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#### **CALL TO ORDER**

[Time: 00:00:01]

Mayor Lane: Good afternoon, everyone. Nice to have you here for the final meeting of our session this year. Going to be taking a little bit of a hiatus after this meeting between now and the end of the summer. So we will be here but less active. I would like to call to order the July 6, 2016 city council meeting. Start with the roll call, please?

#### **ROLL CALL**

[Time: 00:00:31]

City Clerk Carolyn Jagger: Mayor Jim Lane.

Mayor Lane: Present.

City Clerk Carolyn Jagger: Vice Mayor Kathy Littlefield.

Vice Mayor Littlefield: Present

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: Here

City Clerk Carolyn Jagger: Acting City Manager Brian Biesemeyer

Acting City Manager Brian Biesemeyer: Present

City Clerk Carolyn Jagger: City Attorney Bruce Washburn

City Attorney Bruce Washburn: Present

City Clerk Carolyn Jagger: City Treasurer Jeff Nichols

City Treasurer Jeff Nichols: Present

City Clerk Carolyn Jagger: City Auditor Sharron Walker

City Auditor Sharron Walker: Present

City Clerk Carolyn Jagger: And the clerk is present

Mayor Lane: A couple of items of business, we do have cards if you want to speak on any of the subjects or public comments. Those are the white cards that's being held up over the Clerk's head over here to my write. And if you have any written items on the agenda items, the yellow card she is now holding up over her head. If you'd like to fill one of those out, we will read those in the course of the proceedings.

We have Scottsdale police officers Tanya Corder and Jason Glenn here to assist you if you have need for their services. And the area behind the council dais are reserved for the Council and the staff but we do have facilities there under the exit sign on my left.

**PLEDGE OF ALLEGIANCE**

[Time: 00:01:34]

Mayor Lane: If you would, please, I would like to ask Vice Mayor Littlefield to lead us in the pledge and if you could please stand.

Vice Mayor Littlefield: I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

### **INVOCATION**

[Time: 00:02:07]

Mayor Lane: Thank you. Our invocation this afternoon is Student Pastor Joshua Newton of the First Southern Baptist church of Scottsdale.

Student Pastor Joshua Newton: Good afternoon. Let us pray. Dear lord, we thank you so much for today. We thank you for the city of Scottsdale, Lord, the council members. We thank you for your son Jesus Christ through his death and resurrection we could be saved. I pray for the men and women serving here, Lord, that you would continue to guide them, you give them wisdom, you honor them with their decisions, honor Scottsdale. You would bless Scottsdale, protect the citizen, in Jesus Christ's name we pray, amen.

Mayor Lane: Thank you, pastor.

### **MAYOR'S REPORT**

[Time: 00:02:50]

Mayor Lane: A little bit of a proclamation today for the Sister City's International day. And just wanted to share with you if you're not familiar with the Sister City's organization, it's separate from the city, but nevertheless, it's an organization that provides us a lot of International connection. We have approximately -- Kathy, you can correct me if I'm wrong, but seven Sister cities we have right now. And they're on a coming in from the parking lot, you can see them all listed there. We try to maintain great person-to-person contact with our Sister cities. It's been a great way to bind us in an International way. Frankly, a lot of positive things that come of those relationships. So we want to thanks the organization.

But in recognition of Sister cities International day, and I'll be giving this over to the president of our local chapter here, Kathy George in a moment, I'd like to read this -- whereas the people to people program known as Sisters city International was inaugurated in 1956 by the president of the United States Dwight D. Eisenhower to establish greater friendship and understanding between people of the United States and other nations through the medium of direct personal contact. And whereas Scottsdale Arizona has entered in relationships with Alamos, Mexico, Interlocken, Switzerland, Marrakesh, Morocco, Kenya, is proud to be a driving part of the Sisters City International global network of cities and through the relationships, Scottsdale Arizona encourages the sharing of ideals and programs regarding tourism and economic developments through an exchange of cultural diversity.

Countless city and county and state governments and their leaders have been involved in global relationships due to Sisters City International and whereas 2016 Sisters city International celebrated 60 years of global citizen and diplomatic action to support a future where there's world cities, communities, and citizens come together in common ground. Whereas the Sister City International is a fitting occasion to commemorate the significant impact the organization has made in building bridges across the nations, city, and communities around the globe in order to create a sustained world peace. It's an opportune time for Americans and the world to come together and show how powerful humanity can be when we unite to promote peace, progress, and prosperity for a better world. I, Jim Lane do hereby proclaim July 6, 2016 as Sisters City International day. Kathy, if you could come forward. I would like to present this to you.

**PUBLIC COMMENT**

[Time: 00:06:10]

Mayor Lane: The next order of business is public comments. This is a period of time when public comment is reserved for citizens involving nonagenda items where no official action will be taken on the items. Speakers will be limited to three minutes on a maximum of five speakers available at any time for this. There will be an opportunity for the end of the meeting if in fact there is a need for an additional request to speak in the public comment period. At this point in time, we have one request to speak. It's Louise Lamb. If you want to come forward, Louise.

Louise Lamb: Mayor Lane, council members, I'm Louise Lamb, I reside in Scottsdale. In the last four years, I attended many city council department and commission meetings. I learned a lot. I certainly have observed a lot. Like most people, I have an opinion on an issue. There are times when I've not been in agreement with the council but I feel each council personally was voting for what he or she feels was best for Scottsdale. Virginia Korte has always had the betterment of Scottsdale in mind. Over the years, she has continually verbally been attacked for her support of light rail and recently have become vicious. Vicious enough, I decided to speak in her defense.

I met Virginia while she was campaigning for city councilman in 2013. At that time, I disagreed with her on many issues but over the years I contacted her and had several one-on-one meetings to discuss various issues, one being light rail. From the start -- from the start, she said she'd like to explore all options for better transit, not just light rail. With technology all is improving, she wanted to keep all options open. Not just light rail. But she has been pegged for wanting only light rail. I don't know how many people have discussed the issue. She always answered my e-mails and phone calls and willing to discuss any issue, whatever I have in mind. She has given me a better insight as to the issues and I feel I make better decisions.

As for light rail, it has been said time and time again that it would need to go to the vote of the people. The final decision is not up to city council. But to city of Scottsdale registered voters. Consider this. Consider the number of Scottsdale residents who have not registered to vote. Also consider the number that are registered but do not vote. That in itself might be a problem. I value Virginia's loyalty to the city of Scottsdale and I value her friendship. Thank you.

