7 million payback to members could occur this fiscal year, but it is more likely to occur in 2017-2018. This a one-time cost and therefore an appropriate use of the general fund undesignated, unreserved fund balance. Paying the \$7 million and then choosing to forego the credit would help alleviate the unfunded liability which currently exists with public safety retirement.

[Time: 00:28:30]

Mayor Lane: Judy, this is a consequence of court action or legal action that has been decided upon by the courts.

Budget Director Judy Doyle: Mayor and members of the Council, yes. This is related to that.

Mayor Lane: And this is the interpretation of how this would impact us and whatever potential avenues we have to pay that?

Budget Director Judy Doyle: That's correct.

Mayor Lane: Okay. I just wanted to make sure everybody is clear this isn't a legislative item at all. This

is something that's on record, has been decided, and the city will have to face one way or another sooner or later. That has not yet been quite decided.

Budget Director Judy Doyle: Has not yet been quite decided. It is expected to occur soon. I don't know if maybe our city attorney has more information related to it of Jeff?

City Treasurer Jeff Nichols: I know one issue they are wrestling with is what is the stated interest rate that we're going to use to calculate the amount earned by the employees. As you know, some of the stated interest rates within the retirement plans aren't really feasible. No one is earning 8% anymore. So they are negotiating that rate of interest and then the date of payment. But as Judy -- Miss Doyle noted, PSPRS tends to give us credit. My recommendation would be to accept the credit in our account and continue to make the payment on a monthly basis, and therefore eat into the unfunded liability that we currently have and not forego payments to the PSPRS would be an option for us. We know we are in a hole. We might as well stop digging.

[Time: 00:30:25]

Budget Director Judy Doyle: I'll note what the unfunded liabilities are associated with police, approximately \$122.4 million funded at 55% and fire currently is funded at about 107% with no unfunded liability. But we do recognize that once retirements begin to occur and happen on a more regular basis, the funding percent will drop and that unfunded liability will grow. While the changes to tier two and tier three were designed to help address and alleviate the pressures on these funds in the future, however the current and expected future unfunded liability will still need to be addressed. Most likely through additional funding measures. In addition to considering foregoing the \$7 million credit related to the settlement, we might want to consider an annual policy or use of undesignated, unreserved fund balance to address these unfunded liabilities in the future.

And then finally moving on to the ADOR administration charge. We wanted to let you know that the League of Arizona cities and towns has shared with us that we may see an increase in our administration fee, which in '16-'17 is about \$500,000. Now that self-collecting cities are coming on board, ADOR will be collecting more revenue on behalf of the cities and will be charges the cities more. We'll let you know if we experience a significant increase in the fee.

Another item we will seek council direction on later in the presentation is the general funds contribution to the capital program. This chart shows you the general fund contribution for the previous five years and what we have estimated for the five-year forecast. Noted in the yellow cloud is the peak in '07-'08 at \$47.5 million. The solid blue bar of the graph reflects the minimum contribution to maintain compliance with the financial policy you adopted in December. Financial policy number 17. The blue dotted portion of the top of the bar reflects use of the undesignated, unreserved general fund balance. The '17 '18 proposed amount includes \$2.5 million which reflects the 25% of the estimated construction sales tax, \$5.1 million which reflects year two of the three-year phase in of transferring the sales tax on food for home consumption, an estimated \$500,000 which is the estimated net interest income above \$1 million. And it also includes a \$5 million commitment we had for '17-'18 when we adopted the budget. We are in the middle of adopting the forecast and finalizing our budget. It is difficult to say how much more if any we could comfortably contribute to the CIP in 2017-2018. The upcoming question we will seek direction on later in the presentation: are there any changes you would like to see made to the CIP contribution as we develop the operating budget?

With that, we are ready to move forward on direction beginning with local sales tax. Would you like to consider any changes?

[Time: 00:34:22]

Mayor Lane: This is a matter of discussion and guidance. There's a consensus that you are looking to draw on. And, you know, there's probably a significant amount of additional contribution when we talk about where we are operation wise and where we are on the capital projects funding. But if I were to say right now, I don't see that we have -- I have no desire to consider a sales tax change myself.

If I were to skip to -- 2b, I guess. And the tort recovery we have done in the past. I think we do as a matter of routine. I don't know where the number is right now. I don't know if it was portrayed here. Is that up or down?

Budget Director Judy Doyle: The current is included \$1 million, for '17-'18 it is \$1.1 million.

Mayor Lane: Gotcha, alright. For the record I'm fine with staying with the same program myself. Property tax allowance, I know this is always a point of some consternation here. I think one of the things that we're going to have to figure out is whether this is this year or right now. I don't know it is whether or not we move in this direction or whether we end up with our capital projects with some other funding mechanism. So for right now, I'm -- i would just as soon stand patent as far as the property tax is concerned.

Anyone -- any other thoughts? Yes? Councilman? I know. It goes on to expenditures. I figure we would at least talk about this side of it first. Yes, that wasn't your only item. Pointing that out. Yeah.

[Time: 00:36:30]

Councilman Smith: Let me -- before I respond to the questions, let me go back and ask you a couple of clarifications. In one of the charts that you had early on and indicated that the sales tax local was 130.7. You said 90% of this was -- tell me again what you said. The following slide then says that the proposal for next year general fund is 120.7. What's the other ten million?

Budget Director Judy Doyle: The other \$10 million includes -- we've revised the category this year. We've included -- this also includes the electric and gas, our cable TV licensing fees, our SRP in lieu, and a storm water charge in addition to the sales tax.

Councilman Smith: Okay. I hear you. This is a matter of form over substance, perhaps, but I probably wouldn't include those in there. It would be nice to see them tie together so we could see a pie chart piece that matched the table on the following page.

Budget Director Judy Doyle: Sure.

Councilman Smith: But the local sales tax is 120.7 forecasted for next year. You made a comment about online retailers. I'm not sure I followed you. I don't have a problem with it. Tell me what you've done in

the sales tax estimates as far as collections from online retailers, Amazon, or whatever you said.

Budget Director Judy Doyle: Yes, our department has been seeing an increase in online retailers collecting sales tax. We have included that and increased it in our forecast and in the out years.

Councilman Smith: Okay. That's not -- is that a voluntary tax or required tax?

Budget Director Judy Doyle: Mayor and members of the Council, I don't know that. I would be happy to get that information and bring it back to you.

[Time: 00:38:42]

Councilman Smith: Okay. Flipping forward to the slide that you had on property tax, you indicated that you have shown in the proposed '17-'18 the proposal for \$500,000 of optional tax being included. I see it there in the second category. Again it is not terribly large. It seems to me your forecast ending in '18-'19, assumes if it were approved, your beginning number would be not 266 that you have at the top of the column but 271.

Budget Director Judy Doyle: Yeah, I kept it separated because it was an operational increase. The \$500,000 that's in '18-'19 down under the optional increases is just that one-time \$500,000 that was added in '17-'18. It doesn't assume the additional 2% in '18-'19 and additional 2% in '19-20, et cetera, it is just that one time.

Councilman Smith: The property tax -- the 2%. I think we've shared this number before, but if this council approves the \$500,000 allowed 2% inflation factor or whatever you want to call it for the primary property tax, what would be the impact of that on let's say an individual home owner?

Budget Director Judy Doyle: Using \$350,000 as an average home price, we're looking at \$3.50 per year. It would be double about \$7 for commercial.

Councilman Smith: \$7 for -- what size commercial?

Budget Director Judy Doyle: Commercial property. Also valued at \$350,000. Yeah.

[Time: 00:40:50]

Councilman Smith: Okay. And you alluded to -- this is not the presentation but you discussed the liability that we have for pensions, the unfunded liability, our share of the state liability. Tell me again what that number was.

Budget Director Judy Doyle: For police, it was \$112 million. Currently it was 55% funded. Fire is funded at 107% with no unfunded liability.

Councilman Smith: And is there an ASRS liability for neither police or fire?

Budget Director Judy Doyle: Yes, I did not bring that information with me. I was focused on public safety. I'm happy to get that.

Councilman Smith: I think it is relevant. As i recall, the last time we discussed the balance sheet, it is an aggregate number of \$250 million for all funds combined.

City Treasurer Jeff Nichols: I believe you are correct in your memory.

Councilman Smith: And there's nothing in the budget now that makes any -- that addresses this liability in any way other than just making the payments to ASRS. We're not addressing that liability, per se, and not paying it down.

City Treasurer Jeff Nichols: that's correct.

[Time: 00:42:24]

Councilman Smith: Well, the answers -- I'll look at three questions, 1, 2a, and 2b. Let me skip one for the moment and go to 2a on the property tax 2% allowance. It would be my recommendation that we take the 2% allowance that's allowed to the city this year. And, in fact, I would probably recommend that we start catching up with the ones that we have waived for the past whatever it's been, six years. And I need to, i guess, explain why I say that. I've explained it before. I'll explain it again. This property tax is primarily paid the biggest single payor is the business community paying one third of the total property tax. The next largest chunk of money paid into this tax is by what i would call the wealthy or the high value homeowners. And another chunk of some size is paid by the out-of-state investors, the snow birds, the people who buy properties and some to stay. Which leaves a very, very small share of this that's actually paid by the citizens and particularly the lower income citizens of our community. And that's why I have always characterized this, I think, rightly so as a tax on the business and wealthy. When we as the council decide we want to waive the allowance, we're giving a tax benefit to business and the wealthy.

That's just not personally where I'm coming from in a period of economic difficulty and distress. I would rather give tax relief to the people who need relief in whatever form it comes. The disadvantaged -- or not disadvantaged, but the lower income and fixed-income individuals that maybe struggling with whatever earnings they have are not struggling because of the cities primary property tax. If they have a tax bill at all, if they even have the luxury of owning a modest home, their tax bill and their property tax bill is about 95% other taxing entities. The county, the schools, and whatever. Only 5% of it is from this tax.

You answered the question that even if we used the average, which many of these fixed-income and low-income individuals are below average. Even if we use the average so \$3.50 a year allowance that we're giving, I think that's De Minimis. I'm not interested in granting an allowance for the benefit of business and wealthy residents. And it would be my vote to recapture all at once or on some platform the previous year's allowances for whatever reason.

The property tax tort reform is obviously something we include here, because there's no other -- no other resource in the general fund to do this. I agree with concluding the \$1.1 million that you have suggested.

[Time: 00:46:39]

Councilman Smith: Now let me talk to the first one on the sales tax change. You didn't put here for discussion the tax on food. I don't know whether that's something that you want to consider on disbursements or whether you want to talk about it on receipts. I would remind anybody here that we began discussing the punitive tax on food that our city has and most other cities do not have. Half of the residents of the state of Arizona do not pay any local sales tax on food. No one pays the state sales tax on food. But here in our affluence community, we continue to tax food.

When we discussed this two years ago, the common arguments where we were just coming out of the recession. Lord only knows what's going to happen. And the state is taking over local sales tax collections. Nobody knows what's going to happen. Even as you have presented here, we don't have to cut back on the neediest citizens. All we have to do is stop spending the money on the future. Yet the only thing we were able to get consensus on last year was -- take it out of the general fund. That's a good move. We'll wean it off of the general fund. But we'll put it into the CIP. Now we're saying the capital needs of the city will be paid for primarily on the backs of the poorest people in our city and taxing their food purchases for which they have very little discretion.

I would like to see the council address and certainly recommend that you come back to us with a plan that shows the elimination of the tax on food, not just the transfer to CIP. Does CIP need the money? Absolutely. Does the general fund need money? Absolutely as well. And whether this is a local sales tax change or what it might be, I don't know presume to know. But I know we do not have a sustainable budget at the present time.

On January 24th, staff presented to us the capital budget. And it was -- woefully without funds. Lots of needs and no funds indicated. And now we're looking at an operating budget which has among other things a looming liability for pensions, which are not being addressed at \$250 million liability that we should be advertising. I don't know what we're things the opening comments that were not enough revenues to meet the city. So I don't know that this is an answer to your first question there as a local sales tax required. Something is required.

I know this is not a form in which we make motions, Mr. Mayor. My direction to staff would be to bring back an analysis of what kind of tax reform or tax increase action might be necessary to restore fiscal stability to our comprehensive budget. I mean by that comprehensive budget, I mean both operating in CIP, short term, and long term. That's the best answer I can give you on number one.

[Time: 00:50:49]

Mayor Lane: This is a point of consensus of guidance on the follow up on this. We'll take that as an element that we can either agree with or not agree with in consensus. We sometimes do take a vote in order to keep it clear. So even though it is not a motion kind of thing, it is an indication of guidance to staff to move forward.

I would say that in sort of the entire context of what you are talking about, I think it is -- I think it is something that we do need to address. And, you know, I would say that to throw this back in your court, I suppose, that's when we're essentially doing what we say this. How do we go about this? What

are the recommendations on it? In the past, I suppose it's been a decision that we've tried to make in work study and sometimes from the dais in the regular meeting. I don't necessarily -- I don't disagree with Councilman Smith's assessment it would be nice if we are a clear picture of it.

I was going to follow with the comment. That's that we do have sort of some questions being posed to us. Other than a general statement that we don't have sufficient funds to presumably put a budget together that would balance, we don't know where that is. I don't mean to say that I don't go with the cautionary remark that we don't have it. We don't know exactly what it is. And the other side of it is some of these things on a priority basis are issues that we, you know, really have to attend to. There are questions coming forward as to how we do the evaluation and how the council may individually go about that. I think working with staff potentially as I was about to say there's some gathering of thought and individuals from the council to put together prioritization on both operating and on the CIP, I think it is going to be imperative for us. That times getting pretty sticky.

I would say number one, because there are different sources for funds and different types of funding mechanisms, the CIP versus generally speaking they have been. I would like them individually, but I do think it is something we need to attend to. So on general overall, I'm in agreement. I think it is something that we probably need to be having some communication on as we really balance up whether we've got -- I'm assuming right now we don't have the prospect given the resources that had been generally followed in the past. We do not have the prospect for a balanced budget. Given the commitments we've made on salary and so on and so forth.

[Time: 00:53:49]

Budget Director Judy Doyle: That will be dependent on the priorities. We will come forward with a balanced budget. It will be dependent on what priorities to be included and not included.

Mayor Lane: Right. Even going to the next list. I'm breaking my own rule, as we haven't addressed the revenue side of this. The same hinge is going to apply to the expenditure side as well. We're sort of working very theoretically right now as how we would come together with the priority on expenditures as well. Councilwoman?

[Time: 00:54:30]

Councilmember Korte: Thank you, Mayor. On account we want our cake and eat it to, it is a difficult thing to talk about raising taxes. It doesn't matter whether it is sales tax or property tax to meet our needs, to meet our CIP needs, and to meet our operating budget needs.

I -- though I have to agree for the most part with Councilman Smith, while he and I are on opposite sides of the food tax, my concern with eliminating food tax is we're not covering our budget in the first place. If we can have some conversations around shifting the food tax to increasing a tax on goods maintaining that income, maybe there's some creative things we haven't talked about that we need to talk about. I believe we need to talk more holistically. Not only around the operating budget, but the CIP budget and the operating budgets impacts the quality of life and the services that we provide our citizens, our CIP budget impacts our quality of life, and those services whether it is maintaining the potholes on streets or our liabilities or our senior centers. So a more holistic approach I believe would be a benefit in

making the -- these decisions that we have to make in the next several months. Thank you.

Mayor Lane: Thank you.

[Time: 00:56:25]

Councilwoman Milhaven: Mayor, I think you made a point I was getting around to that it is hard to know how much revenue we need when we don't see the expenses are. Councilman Smith talked about fiscal stability, so maybe put a little more detail on it. I would like to defer decisions on a and b until after we get a sense of what our expenses are going to be. So -- and then -- I don't know.

Motion to direct staff just to get some clarity and move the things along. Would that be all right?

Mayor Lane: Again we can't frame a motion --

Councilwoman Milhaven: Motion to direct. I would like a motion to direct staff bring back questions one and two after we had the opportunity to review our expense budget.

Vice Mayor Littlefield: Second.

Mayor Lane: Okay. Motion made and seconded. Councilwoman? I'm sorry, still Vice Mayor.

[Time: 00:57:18]

Vice Mayor Littlefield: For one day. I have a hard time making decisions on it also without looking at the entire budget. If you can't take half of it and determine what you are going to do until you know what the other half is. You also have to know what the CIP is going to be. So I would very much agree with that we need to have a more holistic look. And possibly even start with what are the expenses. What is -- what are our needs first? Then how do we go about funding those needs. I look at this as a little bit backwards.

Mayor Lane: All right. The motion has been made and seconded. Just by a show of hands, I guess not a vote necessarily, but consensus that to motion, who is in favor of following that path and giving that direction?

Councilman Smith: Are we discussing this or voting?