**ADDED ITEMS**

[Time: 00:09:19]

Mayor Lane: Thank you very much, Louise. That completes the public comment for this part of the meeting.

We have a couple of added items and there's been a request by Councilman Smith to vote on them separately. So this is a request to vote to accept the agenda item as presented or to continue item number 23 to the August 30 or 31 meeting of the 2016 council meeting. Do I have a motion to accept item 23 on the agenda as presented?

Councilmember Korte: So moved.

Councilwoman Milhaven: Second.

Mayor Lane: Motion is made and seconded. We're ready to vote. All in favor, indicate by voting aye, aye. Register your vote. Okay. It will be added to the agenda as been presented on the 5-2 vote with Vice Mayor Littlefield and Councilman Smith opposing it.

Now the next item to be added. I might explain these items are being added within the time frame that we require within a shorter period of time that we require. The next item is to vote to accept the agenda as presented. Item 24, or to continue it. Do I have a motion to accept the agenda item as presented?

Councilmember Korte: Move to accept. Number 24.

Mayor Lane: Number 24. Motion is made and seconded. No further comment indicated. All in favor, indicate by saying aye. Aye. That motion passes unanimously. It will be also accepted on the agenda as presented.

## **CONSENT AGENDA**

[Time: 00:11:15]

Mayor Lane: So with that, we have consent items one through 20-a. I have no cards on any of those for further explanation. So we will move on to and ask for a motion to accept consent items 1 through 20-a. I'm sorry, yes, thanks very much, yes, there was a request to remove item 11. So it will be at this point in time to accept the motion to accept consent items 1 through 20-a minus item 11.

Councilmember Korte: So moved.

Mayor Lane: The motion has been made and seconded by council -- Vice Mayor Littlefield and seconded. No further comment indicated on this. Ready to vote, vote. That's unanimous on the items 1 through 28 minus number 11. Item 11 will be moved to a regular agenda item which is our next order of business. If you happen to be here for any of the consent items, certainly feel free to stay with us or to leave quietly. Thank you.

**ITEM 11 – FISCAL YEAR 2016/17 COMMUNITY EVENT FUNDING PROGRAM**

[Time: 00:12:40]

Mayor Lane: Moving on with regular agenda items. Now with item 11. Item 11 is fiscal year 2016-'17 community event funding program. This is a request to adopt resolution 10457 authorizing tax funding to be allocated for events to be identified in the fiscal year, 2016-'17 community event funding program and authorizing the Mayor to execute such agreement. And I believe we have Karen Churchard at the podium, welcome.

Tourism and Events Director Karen Churchard: Thank you, Mayor, hello, council members. I wanted to review with you. I believe we just slide -- to review some of the changes adopted by or recommended by the Tourism Development Commission at its May 17 meeting. There were changes to all three components, the community event, venue, and matching event advertising. What we're showing you on the slide here tonight is the first column shows what the existing funding is for community events because I believe there's some questions specific to that. That's item that we're discussing.

Prior to tonight, currently, we provide 75% of the funding is required -- provided up front for community events that are nonprofit organizations and 25% is provided after when they've fulfilled their obligations. We don't require advertising minimums and we have not requested the budget from them and the funding limits are \$30,000. Up to \$30,000 per event. What the proposed changes are is 100%. The funding we received after the actual event or events take place and that is consistent with the event venue and the matching event advertising funding. We also are requesting that 30% of the funding be of the money that we provide being used for marketing advertising. And now we're requiring a budget which we have already been doing with the other two programs. And, again, the funding limits still at 30,000 but if you were to do your event from May to December, you could receive up to 10% more per event.

With that, I will ask Steve to join me in answering any specific questions you have with regard to the changes that we're bringing forth through the vote by the TDC.

[Time: 00:15:15]

Mayor Lane: Thank you, Karen. Let's start with Councilman Smith.

Tourism and Events Director Karen Churchard: Thank you, Mayor.

Mayor Lane: Steve, you're taking the questions. Karen took the easy part. She's now running for the --

Tourism Development Manager Steve Geiogamah: Yes, hello, Councilman Smith? Council members?

Councilman Smith: Am I correct or am I understanding that most of the community events are done by charitable organizations, 501-c-3s or what --

Tourism Development Manager Steve Geiogamah: That's correct. One of the criteria objectives is that they are a nonprofit.

Councilman Smith: When you say on line one of the payments, that they'll get 100% after the event. Is there ambiguity? Is it conditional whether you still like them? Or –

Tourism Development Director Steve Geiogamah: We love all of our events that we sponsor and hold the event here. There's no ambiguity. It's consistent among most of the other programs that Karen had mentioned. We're looking at having the post event to make sure all of the contract terms are met as well as the payments that may be due to another city venue. They felt it was a good additional recommendation to make this year.

Councilman Smith: Consistency is not really a good thing. My understanding that the community events are put on with the organizations that don't have a bank account or the wherewithal to fund the event and hope they would be okay.

Tourism Development Manager Steve Geiogamah: It may be limited. We try to understand that and work with our events as much as possible related to some of the contractual obligations or their obligations and try to meet those. So in regards to this particular one that proposed 100% in the back end once all of the contractual obligations are met.

Councilman Smith: I am going to focus on line three. What do you mean budget is required? I don't see it as a big problem. I don't know what you mean.

Tourism Development Manager Steve Geiogamah: Additional information regarding events to understand the impact, the size. It's informational for the tourism and development commission and staff to have a view on the understanding the size of the event. The potential related to sponsorship activation and other things to consider as we go through this process and evaluation.

Councilman Smith: Just tell you my reaction. I haven't given as much time or thought to it as opposed to TDC did. It's an organization that may not have the wherewithal to fund the event absent what you have now, 75% up front funding so they can negotiate with vendors and so on. I'm not particularly persuaded by consistency because they're quite different producers in most cases. So consistency doesn't persuade me and I'm not really hearing anything else that persuades me. I'm not even sure that I'm persuaded that they should spend 30% of the funding request on advertising as a given. That to me that the TDC should look at the budget request and how they're going to spend their money and force the numbers too come out in different allocations at that time to fund the thing. It seems arbitrary, line two. That's the reason I pulled this item. I'm concerned with what it imposes on some of the charitable groups that put on events.

My recommendation, I think I'll make a motion to that effect, is that we keep the community event funding as it now is. For what you're describing up here as line one and two, the payments and the marketing advertising requirement. As far as requiring a budget, this it's perfectly fine. It's perfect to give the higher funding limit for it and season event but we're out of season event. That's my motion that we -- I guess we're not asking for a motion. We're asking for a presentation in the possible

direction. But the direction would be to do line one and two and to do line three and four and skip line and two, leave it the way it is.