Mayor Lane: I'm sorry. We can discuss it. I think you are going to go ahead.

[Time: 00:58:29]

Councilman Smith: I may support this. It is ambiguous to me when we'll make the decision. I don't need to make the decision, I don't need to wait to make the decision on property tax. If everybody wants to wait, that's fine. How long are we waiting? What are we -- here's my point, in putting a budget together, -- I mean I know the process. Budgets always balance. They always balance, because they have to by state law. So the folks are going to find it very difficult to put a budget of expenditures

together without knowing what the revenues are, because that's what drives the expenditure level. So maybe they want to weigh in on this. I think we're giving them an unworkable conundrum. But leave it to them to say.

Mayor Lane: Okay, yes, Councilman Phillips?

[Time: 00:59:19]

Councilman Phillips: Yes, the discussion on the motion. It is the same with my answers. The way I see it is staff is coming to us and saying does council feel like doing this kind of thing so they can go forward? If they get the idea that council doesn't really want to raise taxes on anything, they are not going to pursue that. They are going to be looking at other avenues. I think they want to see how we feel about that. You know, as far as I'm concerned, to me, yes.

Property tax 2% allowance. Since I've been on the council, we've never done that. I would hate to say yes. I wouldn't agree to Councilman Smith's reasoning. Even though you are raising the property tax for the rich people, you are also doing it for the poor people. For everybody that's ever lost a home or under foreclosure from the state, it's always been for tax liens. Nobody lost a home because they raised the sales tax. Everybody always loses their home for the tax, the property tax. Anything to raise the property tax, I'm not really for. I would be more for if we had to do one of the two, to raise the sales tax.

While we're talking about that, I think Virginia brought it up -- excuse me, Councilwoman Korte, if you want to -- don't have the stomach for food tax, then let's raise the sales tax to cover and get rid of the food tax. Either way we need that money one way or the other. I would be willing to do that. You know, in the long run, it is the same thing. So I would be more for sales tax, if that's what we had to do over raising the property tax. But again I think we do need to see a lot more, especially when we get down to salary adjustments and stuff like that. I don't know enough to give you an answer. That is what you wanted to do. If that's what we have to do. We don't know that yet.

Mayor Lane: Thank you, Councilman. Did you have a statement? Councilwoman Klapp.

[Time: 01:01:36]

Councilwoman Klapp: I think we should weigh in on these questions. I agree with Councilman Smith, you can't put together a budget unless you know what your revenues are. So -- these are -- nothing we say today is cast in concrete. This is just to give direction. We can always change our mind if we see we don't have enough revenues coming in, that can change.

I'm not, at this point, in support of the sales tax increase. I don't see any information to support that yet. And I do feel the same way that Councilman Smith also feels about the food tax. That is we need a plan for this. We have -- this year and the next two years we moved the sales tax on food out of our operating budget to the CIP and that's all well and good. What are we going to do when those three years are up? My preference can be you would come back with a plan of how we're going to deal with this in the future. My preference would be with the fiscal year 19/20, we don't have a food tax anymore. Because we have moved it out over the past three years and that's the end of it. So we have

got to figure out what do we do in 19/20 if there's no food tax at all? Wouldn't impact this coming year. We have a plan already that we take out a portion of the food tax in the next fiscal year and move it to the CIP.

But I also am not in favor of pumping up CIP with food tax money. There's something philosophically bad about that idea of taking food tax money and putting it into our capital budget. So yes, we have big decisions to make on how we are going to fund our capital budget over the course of the next number of years and that is a holistic discussion that is needed. In the case of sales tax, I certainly wouldn't want to increase it this year.

As far as property tax, the 2% allowance I'm still not in favor of taking it in 17/18. I would say no. I would not go back and take the previous year's property tax amount either. We need to be looking at how we're going to fund the CIP budget. We usually see an increase in the tax levy by growth anyway. How much does the 2% do for us really? I think growth helps fund the increase in the overall property tax receipts that come in every year.

As far as the property tax tort recovery, yes, I agree we should have that in our budget. I will wait to see what our discussion is about expenditures, right now that's where I am. That does not mean any of this is decided today. That's my feeling today as far as these three questions are concerned, actually four. Thank you.

Mayor Lane: I didn't know if you were being demonstrative or something. Please go ahead.

[Time: 01:04:58]

Councilmember Korte: I'll give my two cents here with the caveat that we know our expenses are going up. We know we've made commitments to wage increases. We know we've made -- that just -- the cost of doing business goes up every year. And that is the purpose behind the 2% property tax allowance is to choose an inflationary increase. And for that inflationary increase to impact on average home household owner at \$3.50. I think it is a minimal amount to maintain our quality of life and it is certainly not going to maintain all of our quality of life, however it is a -- we don't have many sources of income.

You know, we're not entrepreneurial. We don't -- we can't create another service and go out and sell it and reign in the revenue. And property tax is a solid source of income. And I would also agree with Councilman Smith that the previous fiscal years somehow we just bring those as you suggested to -- yeah, a gliding path of gaining those previous fiscal year tax allowances back in our coffers. It is a \$3 million. I think it is six years. So it is another \$3 million. We can't talk about reducing or eliminating food tax without increasing a source of another revenue. Another revenue source.

So with that, I'm going to say yes to 2a, yes to 2b, and a conversation on 1. Thank you.

[Time: 01:07:17]

Mayor Lane: Thank you, Councilwoman. Something that's been brought up -- I suppose it would somewhat change the direction from my perspective. That is we've been talking about the food tax.

We've seemed to sort of kick it around. We had had a plan that we were going to sideline for three years, I believe it was. The food tax receipts and put it in the CIP until we came up with having weaned the general fund of that -- what is it \$8 million in total a year. That's \$8 million that came out of the general fund. I can see there must be some room to replace that in the general fund because that's a net draw down.

What I was trying to look at and so -- there may be some latitude that we've got to do something to replace what we're doing there. If it is not already built into the normal increase that we have on the basis of growth in our economic engine and our economy and maybe even inflation. The first place I looked was on the property tax of primary property tax. We don't really show any -- we've got prior year base. But it remains at -- very close to \$26 million or right on out to 2020. And then it goes up modestly to 27 in modest terms. Do we not have some impact to the base just on evaluations, and I mean other than new construction? So that base is the solid one then. What contributes even to the small amount of increase that I see here?

Budget Director Judy Doyle: Mayor and members of the Council, it is for new construction that comes onto the tax rolls.

Mayor Lane: New construction is a separate line here.

Budget Director Judy Doyle: It becomes the base.

Mayor Lane: All right. Very good. Thank you. Pardon me for that. So whether or not there's something that needs to be done as far as 2% increase, I guess I'm wrestling with the idea of CIP. If we moved \$8 million into CIP and now we're going to have to -- and it is built into the budget, we've got a problem as far as how we're going to accommodate CIP at the same token.

The thinking is whether or not we seek to have some other funding mechanism and most notably general obligation bonds or something in the offering to try to get us back on track with our capital improvements and rebuild programs. So that's -- and that's not something that we're talking about here at all. Nevertheless, it may have some real impact on what we have in CIP right now and how CIP might be impacted when we pull the food tax that's going in there. That's a pretty big number for them. There probably has to be some mechanism for us to deal with the food tax. Now as it is budgeted coming out of the CIP. I'm in favor of at least looking at what tactics we might have to employ on what.

[Time: 01:11:40]

Mayor Lane: The other is what is the -- just the net increase in our overall -- I probably that have right here. We have some normal increase. If I look at the '17-'18 as you've got it projected. That's the 120.7. That's what? \$2.5 million increase in the overall sales tax? On that particular one. There's \$2.5 million built into that one. That's reflected in the -- is that the full or the 1.1% local sales tax.

Budget Director Judy Doyle: It is just the 1.1%.

Mayor Lane: So there's some growth. It is not substantial enough as far as the -- I presume just our normal commitments. I'm talking about salary commitments and other things that we have to our expense side. You had indicated that we had short term rental tax increase build into the budget.

I don't remember what that number was exactly. Is that included in the 1.1.

Budget Director Judy Doyle: Yes, it is. It is included in the hotel/motel. We had a \$400,000 increase in the category. About \$165,000 was our project for the air b & b bill.

Mayor Lane: Okay. That's in the \$2.5 million that we're talking about.

Budget Director Judy Doyle: That's correct.

Mayor Lane: Okay. Previous year we had \$3 million increase. Our percentage as we're projecting has dropped?