Councilwoman Klapp: Second.

Mayor Lane: Second. That was seconded by Councilwoman Klapp. Would you like to respond?

[Time: 00:20:02]

Councilwoman Klapp: Yeah, I agree that this is pretty strict change for the nonprofit groups in community events. It doesn't take into consideration for the fact that they aren't making a profit on the event. Like the other two types of events, they would have less ability to be able to front this money. So i don't believe there was enough discussion related to this at the TDC meeting or with the potential applicants that would be coming for funding for community events of those groups so they would really -- they understood what was happening. So i think without enough discussion and notification and would appear to me not a good understanding of how these groups operate and whether they would even have the ability to provide to wait for their money until after, that's the reason I think this change is necessary.

Mayor Lane: Thank you, councilwoman. Mr. Washburn, would you like to make a point.

City Attorney Bruce Washburn: On the logistics of making the change, if we can do this with direction to staff with respect to this particular agreement, and bring it back -- bring back a change to agreement and put on the consent agenda, application needs to be made 90 days in advance. We'll have time to make this change and we won't lose the ability to fund any upcoming events rather than try to amend it here. We can make a change and bring it back.

Councilman Smith: That will be my direction. You've spoken eloquently to what I intended.

[Time: 00:22:07]

Mayor Lane: Okay, thank you Mr. Washburn. I just -- in consideration for this kind of change, I understand the profit. There's not many events for producers that are for profit event producers but they end up contracting out for for profit agencies to fund the things. The funding is a big issue. I know we have discussed this in the past, Steve, and I mean from the standpoint of where we have an obligation from an event producer on whatever level it is, and that obligation may be performance, but it may be performance not met which means they may not qualify for the allocation. I think that's part of the issue we've had here. In the past when they have not qualified for it after the fact, if we have already given the money on the front end, there's no recovery path for it.

Tourism Development Manager Steve Geiogamah: That's correct.

Mayor Lane: I don't know how much we've written off. That's the thinking behind some of this. That thinking was with the community -- with the event venue and the matching event advertising.



Tourism Development Manager Steve Geiogamah: That's correct. That's correct. It was based on to ensure the return on investment for the city. Some of the elements that came forward in the audit went through in the fall that particular direction was taken by the Tourism Development Commission in a series of meetings that took place in March, April, and May regarding proposed changes. There was discussion on each element of the changes that took place before presentation here of these programs.

Mayor Lane: Exactly. I'm sensitive to the idea that we may end up with an uncollectible item or something that we may have paid in for something that maybe doesn't even happen. We have that occasion too. The money has been paid and the event doesn't even happen. So I'm a bit concerned about maybe the split. But the other side of it is going 100% after in the current environment. We're not getting any easier on event producers. We're certainly getting a lot harder on event producers and the extent of risk they face on putting on anything in the city is raised to a much higher level. So on that basis alone, I suppose, I don't want to add another element of grief to the idea of whether or not they can actually hold one. We're exposing ourselves to a great extent with the 75% before and the 25% after. But that's my comments on it. Councilmember Virginia Korte?

[Time: 00:24:47]

Councilmember Virginia Korte: Thank you, Mayor. How many will this impact?

Tourism Development Manager Steve Geiogamah: In the community events? In the post payments? We have 15, 16 events who apply for the community event. We've seen that program expand over a number of years and the funding has gone up to \$30,000 per event which would increase our risk if the event didn't take place and some types could happen related to that. There are 15, 16 events and we spent close to \$200,000 this fiscal year on community events.

Councilmember Korte: Of those community events within the last year to two years, what are the past experiences in core performance?

Tourism Development Manager Steve Geiogamah: Generally good. We had two incidents where the deliverables on the backend, we could not verify them because the producer could not provide that information. We had to work hard to get that. Then another situation where there was a venue aspect. Still due a city venue that we provided funds up front but the venue had not been paid.

Councilmember Virginia Korte: And these recommendations come from the Tourism Development Commission?

Tourism Development Manager Steve Geiogamah: That's correct.

Councilmember Virginia Korte: And they vetted this after the audit which shows some concerns?

Tourism Development Manager Steve Geiogamah: That is correct. The Tourism Development Commission worked eight months on making the recommendations and adding contractual elements that had not been in the past.

Councilmember Virginia Korte: So I'm trying to find a middle ground here for a nonprofit to front all of the expenses of an event. Yes it may be a challenge. I do believe the city has fiscal responsibility in overseeing the funds and ensuring that the funds are utilized to the best that they can be. What is so -- we're not the only community with event ordinances. What's the best practice? Have we looked at that? Best practice across other cities?

Tourism Development Manager Steve Geiogamah: I'll let Karen address that as well. They vary by approach. Some follow some of the requirements we have consistently paying them back or paying a portion up front. But some of them pay up front as well in terms of expending their funds. But the criteria objective has been a little different. How we find out?

Councilmember Virginia Korte: So I understand that there's some direction on the table, although I actually like the -- the 30% funding request going to marketing and advertising. I think marketing can either make or break an event. And 30% is a small amount to all case towards that. Perhaps that -- and I'm putting this on the table, that right now we're looking at 75/25. Verse versus 100. Maybe it's 50-50. We accept 50% of the risk. I'm going to put that on the table. But I do like the marketing and advertising 30% recommendation. Just to -- I think it better the performance of an event for that advertising. So thank you.

[Time: 00:28:51]

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

Vice Mayor Littlefield: My issues are the same, having run small events and being part of nonprofits and knowing what the budgets are like when you do them, they're usually very tight. I'm afraid if we don't pay some of the money up front for them, some of the events won't happen. Or without the availability, they sign contracts, caterers, whoever they need to have to front the project, the event, they won't be able to do it. So we'd be making happen what we don't want to happen, which is to limit the usefulness of this money to the people who are putting on these events. So I would support a 75/25. My direction to staff is that we retain the event funding procedures as they currently are. I think holding back 25% is okay. Requiring marketing and advertising at 30%, that's \$9,000 of the \$30,000. That's pretty high amount. There may be other things they need to do depending on the type of event that it is, that advertising might not be 30% of the cost. So I think that's a little bit high. You could have a range there a little bit lower, perhaps.

But I have no problem with having a budget required and turned into the city. I think that's good. Information and backup materials on all of these would be helpful to us. But I definitely would primarily want to keep the funding as it is. Thank you.

Mayor Lane: Thank you, Vice Mayor. But we do have a motion of guidance to the staff with regard to retaining the community events' existing program as it is illustrated there. And we'll undoubtedly have a vote on it. If there's an alternative motion, we'll have to consider an alternative motion. So I don't know how close you are to that.

Councilman Smith: What she was saying was the motion. Keep items 1 and 2 as they are and change items 3 and 4. As displayed. Entirely consistent.

Mayor Lane: I thought you meant kept it the way it was. Sorry about that. Councilman Phillips.

[Time: 00:31:29]

Councilman Phillips: Thank you, Mayor. You talked to the events, there were 11 or 16 in the past?

Tourism Development Manager Steve Geiogamah: Correct, somewhere in that range.

Councilman Phillips: Have you reached out to them and see what they thought about doing this. Are they okay with it?

Tourism Development Manager Steve Geiogamah: We have notified -- we did verbal communication via e-mail prior to these changes, what would be taking place here prior to the May 20th tourism development meeting. I could be wrong. Just to make sure it's taking place. That's the extent of the communication regarding these changes.

Councilman Phillips: So they don't know about this?

Tourism Development Manager Steve Geiogamah: I don't know if they know about it. We deal directly with the producers. So most cases, there are 15, 16 individuals who would receive that communication that identified the proposed changes.

Councilman Phillips: You didn't hear back from any of them?

Tourism Development Manager Steve Geiogamah: We did not.

Councilman Phillips: That's pretty strange. It seems like such a big difference. You know, I was thinking of an alternate motion because I was thinking the same thing, maybe we should compromise it 50-50. But unlike the 30% of the funding requests. So I don't know if we'll go from there. That should be more like have them say that there has to be advertising marketing in the budget, but to tell them 30%, some might not need that, some need more.

Tourism Development Manager Steve Geiogamah: I think the intent of the recommendation as the comments were made was to ensure that they were driving some aspect of the gate. Marketing is important to this. And marketing destination to this particular program, which is important only to the residents and being made aware of these events but also our visitors in some way. That's the basis of the objective of the community and the funding of that program. I believe the commissioner's recommendation was based on that to ensure that took place. They do understand the events and trying to be flexible. So when he approached the reviewing of the events, the conclusion of it, we worked closely with producers to ensure that we're meeting their needs and putting on an event but ensuring that the city has a return on investment.

Councilman Phillips: It is it funny that it's in the consent agenda when now we're having all of these questions and discussion about it. It should have been in the regular agenda and discussed options to be doing this now just kind of seems like a mess. I can't make an alternate. I'm not happy with any

of these things. So I don't know where I'm at with this. I would rather have a discussion on this. I understand now when it's too late, like if this doesn't get through, then it will be hard to do the events. Or can they do it the way it was and get it done if we just don't adopt this this year?

Tourism Development Manager Steve Geiogamah: From these comments, we can move it to late August. Staff will move out this and make the producers aware of the discussion here this evening. Bring it back, we can make available the applications the next day following city council decision. As far as the vetting process, which we are putting more in the public process related to the Tourism Development Commission and city council, we'll do that as quickly as possible.

Councilman Phillips: So, the motion right now is to -- I'm sorry, what is the motion right now?

Councilman Smith: The motion is to keep item one and two as they are now. Permit the change to line three and four.

Councilman Phillips: So if we agree to that, that's what it would be. It won't come back for discussion.

Tourism Development Manager Steve Geiogamah: I believe it will come back on consent agenda before releasing the application, is my understanding.

Councilman Phillips: Oh. Okay. Thanks.

[Time: 00:35:47]

Mayor Lane: Thank you, Councilman, I think the process is a solid one, on consent. We all had copy of this. We all knew what was being brought forward. Folks on conversation, it's a healthy conversation to expose some of the reasons that the proposal for change was considered. I think our experience with the before -- payments before is probably more pronounced in some of the larger events at some of the major venues when we have much larger expense categories that needed to get paid to the city for the use of the venue but also the utilities and other services. Where we've seemingly get stuck.

And frankly, the budgeting issue, most of these not-for-profits, we didn't provide any of these funds more than a few years ago. So somebody was making it work without these funds. I am concerned as I said before, this would be the reason I would go with the motion as it is. Because I think the budget requirement is a good one. Anything that gets it to a seasonal deal as far as a change is also a positive one. But I'm very concerned about our current situation with just throwing another potential obstacle in the place of a community event and the community events are the ones that are going to be the most challenged, most challenged by some of the changes that we could vote. So I support the motion.

So with that, we have a motion and a second on the table for direction, for it to come back, of course. But we can take a vote on that just to make it perfectly clear. So I'll ask for that. All those in favor of the motion as it's been expressed, indicate by aye, opposed, nay, the motion passes 5-2. Thank you, Steve, appreciate it.

**ITEM 21 – STORMWATER AND FLOODPLAIN MANAGEMENT CODE AMENDMENTS**

[Time: 00:37:57]

Mayor Lane: Now the next regular, regular agenda item is the storm water and flood plain management code amendment and we have Ashley Couch, the water project manager here for a full presentation on this.

Stormwater Project Manager Ashley Couch: Good evening, honorable Mayor and members of the city council. I'm the City's flood plain administrator. I'm here to discuss proposed revisions to the storm water and flood plain management ordinance. The purpose of my presentation is to introduce the project and give a brief project history, discuss the major proposed changes to the ordinance in the public involvement phase, answer questions, and solicit feedback from you as well as the public. And ultimately request adoption of this revised ordinance.

To give you a little background, we were last before you in August of 2012 to bring forward phase one of what was to be a two-page project to amend our flood plain management ordinance. A number of regulatory agencies such as FEMA, the U.S. Protection Agency and the Arizona Department of Environmental Quality, had given us a deadline to bring forward federal and state requirements to the local ordinance to make sure it was consistent with the regulations of government agencies that had jurisdiction over us. So we did bring that forward at that time. And it was adopted. So that was namely revisions to part for one, which was FEMA flood plain management. And article 3, which was storm water quality. And then article 4, which is enforcement and article 5, interpretations of fields and variances.

So now we're asking you to consider the proposed revisions to phase two, the remainder of the ordinance which is primarily article two. Article 2 is not subject to regular agency review. So the city is able to adopt an ordinance. We're hoping to address minor issues with phase one.