Budget Director Judy Doyle: Well, we're comparing that on our forecast. So we've increased the current year about a half of a percent. So that comparison, it is -- if you want to compare it to our adopted budget, it is closer to a 3%.

[Time: 01:12:48]

Mayor Lane: Okay. Okay. Well, I guess I would just leave it at that. If we've got the short term rental built in and I'm presuming that we also have built in as we talked about some of the legislative challenges that we might have and the legal one we just talked about as well. Was that -- was that a pure credit or was there some -- I keep hearing that you were talking about applying it as a credit. Is that something that's coming back to us? I had understood it to be an expense, an additional expense.

Budget Director Judy Doyle: Mayor and members of Council, yes, it is going to be an expense for us. However we will then have a credit. When we pay the public safety retirement system, we can defer, forego our payments until we've reached that credit amount. It is a net zero impact to the city.

Mayor Lane: Okay. All right.

City Treasurer Jeff Nichols: Mr. Mayor, part of the issue is that we withheld these funds and remitted them to PSRPS tax free. The funds need to come back through our payroll process and be taxed before they are given to the employees. So the PSRPS is going to give -- they have two buckets of funds. They have the employee contributions and our contributions. They are going to take the employee contributions and put them in our bucket, that \$7 million and expect us to make the employees whole again. My recommendation is to take that credit just as a \$7 million payment into our unfunded liability, continue to withhold that the current rate from employees and employers and matching that payment not foregoing payments, and use \$7 million of our unreserved, undesignated fund balance to make the employees whole again. Which will be an after-tax payment to them.

Mayor Lane: Okay. So that's over a period of time.

City Treasurer Jeff Nichols: We don't know. I think it will be a one payment. Once everything has been negotiated as far as the interest rate on the monies that were withheld from their checks, what those amounts are then will probably be making a one-time payment to employees, a separate payroll.

Mayor Lane: So there will be a budget impact at that point in time?

City Treasurer Jeff Nichols: Yes. And that budget impact is built into the budget, I believe.

Budget Director Judy Doyle: If we were to make that one-time payment in the current fiscal year, no. We would need to come back with a request for contingency to have the proper budget authority to be able to make that payment.

Mayor Lane: It is not built into what we have here?

Budget Director Judy Doyle: Correct.

Mayor Lane: Okay. The net effect may be zero. But at some point in time we have exposure to this.

Budget Director Judy Doyle: It is built into '17-'18. It is a net zero impact, if we choose for it to be a net zero impact. In '17-'18 we have forecasted what the retirement contributions will be. We can choose to not apply the credit that public safety retirement will give us and just keep continuing to make the payment. I feel like I'm muddying the waters.

Mayor Lane: You may have. I was pretty good with the idea that -- the budget impact -- unless we decide to make a one-time payment right now, it does not impact us. I think at one point you said if you decide to make the one payment now, you would have to come back and have further authorization.

Budget Director Judy Doyle: Correct, just for the budget authority, yes.

City Treasurer Jeff Nichols: If it happens in the fiscal year. And the likelihood of that is remote, at least from the intelligence we've received.

Mayor Lane: And just for the budget authority?

Budget Director Judy Doyle: Correct.

Mayor Lane: Yes, Councilwoman Milhaven.

[Time: 01:16:42]

Councilwoman Milhaven: Since you went back to the pension liabilities, I would like to request that you bring forward at what point do those unfunded liabilities become actual liabilities. I'm sure there's projections around when we're going to have to make the payments. You made a comment to say it is zero for fire, when they start retiring it will no longer be zero. Same thing there, at what point are we going to owe how much? How far out is that? And then that should give us some sense. I think we need to start thinking about how we resolve that. And if it is sooner rather than later, it is a smaller amount every year. Get a sense of when will those monies be due and give us a sense of what we would need to start doing now in order to net that out. The last thing we would want to do is wake up one day with \$121 million bill.

City Treasurer Jeff Nichols: There's a meeting next week to discuss the issue within the fire department.

And there's a larger discussion between myself and the city manager on unfunded liabilities within the pension plan and how we address those.

Councilwoman Milhaven: Thank you. That would be helpful. To go back -- philosophically I'm uncomfortable saying we're going to raise taxes and how much we are going to raise taxes if we don't know how great the need is. We know there's a basic we have to pay the light bill and we've got to pay employees and police and fire. There are basic things we have to do. Until we know what is that is and what the run rate and impact on inflation. We don't know how big the gap is.

I am supportive of considering the property tax. Unless we know the magnitude of the gap, I don't know if it is one year or the whole thing. I need more context.

Then I have a question. If we're going to raise sales tax, that's requires a vote of the people, doesn't it? Yeah. That's a longer-term play. Thank you.

Mayor Lane: That's a good point. Yes, Vice Mayor?

[Time: 01:18:36]

Vice Mayor Littlefield: You startled me when you came up with \$122M future liability for the fire. We need to get a handle on when approximately is that going to happen. I know the fireman are getting older as we all are. As they retire, that's going to impact our budget, tremendously. I would like to know what that schedule is for impact.

As far as these three, tax tort recovery, don't change, property tax hold for the moment until we find out what we need, and not to raise the local sales tax changes. No change there. That would be for right now.

Mayor Lane: Councilman Smith?

[Time: 01:19:25]

Councilman Smith: Thank you, Mayor. Just circling back while it is still fresh in my mind \$122M liability on pensions it is not for fire is it?

Budget Director Judy Doyle: That's correct. It is for police. There's no unfunded liability for fire.

Councilman Smith: That's largely because we brought them in de novo in 1995 or whenever it was. I want to go on record saying I have no desire to increase taxes. But stronger than that desire, I have no desire to prevail over an unsustainable budget. A couple of things I want to put in perspective, just for anybody that's listening out in tvland there, our sales tax in the city of Scottsdale, setting aside the part that the voters approved for the purchase of land, that's not money that we use to run the city with. The sales tax that we use to run the city is 1.3%. That's lower than every other surrounding city that I'm aware of. Phoenix and most other cities are at 2%. So it is not like we would be looking at something that would put us way out in left field if we did look at the property -- or at the sales tax increase.

The second thing I want to make sure we have an understanding about, Mr. Nichols, you answered the question on the food tax, you said that was an \$8 million hit. I believe that's to all funds.

Budget Director Judy Doyle: No, that's just the general fund portion.

Councilman Smith: Why did Mr. Worth when we talked about the receipts into the CIP fund just talk -- is he only getting the general fund portion? That's all he's getting?

Budget Director Judy Doyle: Yes. That's correct.

Councilman Smith: The other thing I would like to be sure -- the tvland understands when we talk about property tax increases, an individual's property tax will never increase because their individual home value increased. That's not how we do it here in the city. We simply ask the assessor to levy the amount necessary to give us \$25 million and if property values are high, the assessment is low. If property values are low, the assessment value is high. The only thing that gives us an increase right now is roughly \$300,000 a year more money on what we ask the assessor for, for new construction. We have no way for this to increase if we don't take advantage of the inflationary allowance in this property tax.

Further to the property tax, I will take issue with the statement was made that the people lose their home for tax liens. That may be the mechanic of how you lose your home, but it is not the reason that you lose your home, in my judgment. You lose your home if you lose it for tax liens, you lose it because you haven't paid your tax. And you probably haven't paid your tax, because you have a burdensome level of other debts and obligations that have prevented you from doing so. One of those burdensome obligations in my judgment an unnecessary burden of obligation is the tax that we have on food which is frankly for a disadvantaged family in our community is a more burdensome annual charge than the minuscule property tax they may have on their home.

Finally somebody mentioned bonds. Another good point if we talk about the sales tax increase, it requires the public vote. But I think whatever you come back with should talk about bonds, that as well requires a public vote. Although, we've heard pretty convincingly from the public they don't want to finance the city in that manner. We have to be creative and I urge you to do so, but I think we need some kind of a package of tax reform, and perhaps tax increase, cost reforms that somehow bring us back into the balance. Thank you, Mayor.

[Time: 01:24:18]

Mayor Lane: Thank you, Councilman. Councilman Smith mentioned the 1.3 for the operation of the city. What's the different between that and the 1.1 we end up typically showing?

Budget Director Judy Doyle: The city sales tax rate is 1.65. He was reducing to take out the transportation sales tax, and the preservation -- excuse me, the preservation sales tax.

Councilman Smith: Just the preservation, the other piece may be areas of transportation of 1.2.

Mayor Lane: But the dedicated portion for public safety.

Budget Director Judy Doyle: The dedicated. Correct.