These are a few examples. There are others. We need a FEMA-mandated flood depth definition. We're also proposing to eliminate language from our ordinance because it's in statutes because it is redundant and unnecessary. I want to emphasize no storm water provision would impact property taxes. It will allow greater flexibility by allowing interpretations and fields. This allows it city to consider innovative proposals that meet the intent of the code that are substantially equivalent to the provisions in the code and still protect the public against flooding. And we're also proposing to update the language to make it clear and concise.

The following is the summary of proposed major revisions. We completely rewrote storm water two, the flood plain management regulations, not subject to regulatory agency or review. This is the first major revision of the section of the code since 1988. We want to allow the environmentally sensitive land ordinance to continue to control the planning and the considerations of wash modifications. In this draft, we clarified storm water storage requirement, storm water storage waiver criteria. We're also proposing that the transportation director be given flexibility to allow considering -- to consider allowing rather wet or roadway crossings, water courses without culverts where there is no increased risk of structural flooding.

We're also proposing to move are move the drainage requirements which are prescriptive and detailed to the design standards and policies manual. First public involvement is concerned, we did hold a series of meetings with the ordinance workday group. We also conducted a public open house. We went to the development review board, the building advisory court of appeals. And while the proposed ordinance is prohibited, no board or commission member addressed any concern about the proposed draft.

So, in conclusion, what we were recommending this evening is that you adopt ordinance number 4246 amending chapter 37 of the city storm water and flood plain management more in the Scottsdale revised code and also adopt resolution number 10402 declaring chapter 37 the city storm water and management ordinance as a public record. With that, I'll entertain any questions or comments you may have.

[Time: 00:43:51]

Mayor Lane: Thank you for the presentation. We have one request to speak on this. If you can stand by, we have questions for you after that. And that one request to speak is Marilyn Andrews, she has an additional card from Donald Andrews. So if you would like to come forward, you have four minutes.

Marilyn Andrews: Mayor Lane and members of the Council. I'm Marilyn Andrews, I reside on Church Road in Scottsdale. And I represent the Pinnacle Heights Coalition LLC. This is just sort of the public record. We hereby request a continuance on the agenda item 21 storm water and flood plain management code amendment or the following reasons. And I'm -- the following reasons are all sectioned that in the ordinance that I feel are needed -- Mr. Couch is asked the definition of CFD and RFD. For death and regulatory flood death. These are not the code of federal regulations. The term is contrary to regulations.

There's Mr. Couch assigned FEMA regulations to local flood plain. It was not approved by FEMA for accuracy of requirements with the 90-day appeals period. This is -- this is an overreach of power. Article four, the enforcement, section 37-71, is very troubling because Mr. Couch gives enforcement authority to himself. Storm water quality coordinator and inspector. There is no mention of the code enforcement division having any authority. They should be enforcing codes, not someone from the storm water department, again an overreach. The code department in 08. It is now '16. We should ask how much money has been spent, hundreds of thousands of taxpayer dollars.

I will adjust a little comment that I just made with Patricia when they were here for their conference. And we figured that the staff has ordered from FEMA as with the know phase one, then phase two to follow. They met, five years had passed. And nothing had been done. Who determined the ordinance needed to be rewritten, and why? Especially since it goes far beyond the minimum requirement. None of the proposed languages in the document are cross referenced with FEMA code or federal regulations. That is CFRs, the adopted ordinance under the requirements of part 60 at CSI or -- well, it's going to be CFR. The state and city.

In addition, under section 3717. The term and item b references to the -- to the government's rate compliance, I'm just reading from the section here, that demonstrates compliance with the CLONC

which in translating it is a conditional letter of map change. These requirements then go on to ask the completion that demonstrates the CLOC requirements. Those should be stricken. Once you completed the project, this is indicating that you have to -- you have to -- again, you have to --

Mayor Lane: Your time is expired if you could please wrap it up.

Marilyn Andres: Okay. Well, with all of these irregularities, procedural irregularities, there's room for much confusion. I've just scratched the surface here. This needs to be continued. It needs to be vetted. It needs to be vetted by the people. The people were left out of it. They had a couple of outreaches. All we got -- we didn't get the glossy printout that the developers got. We got was' sells with pretty little pictures on them. And those' sells, I'll just give you an example very quickly.

Mayor Lane: I'm going to say, you're a couple minutes over, but please, very quickly.

Marilyn Andrews: When I asked Ashley to show me a picture of a culvert going under a driveway. And he considers that modification. Wash modification. It's not, it's a conveyance.

Mayor Lane: Okay, thank you very much, Ms. Andrews. That's the only comment we have on this item. And that completes the public comment then. Do we have any requests to speak from the councilmembers here? If not, I would I would ask for a motion. Vice Mayor Littlefield.

[Time: 00:51:13]

Vice Mayor Littlefield: I would move to continue this motion, please.

Mayor Lane: Motion made to continue.

Councilman Phillips: Second.

Mayor Lane: Seconded by Councilman Phillips. Have any comments or --

Councilman Phillips: I think there's a lot of questions that need to be asked and answered.

Mayor Lane: Very good. A motion on the table. Councilmember Korte?

Councilmember Korte: Thank you, Mayor. May I ask staff to respond to some of Ms. Andrews' concerns?

Stormwater Project Manager Ashley Couch: I would be happy to answer any questions. The first thing I wanted to mention was this draft was approved by FEMA and the Arizona Department of Water Resources. The major focus of this proposed update is to revise article 2, storm water regulation which I said earlier is not subject to regulatory agency review. FEMA, ADEQ, they have no jurisdiction on article 2. These are flood plain management and that has been completely rewritten.

We conducted extensive public outreach and we solicited input from the public. And we tried to strike a balance between all interested parties and come up with language that was acceptable as possible to all parties. So from my perspective, we tried to strike a balance between all of the parties in this draft.

Then as far as what was mentioned regarding article 3, I am not the City's storm water quality coordinator. That function has been moved to our water resources department, Kerry Wilson, and the water resources department is our storm water quality coordinator. So we do have a storm water quality permits and from the Arizona department of environmental equality and there's certain things required of the city to demonstrate compliance that we're doing our best to keep our storm water as unpolluted as possible. The jurisdiction of that lies in our storm water quality coordinator.

We are not making substantial revisions to this, this is FEMA. These are minor things. FEMA in the Arizona department of water research do have jurisdiction and regulatory authority over us regarding article 1. And both agencies reviewed article 1, the minor changes that are proposed, and they both have adopted and agreed with these proposed changes. So they're -- they've given us in writing a document saying we're okay to move forward and be compliant with all federal and state regulations with this draft of the ordinance that is presented to you this evening.

As far as not giving the same material, we did in the open houses bring a copy of this proposed -- the proposed draft for anybody that wants a copy and Ms. Andrews actually requested a copy. And I sent it to her by e-mail prior to the -- maybe three months ago. So she does -- so she does -- she has a copy of the latest draft. I sent it to her personally. If there are any other -- that's the best I could do from my notes. Are there any other questions or concerns?

Councilmember Korte: The last question, on the public outreach, how many meetings, what was the attendance?

Stormwater Project Manager Ashley Couch: We had two open houses, the attendance of the first I would say was about maybe seven individuals. We made revisions and we brought it back and had a second open house. We presented -- we advertised this in Scottsdale update on the City's webpage through, you know, a variety of channels. We did our best -- anybody that had participated in the public outreach meeting in the past was invited to the future meeting based on the mailing list. The last open house had one attendee. That was Ms. Andrews.

We did have a working group as I mentioned earlier consisting of local engineers and other stake holders -- community stake holders. Those who have the flood control capacity in the city. Those that work on private development in the city and other interested parties. And we had, as I recall, four meetings with the latest draft and a little bit of input was received, it was well received by the group. 15 individuals. These are prominent folks in the community that do a lot of work in the city. So four meetings with them. It was generally well received. We did not receive anything in regards to any major opposition. I can say that unequivocally. There are a few comments. We made revisions to address the input. And in the end, it was very well received.

[Time: 00:56:56]



Councilmember Korte: Thank you. I would like to offer an alternate ordinance and adopt resolution number 10402.

Councilwoman Milhaven: Second.

Mayor Lane: Motion made and second. Would you like to speak to –

Councilwoman Milhaven: No.

Mayor Lane: Okay. Any comments on the alternative motion? I do have two speakers, I don't know if it was on the original motion or this additional motion. Do I have the opportunity for -- Councilman Smith.

Councilman Smith: Thank you, Mayor. Without regard to either motion, I was just going to ask, it may not be clear to the listening public what the importance of section 2 or article 2 is versus article 1. It's always been my sense that the things contained in article 1 hammered out with FEMA and other regulatory bodies were the -- that was the guidance that was actually going to determine how we deal with flood issues. And I thought article 2 was a bit more of a housekeeping chore, but you can certainly explain it better than I can. What's -- should we be concerned about number -- article 2? And why?

Stormwater Project Manager Ashley Couch: Councilman Smith, that's an astute comment. FEMA has a number of regulatory plains in Scottsdale. Those are areas identified on the flood insurance rate maps as being subject to inundation in a 100-year flood. It is not a comprehensive citywide description of a map in areas subject to flooding in a 100-year flood. We have many medium to small-size washes where there are flood hazards in Scottsdale. But they're not mapped on the flood insurance rate maps. So they're not a FEMA regulatory flood plain. So we need to match those. We need to make sure that people are not building houses or businesses in small to medium-sized washes because number one, they'll be at risk of flooding. Number two, doing so may divert a water course on to an adjacent property that may result in an adverse impact to that property.

Another example of what's in article 2 that FEMA doesn't care about is the design of storm water storage basins. So retention basins and the like. So we have those throughout the city. They're required for private development that comes in. If they're adding impervious surface to the desert, that will generate more runoff and that would otherwise absent nip tin weighs due to the basins result in increased runoff to the neighbors which is a violation of not only state law, but it would be a violation of -- the violation of this proposed ordinance that we're bringing forward tonight. The provision of storm water storage basins is the code requirement that's in article 2, not addressed anywhere else in this code and FEMA doesn't care about it. It requires that when development occurs, that they build storm water storage basins such that downstream properties are not adversely impacted by the increased runoff that would otherwise generate from the paving of impervious surfaces. So that is another example.

The dedication of drainage easements is the example. FEMA doesn't care about the dedication of drain achievements. But if the water course meet ascertain flow of threshold, we have, for many

decades, required the dedication of easements to the city, which gives the city the right but not the obligation to go in and do maintenance and ultimately charge the property owner for maintenance. We would only do that in the event of a default on behalf of the property owner but it gives the city certain legal rights to enter the property and do maintenance work in order to protect the public against flooding in case an owner let maintenance get away from them and they refuse to comply with the ordinance.

Councilman Smith: Well, thank you. I think you're confirming my view has always been article 1 is how we deal with 100 year floods and that sort of thing and article 2 is our own issues affecting perhaps individual properties and perhaps multiple properties but not entire regions or neighborhoods that would elevate on the FEMA radar screen. I think that's what you're saying. Thank you.

[Time: 01:01:57]

Mayor Lane: Thank you, Councilman, Vice Mayor Littlefield?

Vice Mayor Littlefield: I won't be supporting the alternative motion, I'm sorry. But I have major concerns with this. One of them is there are awful lot of questions that are not answered and they need to be answered before they move this forward. One of my concerns is that as I read through this, and I did read through it, it really strikes me as an issue with the divide and conquer mentality. The responsibilities are provided in the departments and they move around and move around. And I find that to be concerning. Because when you have that kind of ordinance where various departments are responsible for bits and pieces of it, you can see the overall ordinance to achieve a work-around kind of attitude. I don't believe that's what citizens want. By dividing the responsibilities, no one is responsible if anything goes wrong. And deniability runs rampant in this. One example is that was given here tonight by you, sir, when you said that's not my responsibility, that's the water resources coordinator. There is an example of what can happen with this.

There's other questions about this that I would really like answered before this is passed. And so I won't be supporting the motion to pass it. I would like to continue this until we get the questions answered. Thank you.

[Time: 01:03:42]

Mayor Lane: Thank you, Vice Mayor. Actually, what are the requirements as far as these changes are concerned in regards to the flooding management and indoor FEMA? Is this a revision that is subject to their affirmation or their concluding, signoff, any of those kinds of things? Or are these strictly as you may have mentioned, at least for a portion of it, that some of the things that are at our discretion? At least the changes we're talking about here.

Stormwater Project Manager Ashley Couch: Yes, Mayor Lane. The Flood Control District of Maricopa County has no jurisdictional authority over the City's flood plain management ordinance which is what you're considering this evening. That being said, we did consult with them about this as a peer. They have a lot of expertise over there. They have their own drainage ordinance. And we have consulted with them about this. And received some feedback.

As far as FEMA is concerned, 95% of what's before you is not subject to regulatory agency review. This is what we deferred last time when we split it in two and we brought forward the regulatory agency. You can see it's a complete rewrite. We've done nothing to hide that. It's the last overhaul of 1988 and it was outdated. So we tried to bring it up to today's standards. That is a complete rewrite.