Mayor Lane: Is it included --

Budget Director Judy Doyle: It is included.

Mayor Lane: Included in the 1.1.

Budget Director Judy Doyle: Yes it is. 1% general fund, .1% public safety, .2 is the transportation.

Mayor Lane: So the 1.3 represents over the 1.1 is the transportation.

Budget Director Judy Doyle: Transportation. Yes.

Mayor Lane: Even though those are dedicated funds are considered general funds?

Budget Director Judy Doyle: The point two is dedicated to transportation.

Mayor Lane: It is not for the operation of the city. It is for construction projects and or transit or planning thereof.

City Treasurer Jeff Nichols: The point two is split 50/50 for operations and capital. In transportation.

Budget Director Judy Doyle: In transportation, the point two that is collected, we have a financial policy that 50% is dedicated to the capital program and 50% is dedicated to the operation within transportation.

Mayor Lane: Okay. That's the .1% that's going to operations. There's another half of it that goes specifically to projects or mass transit. I just wanted to make sure we're talking about operating the city. 1.3 or 1.2 or 1.1. Okay.

Well, as long as we're splitting hairs a little bit on this, what about the increase in the general administrative portion of the bed tax funds that comes in the general fund? Is that accounted for in any of this?

Budget Director Judy Doyle: No. The bed tax is collected in the tourism development fund. We do have a portion. We have 1 million 5 that we do transfer to the general fund annually.

Mayor Lane: So is that included in our revenue side here?

Budget Director Judy Doyle: Yes, it is. The 1.5.

[Time: 01:26:54]

Mayor Lane: Okay. Just wanted to make sure we had a full accounting and consistently looking at it. You know, I think that -- I don't know how clear we may have made it. Nevertheless, we have direction

here. I would stay with the issue that I would really like to get an idea of where expenditures are on the basis of what we have an absolute need for and maybe there's a next lever of what really is and maybe another tier. This is operationally now that we're talking about. We've got absolute obligations on certain things, whether it is health care or premiums that have increased or otherwise where we might or where we would expect them to be. We are going to have to pay one way or another.

Then there are some things that I presume are subject to at least some consideration in a total budget. Whether it is the extent of increase or salary or not or other measures that might be put forward. I do think there's a little bit of a push and pull on this budget arrangement on how we put this together. I think the original motion maybe adjusted for that consideration. I guess I would have just added to the idea we need some kind of structuring to give an idea of where we absolutely have to be one way or the other and of course really what commitments we may have made that we need to seriously address. And the reason for me -- I think for the council would be to explain to if there's a tax increase, why? I mean I think that's fair enough.

So let's see. Unless we have any other comments, I hope you've taken some adequate notes and they are clear when you wake up tomorrow morning. Oh, I'm sorry.

[Time: 01:27:57]

Mayor Lane: Yes. Well, I thought maybe we even covered that when we talked about the fact that we need that side of it before we make a decision on salary adjustments and classifications and compensation study and the CIP contribution change. If we want to discuss it, I suppose we could be talk about that too. Personally, I may be with the salary adjustments. We made the commitment for it. I would want to see where we sit and what we have to do in order to get there. Classifications and compensations study -- pardon me for -- maybe that needs a little bit more description for me.

Budget Director Judy Doyle: Yeah, in our effort to continue to recruit, select, and motivate and retain well qualified employees, we want to include funding in the 2017-2018 budget to have a classification and compensation study done. The study will be a tool for us to evaluate the external competitiveness of our salaries and wages compared to the market as well as allow us to provide internal equity between the classes. Our initial estimates on this study were between 500 -- excuse me \$50,000 and \$100,000. The cost of the study.

Mayor Lane: With all due respect, it seems like every other year we're doing this. Every time we have one, it costs us more somehow or other. I don't mean to say maybe a study to try to find out how we can save money. I guess that's just not in the cards. Nevertheless, I guess I've become a little skeptical of these. Yes, Councilwoman?

[Time: 01:30:42]

Councilwoman Milhaven: I would say time flies when you are having fun, because the last time we did a competition study was when I was first elected about six years ago. I do think it would be prudent for us to do on a regular cycle, a compensation study. I would think even something every three years or so would be in order.

For me, this is important. We want to be fair and equitable to the employees, and we want to be fair

and equitable to our citizens. We need to make sure that we pay folks to deliver the quality of service that our citizens expect and deserve. We also need to be able to demonstrate that we are doing it efficiently, not paying more than we should. I see that the compensation study helps us meet our commitment to the city's employees but also to our citizens that we're being -- that we're paying appropriately. If I remember, we saved a heck of a lot of money the last time. A lot of it was done internally. If you remember, there was a lot of doubt about the validity. I think for purposes of fairness and equity and reliability, the outcome, I think, I'm very enthusiastic and excited about this.

Mayor Lane: Once again with your persuasive tone, maybe my skepticism has diminished. Frankly the reminder was six years ago. It is probably -- it was six years ago. It took us three years to work through it. In any case, any other comments? Yes.

[Time: 01:32:18]

Councilman Smith: Well, responding to number three, four, and five on the screen. Number three as far as the salary adjustments, I think as the Mayor said, these are things on the order of magnitude we committed to before -- particularly for the fire and police. I would just say I'm okay with this. I would like to pay for performance plan that is genuinely a pay for performance. Meaning I would like at some point to see a report back to us that, you know, in the preceding year we gave, you know, 90% of the employees a 3% increase. 5% we gave zero. Another five we gave four or whatever. The bell curve of compensation that's implied in the terminology pay for performance.

Count me at yes on number three. Count me at yes on Councilwoman Milhaven's study, number four. And number five is one we'll have to address in the future when you come back us to with what I hope will be as I said a comprehensive tax reform or tax increase set of recommendations giving us a total balance budget both CIP and operating. Thank you, Mayor.

Mayor Lane: Thank you Councilman. Councilwoman Korte.

Councilmember Korte: For guidance, we are, yes, and I don't know.

Mayor Lane: Thank you.

[Time: 01:33:57]

Councilwoman Klapp: I also agree with number three. At this point, we'll work it into the budget and see where we end up. Whether or not we can do what we have committed to do. As far as the compensation study is concerned. I agree we need one. For the reasons that have been stated to make sure we're being fair to the employees and it proves to the citizens what we -- that we have a fair and equitable compensation system. And something that is concerning me about our current compensation system that hopefully will be addressed in the study is that I understand that we have about 25% of our people right now who are at the top of the range. That is certainly demotivating to 25% of our people right now are at the top of their range and that is certainly demotivating for 25 percent of the people here. We need to be looking at the ranges and whether or not they are competitive with other cities. Because that isn't a good situation for the city to be in.

As far as CIP contribution, obviously it depends on what we have left. As far as I'm concern, we should put the maximum amount possible into CIP. Whatever that amount is, most of it, 90% of it ought to go into CIP.

Mayor Lane: Thanks, councilwoman. Vice Mayor.

[Time: 01:35:22]

Vice Mayor Littlefield: Thank you. I agree with the salary and pay for our employees. That's the biggest cost. That needs to be looked at. I would like an emphasis to be placed on possibly where can we downsize? Do we need to fill all of the empty positions? Are they necessary? Can we cross categorize positions or classify positions? How can we possibly do with less? If it is possible. That should be part of the study also. Not just comparing paycheck to paycheck, but comparing job description to job description and making sure that we are in need of each one of the positions that we have. If we are not, then perhaps we need to look at downsizing some of that. So I would like to look at that.

I am in agreement with the CIP contributions to put as much as possible that we can possibly do. We obviously have needs in the capital improvement program. Our public has told us they want to see more of it coming out of their already paid taxes. They don't want to pay more. We ought to take that into consideration and take a look at what we can do. I think -- we need to keep a reasonable fund balance for emergencies. We don't know what's coming down the pike. For as much as we possibly can do, the balance should go into CIP I think that's pretty much -- those three.

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

[Time: 01:37:11]

Councilman Phillips: Okay. Number three, salary adjustments. I would say yes this year. I think number four is a yes for next year. We're going to have to see how we're going to go and if we're going to continue or not. CIP contribution change. That's a yes too. Again where is the money coming from. We have 25% of the construction tax. Back in 2006-07 that was a ton of money. It isn't anymore. I don't know if we should put 50% of construction tax. And if we do that, we're taking out of another pot. It is hard to say let's add more to it if there's nothing to take it from.

Mayor Lane: Thanks. One quick question on the CIP contribution change or not. Do we have a policy as to what we carry in the unallocated balance?