There were a few things done in a bit of haste to meet a deadline where we left out a few definitions or, another example we used man made instead of human cause. So there was a reference to sexist language in there, a mistake that we copied from the state model that we never corrected. We adopted it pretty much verbatim. I was raised by somebody on the working group. We said, you're right. We don't want sexist language, so we changed man made to human costs. Those are the kind of minor changes made in article 1.

Since anything was changed, we ran it through FEMA and they have given us their blessing of this version in writing. So it is compliant with federal and state regulations. No question about it.

Mayor Lane: Gave their blessing, but as you said, more of a peer-review kind of thing. Or is it something that's required in this process?

Stormwater Project Manager Ashley Couch: If you make any changes to article 1, you have to get blessing in writing. FEMA and ADWR did give us the blessing. They reviewed it. They reviewed the comments. They actually reviewed it four times. We addressed all of their feedback and eventually we got an e-mail from them indicating we approve of this draft. I can say unequivocally, this does meet the federal and state regulations regarding flood plain management and these are very minor changes. The major changes we did in 2012. These are minor changes.

Mayor Lane: That's what I understand. We went back and forth with the more major adjustments and amendments. As you summarize it from what I can see, the information that we have, these are not substantial issues that have changed. Now whether there's problems with whatever has preceded it within the code overall, that's something else again. But it may not be the subject of what we're talking about here today.

I don't know if some of the concerns that have been expressed whether they're outside of these, the amendments that we're talking about here, whether they were established and passed if I meant to say that. Were there any of the questions that were raised? Are they part of what was reviewed and okayed by FEMA and by the county flood district? Are some of those already done, asked, answered, and passed? Or were some of the objections and some of the things, the questions that were raised here involve these recommendations for change?

Stormwater Project Manager Ashley Couch: It seems the majority of the questions and concerns raised related to sections that are subject to regulatory agency review namely anything related to FEMA flood plain management.

Mayor Lane: Which means it's in or out –

Stormwater Project Manager Ashley Couch: It's in article 1. We're making minor revisions to article 1. Those minor revisions have been approved by FEMA and ADWR who do have jurisdictional authority over us. The state and the government do have authority over us.

Mayor Lane: I understand that. We're talking two ordinances, one is 2206 and one's 4142. They both declare -- one is to declare the flood plain management as public record. That's simply just declared as a public record. So what we're really talking about as far as any amendments or changes that took place, they took place in chapter 37. Related to the ordinance, 4246.

To my question -- What we're voting on, what we're discussing tonight how much of the concern is the lack of clarity, the missed terminology, whatever is seemingly part of a problem resolve in this? That you can reasonably ascertain from the notes you take.

Stormwater Project Manager Ashley Couch: Sorry, yes. I'm sorry I didn't answer your question earlier. So this is the entirety of chapter 37 of the Scottsdale revised code. And adopting this ordinance and the resolution accomplish one thing. That's amend or revise chapter 37, which is the City's storm water and flood plain management ordinance. This ordinance is broken into five articles. Article 1 is flood plain management which is FEMA and ADWR regulated. We have to get their blessing on any change. The changes to that are minor.

Article 2 is a complete rewrite. That's the stuff regarding detaining and local flood plain management. We have a minor or moderate sized wash. Someone wants to build in it. The regulations prohibit that. It's dangerous. We want to protect the public. That's article 2.

Article 3, no changes, water quality. Article 4 is enforcement. There's like one or two very minor things in enforcement that we wanted to clean up. And so we've done that. These were generated from the city attorney's office, namely Luis does the prosecution in civil and criminal cases. He mentioned we have things a little out of whack here we need to clean up. Really minor. We made those changes. Article 5 we brought in interpretations and appeals for local regulations, not just the FEMA regulations, that's what we're considering -- that's what you're considering this evening.

I hope I answered your question. If not, I'll try to elaborate.

Mayor Lane: The only thing is whether or not the concerns that were cited here in the testimony. How many relate to amendments made in whatever article within chapter 37?

Stormwater Project Manager Ashley Couch: All of the comments related to amendments to chapter 37. Nothing articulated outside of that scope that you considered this evening.

Mayor Lane: You minimized what we're looking at as far as the kinds of changes we've made. In some cases you're talking about the language changing to be politically correct. But there are substantive issues in here that are cited as a problem. That's what I'm asking. I know you took notes on it. I know you gave some -- I think rather astute answers to Councilmember Korte. So I'm wondering what extent the comments made -- quite extensive from Ms. Andrews, involve the kind of amendments that we made here?

Stormwater Project Manager Ashley Couch: Well, there were comments raised regarding all of the different articles of the code and some of those were in article 2, some of those were in other articles that are subject to regulatory agency review. The majority of what I heard is subject to regulatory -- were comments related to items that are subject to regulatory agency review and the regulatory agency themselves have approved this draft, had there been issues the regulatory agencies --

Mayor Lane: The distinction is made is that in some instances we've had the regulatory agencies already passed judgment and blessed this thing.

Stormwater Project Manager Ashley Couch: They blessed it in the past and blessed this version as well, the minor revisions they also blessed. This is it compliant with the federal and state regulations. Much of what I heard said was that it's not. But the regulatory agencies themselves have indicated that it is compliant.

Mayor Lane: Okay. Thank you.

[Time: 01:14:05]

Planning and Development Services Director Randy Grant: Mayor Lane? Perhaps I can simplify that? Many of the questions that were raised related to storm water management in general, including things that were already addressed four years ago in the previous revision. It's my belief that this is cleaning up the portion of the flood plain ordinance that is attributable to local control, it's not subject to FEMA regulations. In those instances, we've gotten FEMA's approval. It's the City's purview in how we want to manage the areas that are not regulated by the federal government.

Mayor Lane: Okay. Thank you. I lost track of what's on the table.

Councilmember Korte: To adopt ordinance 2446 and resolution 10402.

Mayor Lane: Very good, the motion is made and seconded. And I think I'm ready to vote.

Vice Mayor Littlefield: Mayor?

Mayor Lane: Yes?

Vice Mayor Littlefield: You want to wait for Councilman Smith to come back?

Mayor Lane: Okay. He just did. All right, very good. Welcome back, Councilman. We're getting ready to vote on the alternative motion. In any case, those voting for, indicate by aye, opposed, nay, aye. Motion passes, 5-2, with Vice Mayor Littlefield and Councilman Phillips opposing. Thank you for the presentation.