Budget Director Judy Doyle: We have a policy that we keep 10% in the general fund reserve. It is 10% of our operating budget.

Mayor Lane: This is assigned; correct?

Budget Director Judy Doyle: We have a contingency that we keep. The policy related to the undesignated, unreserved fund balance just indicates that once we have replenished the contingency, or

reserve if needed, any remaining to will go to the capital plan, unless otherwise than directed by council.

Mayor Lane: We don't have any designated amount to carry on that. We can go to the maximum once we have done those other items that you were talking about. That's considering they've been drawn down. Some instances, those reserves haven't been drawn upon. Is that correct?

Budget Director Judy Doyle: That's correct. In the case of this year, if you recall, earlier in the year, our fire department came forward asking for, I think it is about \$1.2 or \$1.3 million for some of their protective equipment. This year we will need to replenish that back to the \$3 million that we typically keep that contingency at.

Mayor Lane: I think part of it is undetermined at this point in time. We know we need to replenish that. I would say any balance that's in there as long as we don't incur statement charges from the bank for having a balance lower than \$5,000 or something. I think we could move forward. We might even be able to work something out. In any case, we effectively will move everything that's in what I've been calling the unallocated reserve balance after the replenishment of the reserves.

Budget Director Judy Doyle: Yes, that's correct. Assuming some of the other decision points have been made when it flushes out, what's leftover, yes.

Mayor Lane: Of course we don't know yet what the balance is going to be. At this point in time.

Budget Director Judy Doyle: Correct.

Mayor Lane: Thank you very much. Thank you. I think we have got it set now. There's not another slide. There's no other questions. Even though as we've discussed, so I just want to thank you both very much for a very good presentation. And for your answers to the questions. And in hopes that you have taken those note and you've got the guidance and we'll be back talking about this again.

ITEM 3 – ETHICS REFRESHER TRAINING

[Time: 01:40:53]

Mayor Lane: All right. Our next order of business in this work study is -- I'm sorry, the ethics refresher training. Our presenter is going to be city attorney, Bruce Washburn. Do we have coffee at the table? No. I'm kidding.

City Attorney Bruce Washburn: Well. Just like with the super bowl and Oscars and Sadie Hawkins day, things that happen once a year, it is time for the ethics refresher.

Mayor Lane: Sadie Hawkins day? Mr. Washburn, you really have that.

City Attorney Bruce Washburn: Fond memories. It's funny. I've been using the graphic for years. I don't think we took a hard look at it before. You can see somebody is at the fork in the road looking at the sign post to go in three different directions. Although there's only two possible ways they can go. None of them tell you which way they lead. I'm hoping to improve on that. I'm going to -- I think I'll use

the graphic. I'm going to try to improve on the performance.

Mayor Lane: One is definitely off the road or off-the-path direction. That's got to be illegal.

City Attorney Bruce Washburn: There we go. Today we're going to talk about the items which I think probably are the issues that the council most often confronts. That's the open meeting law and gifts, and my favorite part of the program, questions.

So let's start by talking about the open meeting law. The attorney general's handbook basically talks about what is the meeting or what -- what has -- what things if they take place that constitute a meeting talked about the discussions, distributions, considerations, and things that may require final action by the council. There's no -- A.G. has said there's no hard and fast rule on what will require final action or decision by the council. Because you could be talking about things that you have no idea will be coming before you. And then there they are the next week. Or you could also be thinking you are going to be seeing things over and over again. And then they never come back. While there's no hard and fast line on that, my advice is always just to error on the side of caution. If there's a reasonable possibility that something will become in front of you, then consider that a matter about whether the open meeting law comes into effect.

I want to talk about what is deliberation. This is from an attorney general's opinion. It is the collective acquisition and exchange of facts preliminary to a final decision. And the significance of this is this is the kind of thing that can happen even though no council member is speaking or doing anything. You can be sitting in the room and get the collective change of facts.

The reason I wanted to emphasize this one this time is because of the issue about subcommittee meetings. I've got a question about this. I thought I would include this in the presentation. And the issue is what happens if you have subcommittee which has three council members in it and, okay, fine, we treat those like a separate public body and meetings and minutes and agendas and all of the things that are required for the public body. It is not for the whole council, just the three members of the subcommittee. What happens if a fourth member of the council wants to go to the subcommittee and come in and sit down and not participate or say anything but just sit there and watch?

If you go back to the -- what does deliberation that's the collective acquisition and exchange of facts. Arguably there's now a quorum of the council sitting there deliberating. I thought this was problematic. I did this last year. I called the woman at attorney's general office who is the open meeting of the law enforcement meeting, she said our advice is you should probably not have four members, because it would be a deliberation. I said, well, the fourth councilmember would pick up the minutes and find out exactly the same information if they were sitting in the meeting. That's what caused her to agree with me it was not clear cut. I'm going to say the safest course is not to have four members of the council at a subcommittee meeting. And if a fourth, fifth, sixth -- if other members of the council do attend, but all means, please do not participate. Because that's even more likely to lead to somebody perceive it as an open meeting law violation. Don't do it. Yes?

[Time: 01:46:17]

Councilwoman Milhaven: It seems to me there was a parallel of the community meeting. Folks present what they are asking council to do. Council members come sit in the back of the room and hear what the neighbors have to say about the project. There may have been -- I know there were more than four. Some of those we didn't talk to each other about the issue. We talked to neighbors about the issue. How is that different if four of us are there collecting information?

City Attorney Bruce Washburn: That's an excellent question. I think that -- I've thought about that. I mean -- you know, if all -- if seven are you watching television program, even if you are not in the same room, they said technological meeting are still meetings. You know, how -- I was going to say how ridiculous do you want to get, but that would be unkind. How far would one want to push this? I think it is the collective acquisition and exchange of facts if the public body is not collected together to exchange the -- require the information to change the facts. If it is just incidental to some activity -- I'm going to say that's the distinction that it is not the public body acting together they collective and exchanging. I don't know. That's the only way I can rationalize that. I think almost undoubtedly anybody would agree if a quorum goes to a public meet and you are not there working together and information coming up on something that you are going to -- that's going to come before you at some point that would be impossible to screen that out. Even if you can keep that from happening. You wouldn't necessarily all know you were there.

[Time: 01:48:18]

Mayor Lane: We might. We get information for all kinds of sources that we review and not collectively and not in total as a body. Certainly we're getting facts from all different sources, whether it is conversations with constituents or for applicants or otherwise, if we're not all together, it would seem like that would be the absolute determinant. We're not together. We're not communicating with one another necessarily. And --

City Attorney Bruce Washburn: One would think that should be it. Then you have to remember that, you know, the law is very clear that you cannot be all together through technology. But, yes, I mean certainly.

Mayor Lane: We have an obligation to gather information from all sources in order to -- as we do to the dais, we are prepared and have an obligation to do that. Whether we get it electronically or through the newspaper or through the council report or anything here in the city hall, we do it individually, it would seem like it is all right. If they say we would have a meeting, I'm wondering if that doesn't mean we could be sitting here on video screens rather than here in person and frankly with the teleconference kind of thing. I guess that's how I interpret that. I don't know if I'm more comfortable with that thinking. It would be an electronic communication of a meeting where we are operating as a collective body. If we are just getting information, you know, electronically and individually, we're in the respective homes and not talking to each other about it, that would seem -- it would seem obvious to me that doesn't -- that shouldn't be challenged.

City Attorney Bruce Washburn: I think that's right. You have to think about it as collective acquisition and exchange. There has to be a collective action for what the A.G. considers to be a meeting. So that's

why I -- all of the examples that you've given are fine. And the fact that we send out council reports, you know, before every meeting and why i think it is -- in terms of being with the spirit of the open meeting law and the fact they are available to the public at the same time they are available to council i think goes a long way toward meeting the spirit of the open meeting law. I also think the letter of the open meeting law because it is just information being provided to you. You are not collectively acquiring and exchanging it.

Mayor Lane: The question was raised not too long ago and, in fact, on a number of different occasions, when we express an opinion to the point in ways which we would vote as to whether that was a problem. I thought we got a decision on that. That's not a problem.

[Time: 01:51:24]

City Attorney Bruce Washburn: I'm going to talk about that in just a minute. Why that's not a problem and the circumstances under which -- what you have to do to make sure it is not a problem.

I did want to touch on one issue. This comes up all the time, including at this meeting. Directions to staff and this is the same advice I've given in the past. That is when you are agendized to give direction, what the council wants, I think you have a show of hands or whatever. As Councilmember Klapp pointed out, the direction is never a final legal action. You can give direction to staff to take a certain and bring back a certain action with the budget and all seven of you could agree that's the direction. All seven of you come back and do something entirely different. Just as long as it is clear. In fact, I think it is helpful to make that point when we're doing the direction to staff in those circumstances.

This is the one that you were just asking about, Mayor. The public forums. This is -- they changed the state law to accommodate a concern that had been raised by, i think, it is the A.G.'s office. But in any event, if council members go to the public forum and there's a quorum of the council there and you are fulfilling your duties, you know, as politicians and elected representatives, where you want to communicate with the public. The public has a right to know what you are thinking and what your positions are. It is part of the democratic process. There had to be some accommodation in the open meeting law for that. They basically changed the open meeting law that had a provision and says it is not a violation if a member expresses an opinion or discusses an issue with the public at a venue other than at a meeting, you know, agendized meeting or through the media or public broadcast or communication or through technological means. It is not a violation.

There are two caveats. The opinion or discussion is not principally directed at or to another member of the body and there's no plan to engage in legal action. I've given you this advice before. If you are at a public forum and, you know, there's a quorum there, or if it is even being broadcast even if it is not quorum at the public forum, if there's two of you up on the stage or whatever it is, and you are asked a question, don't speak to each other about it. Speak to the public. That's what this is for. And the one thing you should never, ever, ever do is start saying, you know, I could support that if you were support this. Once you start down that road and you start talking to each other, this provision and exception no longer applies. Honestly, this is, I think, a real common sense sort of thing.

You know what it is this is getting at what you are supposed to be able to do. You are supposed to be able to communicate with your constituents on matters and be able to do it even though the other

members of the public body are going to know about it. They are present or going to read about it in the paper. Just don't -- I know you wouldn't do this, use it to circumvent the open meeting law.

[Time: 01:54:50]

Mayor Lane: What about pre-voting an issue?

City Attorney Bruce Washburn: There's a political element. I'll let you decide. I don't give that kind of advice. On any matter where you are going to have a hearing, once you've said I pre-determined what the outcome of the hearing is going to be, I'm going to vote against them, I don't care what's present and presented, but frankly on your routine political matters that come before us, I think you could say, yeah, I made up my mind on this. Technically, legally, I think you can do that.

Mayor Lane: You can do that. It is not a due process issue?

City Attorney Bruce Washburn: It is not a due process if there's no process due. There's a process if there's a board of adjustment appeal coming to you. Something like that. Then, you know, that's the kind of thing that you need to hear the evidence and make up your mind or anything where it says we're having a public hearing on it. You know, we had a public hearing on -- if there's been any objections, we would have had a public hearing on objections to the underground district. That's one where you have to have the hearing and before you make your final decision.

Mayor Lane: If you were to make your feelings known ahead of time.

City Attorney Bruce Washburn: Then you can be precluded from acting. Because it is -- there's a whole -- last a complicated set of processes that go with that. You can be precluded from acting or if you do, you can raise the due process issues.

Mayor Lane: It is another issue. It is not necessarily. Some of us might judge it to be an ethical problem or not. It is not truly an ethical problem.

City Attorney Bruce Washburn: It is a legal problem.

Mayor Lane: Yeah. If you are violating the law, that's a little unethical, I guess.

City Attorney Bruce Washburn: Yeah. That's not ethics code. From my perspective sitting in that seat over there, it is a big due process issue. There's limited circumstances. There aren't that many. But there are some.

[Time: 01:57:02]

City Attorney Bruce Washburn: This is another thing that comes up quite a bit. That's getting items on the agenda. Both of them do not propose legal action. The attorney general said this. That, you know, you can have discussions about putting items on an agenda as long as that's all you are talking about. But it is -- you have to be very caution about that. Because it is very hard to talk about putting something on an agenda without pretty soon lapsing over into what you think you should be about it.

Some of them propose the items. You could propose it in such a way that it indicates what you are -- what it is you want to have done about it. Frankly the safest way to do it is to let somebody else poll to find out if they would be agreeable to putting on the agenda.

The way things get on the agenda is that you can make a motion during the Mayor and Council items to have something agendized in the future meeting. The reason you can do that is because the A.G. has said putting something on an agenda is not a legal action. We don't have to agendize that you are going to do that. You can ask the clerk to put on the Mayor and Council items that you are going to ask to have it agendized, just to give the future council members an idea of what's coming. Again you can't talk about the item until it is on the agenda or four council members can ask to have an item. Frankly, I think it is best to have the clerk or myself poll if you want to pull the council members on the agenda and let one of us call and see if they would be willing. That way you don't have to worry about accusations that you went beyond what's permissible.

There's another thing and another point that I want to make about that. Talking to other council members about putting things on an agenda. You can talk with other council members about all sorts of business as long as you don't put it on a quorum. That's what's called splintering the forum. Council member a talks to b and says, yeah, we should do this. A talks to c and they say yeah. C talks to d. You've splintered the quorum. Four people had a conversation and expressed the opinion you should do a certain thing. That's the violation of the open meeting law. I understand that it can make it difficult to do your jobs, because, you know, the more you can be prepared for what's going to happen in the meeting, the more you can have some idea where things are going to go and the more effective you can be and the more efficient you can be. The open meeting law is not set up to be efficient. It is set up to make sure all of the things happen in public. It would be more convenient. I wanted to give you a heads up on that.

Splintering the quorum. Texting during meetings. Just wanted to remind you that you have your own rules on this. I'm going to start with what the A.G. has to say about it. The attorney general recommendations the caution regarding the electronic communications during the meeting. As we've talked about before, deliberations exclusion. If you are up there during the public meeting, you are not doing it at a public meeting. So the A.G. said in the opinion they believe that texting and whispering even among only two members undermined the public confidence. But you have your own rule on this. Basically those rules are that during the open meeting part of the public meeting that electronic communication should only be used for accessing information that's already available and stored information on the device or on the city's electronic network and not to be communicating among yourselves and your rules also say during the executive session not supposed to have the devices open. Because at the executive session, --

[Time: 02:01:43]

Councilwoman Milhaven: It is such an intimate session I forget. When they are getting up to talk about the case and somebody gives their address, I like to go on maps and see how close they live to the property they are talking about. According to this, I shouldn't be doing that.

City Attorney Bruce Washburn: You should probably not be doing that. That's not stored information. That's a question you can ask them.

Councilwoman Milhaven: So that's our rule. Not other –

City Attorney Bruce Washburn: That's your rule. That's right. And like I said, the A.G. is giving caution.

Councilwoman Milhaven: I get the part about not e-mailing or texting or e-mailing anybody. I get all of that. It's been helpful to me if somebody says something and looks something up on the internet that's not about communicating with somebody but collecting additional information. So if that's not allowed, I would like to at some point maybe consider modifying our procedures to say as long as we're not communicating with anybody outside.

City Attorney Bruce Washburn: After each election, the city clerk and I go back and revisit the council rules. We'll be doing that this year. If that's an issue you want to have raised, bring that forward.

Mayor Lane: Wouldn't that qualify as stored information?

City Attorney Bruce Washburn: I don't think so. I don't think that's what is intended there. If you want --

Mayor Lane: Stored information on the device I presume.

City Attorney Bruce Washburn: Yeah. Right. If you wanted to -- if you wanted to be what you considered stored information. Like I said, it is your rule. I should add that during hearings, you wouldn't be able to do that. Whatever the information is on what you are basing your decision on at hearings has to be available all the parties. Like the hearing we would have had on objections at the underground district you can't get information separate from what's available in the record and base your decision on that.

Councilwoman Milhaven: So, if i can google something before the hearing and use it in my decision. I can't google it during the hearing even though anybody else can google the same thing if they wanted to.

City Attorney Bruce Washburn: No, you can't google it before the hearing and making a decision without making it part of the record. Your decision has to be based on information in the record.

Councilwoman Milhaven: That's impossible.

City Attorney Bruce Washburn: No. It is not impossible for the public hearing kinds of things like board of adjustments or hearings on objections. All of the information that you are relying on, all of the facts that you are relying on, have to be in the record so that all of the parties have a chance to respond to them. Now if what you are saying is you don't put every fact in your mind in the public record, that's true. You don't have to check your common sense or common knowledge at the door. Specific facts related to specific subject when you are having a public -- when they are having a hearing where they have due process rights, the parties have the right to know the facts on which you are basing your decision.

Councilwoman Milhaven: We have the zoning case. I go out and talk to neighbors and neighbors tell me what they think, I'm obligated to reveal what all of the neighbors think?

City Attorney Bruce Washburn: No. Zoning cases are not those kinds of due process hearings that I'm talking about.

Councilwoman Milhaven: So -- a lot of what we do is not that then.

City Attorney Bruce Washburn: Yes. A lot of what you do is not that.

Mayor Lane: Pardon me, most of what we do does not involve the due process hearing.

City Attorney Bruce Washburn: Everything involves due process of a sort, but they are not kinds of hearings I am talking about.

Mayor Lane: I know you drew the distinction earlier.

City Attorney Bruce Washburn: Where the parties have a right to know what all of the facts are and which of the decisions will be made. Let me think about that one. I need to think that through, because, you know, zoning applicants do have rights. I need to check -- I need to check up -- on that and get back to you on what process is due in the zoning hearing context. Make sure I get that correctly.

[Time: 02:05:47]

City Attorney Bruce Washburn: Now let's talk about gifts. This is information we've gone over a number of times in the past. It is one of the things that comes up most often. I want to make it part of the refresher. I want to remind you that the city council has two different codes they have to think about. One is the ethics code which only applies to the city council and boards and commission members.

The city ethics code from soliciting gifts of any kind and that can be anything from money to, you know, kinds of gifts that you are ordinarily think of to they are giving you preferential treatment. Just the kinds of things with the object and consideration. For anyone engaged in general practice for the city, that's zoning and that kind of thing, someone involved in the processes. That's somebody that has a contract before the council. You can't take any gifts from those people at all, unless they fit into the exceptions.

The exceptions are entertainment, hospitality, transportation, token momentums directly associated with events you are attending as a representative of the city. That's an important part. This has to be an event that you are going to where you get this kind of consideration. For example, having lunch with somebody is not an event. Even if you are there as a representative of the city having lunch with them, lunch in and of itself does not qualify as an event. You would have to buy your own lunch, basically.

If you do accept a gift, it is permissible and has a value in excess of \$25, you are supposed to use the declaration gift form unless it is a gift that does not require reporting under the other code section that applies to council member and also to everybody else in the city. That's section 14-135. So what does section 14-135 say does not require reporting? Well, let's start with it prohibits soliciting gifts for personal gain or payment for rewards and services, soliciting or accepting gifts that would be an attempt to exert improper influence. Those are pretty obvious.

Somebody sends you something that says, you know, I just think you've been doing a great job on the council. There's the diamond tennis bracelet or -- you know, whatever. If that happens, you need to call Ripley's believe it or not. Anything like that. That's basically a payment or reward for services. You are not supposed to accept that. Yes, sir?

[Time: 02:09:09]

City Attorney Bruce Washburn: In terms of value for the gift -- I don't know the question has come up with some people. A lot of us get invited to events that are dinners but they are really fundraisers. They public ticket price for it maybe \$300, including, you know, \$10 for the rubber chicken and \$290 -- is there anything that guides us in terms of declaring the value as just something in our minds that we declare the value or --

City Attorney Bruce Washburn: Yeah. Here's my guidance, the value is \$300. You can't buy the ticket for \$300. The value is \$300. What they do with the money after they get it has nothing to do with the value of the ticket.

Councilman Smith: And it has nothing to do with the value that you received for your \$300.

City Attorney Bruce Washburn: That's right. Whether you got a good deal or bad deal -- where the rubber chicken was worth \$8, it doesn't matter. It is still a \$300 gift. So I -- you know, I feel very strongly that's the correct answer to that question.

[Time: 02:10:21]

City Attorney Bruce Washburn: So what's not considered a gift? Well, things that you get that reflect the legitimate duties or purposes. They are not considered gifts. You know, this is one events that are sponsored or funded in whole or in part by the city. I want to remind if you get tickets to the events, they have to come from a sponsor of the event either the city or the sponsor of the person who is putting on the event. So, you know, we all get -- well, there's a lot of people that get Barrett Jackson tickets. They come from Barrett Jackson. That's fine. He's putting it on. If the chamber of commerce bought them, they are not a sponsor. That would not fit into this category of what's not considered a gift.

It can be -- it has to be reasonable hosting expenses for -- another is if you are speaking officially at an engagement or ceremony or some appearance on behalf of the city or if you are there serving some public purpose. In other words if you are appearing somewhere on behalf of the city. We've talked about this before. When you are there as a representative of the city as part of your official duties. And, you know, it runs the gamut. The easy case is you are on the program, it is a representative of the city of Scottsdale, you are introduced, you get up and give a speech. Fine, clearly you are there as part of the official duties. The other end of the scale is some big gala party somewhere. You are walking around. Someone asks what do you do? My day job I fight crime. You know, at nights and weekends I'm a city council member. I'm saying you are probably not a representative of the city at that point. It is a scale between those two things, and you have to use your own judgment and common sense on when you are there as a representative of the city.

I know you go to a lot of events where you are there as representatives of the city that you would probably -- I don't say wouldn't attend as city council members, but there's a reason you are there because you are showing the city is interested in the particular matters and you as a council member is interested in the political matter. I would caution you the mere fact -- fact that you got invited doesn't make you a representative of the city. It is because you are member of the council. The mere fact that you are there because you are a member of the council doesn't mean you are a representative of the city. You have to be doing something. The event whether the table is taken out. The council sits at one table. That's clearly there representing the city. The city has acquired the table or whatever. An event where other people acquire tables and you do as a guest and sit at their table. I'm going to say those events it is probably best if you are recognized as being there as a representative of the city. Again i can't give you a hard and fast rule on this. I need to use your own common sense and judgment on what you are representing the city.

Goodwill is hoping that you accept on behalf of the city. Accept on behalf means when you stop being city council member, it stays on the city. If you are in some circumstances and on the one hand, it is not anything the city is going to do. You want to leave with the city. It would be awkward to refuse it. Thank you very much. This is lovely. Then you can do item four and donate it to charity. I would just document for sure if you do that that you donated it to charity. If anybody ever raises a question about, gee, i saw that gave you a \$50 gift card which the A.G. has stated it not a token \$25 is not a token they said. Inflation may have taken care of that. Probably not. If you get a gift card, it is probably not a token. It is like somebody handing you cash. Donate it to charity and document. You know, somebody gives you food. You can do what we do and put it out somewhere for staff to share and tell everybody to have more chocolate than they know what to do. That's kind of the rundown on gifts.

The sponsored events, as I said before, these are events where the city has an agreement to act as the sponsor or co-sponsor. I do want to caution you not all events on city property is sponsored by the city. The city has to be a sponsor. People rent from us all the time. We are not a sponsor there. There's a current list for which the city is a co-sponsor. There might be things added throughout the year if you have a question. It is who I get the list from every year. If something comes up you think might need to be added to the list or if you have a question, you can contact Steve.

Okay. Any questions?

Mayor Lane: Thank you.

City Attorney Bruce Washburn: Thank you very much.

MAYOR AND COUNCIL ITEMS

[Time: 02:15:53]

Mayor Lane: Thank you very much. That does complete our business for the work study session. So i want to thank everybody for their participation and ask for a motion to adjourn.

Councilmembers: Move to adjourn.

Councilmembers: Second.

Mayor Lane: Motion has been made and seconded. All of those in favor --

City Clerk Carolyn Jagger: Mayor. We have Mayor and council items. I wanted to make sure we didn't have anything for that?

Mayor Lane: Oh. Okay. Mayor and council items. I didn't know we had them on work studies.

City Clerk Carolyn Jagger: This would be the time if somebody wanted to agendize something for February 7th, they would bring that up.

Mayor Lane: Oh. I thought that was -- already an item that we had --

City Clerk Carolyn Jagger: We need four council members to agree on it.

Mayor Lane: Okay. All right. Very good. With regard to surveying, they should consider it right now. What I would like to do is offer a -- an item to be agendized at the earliest possible date hopefully it would be February 7th a discussion and possible creation of the council and improvement plan subcommittee to review the CIP and make recommendations to council.

Councilwoman Milhaven: Second.

Mayor Lane: Motion has been made and seconded. Since we can't talk about anything else on it, I would just ask if we could have a vote on it. So the motion -- we had a second. All of those in favor, please indicate by aye and raise hands. Do we get unanimous on that. It is officially documented.

ADJOURNMENT

Mayor Lane: Okay. With that then, I will accept the previous motion and seconded. All of those in favor of adjournment, please indicate by aye. We are adjourned. Thank you.