Stormwater Project Manager Ashley Couch: Thank you, honorable Mayor, members of the council.

**ITEM 22 – MONTHLY FINANCIAL UPDATE**

[Time: 01:16:04]

Mayor Lane: Next item, item 22. We have Mr. Nichols here, our city treasurer. And financial guru.

City Treasurer Jeff Nichols: Thank you, happy to be here and continue the good information on the financial update for this fiscal year, May 31, 2016. Keeping my comments brief. Things have not changed much month over month. If you look at the bottom left-hand corner, we enjoy a 3% favorable variance and fund operating sources here to date. Some of the things that I would like to point out, the negative variance and property taxes is just a timing issue, the 3% are \$600,000. We expect that to go away. The other negative variance down in building and permits are driven by right of way fees and development application fees a little below budget but being offset by plan review fees.

Looking at the sales tax, the 1% general purpose sales tax, a 1% deeper dive. You can see a 5% favorable variance focused on the large retail stores sticking with the theme of the negative variances and non-positive variances and the others that are significantly positive. Large retail stores, we feel it normal business fluctuations this time of year. But we've seen trends of on-line shopping increasing affecting those revenue sources. Miscellaneous goods and services, 16% positive variance. That's due to an adjustment. We reported we were having a disagreement with the city of Phoenix by a vendor coming through a vendor in Scottsdale. We finally settled that dispute with Phoenix and we got a rather large check from them. That's creating that positive variance.

We look down to the construction under business category. 1.8 million or 23%. We had a couple of apartment complexes. One-time audit payments. They were self-reported. It's not something that we caught. General fund sales tax. Year over year, we enjoy add very, very good month. Year-to-date, we're about 4.9% year to date when you take all of the positive months and blend them with the few negative months we've had this year. So overall may was a very good month for us.

Looking at general fund operates uses by category. You can see on personal services, a \$1.2 million variance. The vast majority of that is related to personnel services, staff hiring staff, staff is leaving. We're replacing them with staff that are not compensated nearly as well as the staff we're departing. You can see, again, a positive variance in the commodities and outlay of about 6%. A lot of this is continuing from what I reported before, the fleet cost, the fuel costs for fleet. Some of the timing, the jail services contract that we have with the county, the last bill we received was through March. So we've got a quarterly payment that the timing difference that we'll be eat up some of that favorable variance, report that later.

Some of the transfers out we had, I reported transfers through to health care fund for retirees, the program we stop and sent that payment over to the health care fund. Also for public safety disability medical payments of \$300,000. The other one is just the sale of property that the city received about \$700,000 for. We took it to the general fund and per your direction, we transferred it out to the capital fund. It's a one-time credit source. When you look at general fund sources now, we're getting to the year-end estimate. Forecasting a favorable variance of \$7.6 million in this important time. It's an increase of 1.8 million when we first reported last month. The category really guiding a all of that is the sales tax category. It's more robust than we thought so we'll continue to adjust this number through the end of the year. This is the last time we'll report it to you, however.

Then if you look at general fund uses, the year-end estimate while better in April, we reported, if you look down to the bottom right-hand corner, a negative variance of \$1.5 million, decreased to .8 million. We believe by the end of June, in the middle of the chart there, you can see contractual commodities and capital outlay. The departments are telling us they believe will enjoy a \$1 million positive variance. We believe it will be somewhere between that \$1 million and approximately \$3 million. We don't know exactly where. Again, some of it is timing issues. So we know we'll have to make those payments. Another part sometimes, departments are a little bit there -- they over anticipate their ability to spend their moneys towards the end of the year and don't really want to give it back to us. So we -- we'll have the final numbers in June.

Overall, general fund results, our year-end estimates right now, total sources over/under uses of \$6.8 million positive. Fairly good year. With that, I'll take any questions that you may have.

[Time: 01:22:16]

Mayor Lane: Thank you, we have questions. Starting with Councilman Smith.

Councilman Smith: Thank you, Mayor. Go back to the sales tax receipt and slide. My question is not particularly with regard to the numbers. We made a change, the state made a change to take unto themselves the responsibility for auditing taxpayers. A function that we used to have here at the city. And it's my understanding that even though they've taken this function unto themselves, they now have budget constraints that are causing cutbacks in personnel, whatever. Is this going to be cutbacks in the audit function? Are they going to be able to perform on their end of the deal? I guess I'd like for you to talk about what you see and the implications there for the city?

City Treasurer Jeff Nichols: Mr. Mayor. We still have an audit function with the city under the new program. You can request through ADOR to perform audits within our own city if the vendors to Scottsdale specific. We can also request to be part of an audit of a multi-jurisdictional audit. If we so choose, I don't know I was surprised by that article that came out in July 1. I hadn't heard that before. While they may be scaling back their audit function, we don't plan or intend to do that with our audit function. We're going keep our staff one area i do have concerns, it wasn't just audit, it was collections, ADOR indicated they didn't need assistance with collections. We have a robust collection staff that does a very good job as well. So we're going to be talking with ADOR and see if they would consider the possibility that we could work with some of those accounts as well. Since we think we do it better than they do. I don't think of this as an impact.

I heard that ADOR didn't have a robust audit function in the first place. I think if you look at it from standards, our standards were up here and maybe their standards were down here. We don't plan on changing our standards at all. So we'll work through that as we go.

Councilman Smith: Thank you.

[Time: 01:24:51]

Mayor Lane: Thank you, on the same line layoff of auditors and collections, one of the things that's going to be impactful for us as we transition entirely over to the reformed TPT program and they take on

the entire records, all of it. Which I don't know if that is slated for this year yet or not, but I know they're making headway on that. Is that -- is that --

City Treasurer: Correct, Mayor. They are optimistic and for the first time since about three years ago when I started on this project, we were actually hearing optimism from Lee Grafstrom out of the League who is not a very optimistic person. So it's a real possibility they may take over the function on January 1. The good point that we've driven home and it was through the legislation is their software will now capture the sales tax payments by location. We should get the data and that might lead to the ADOR to perform audits based on that.

Mayor Lane: Yes. And of course that was the stickler from the beginning. We insisted on having that location data because of our ability frankly in audits and in trends that we could monitor that. You've got the situation with ADOR that may not have particularly been the best at collections or at auditing. I know you were talking about by the motions of your hand, different standards and it was also the resulting effect of it. There's some conversation. I'm not sure they're looking to privatize that because of the inadequacies in the past. But in any case, we want to make sure we're protected here. If they're not doing it, we'll do it. I hope they can understand.

City Treasurer Jeff Nichols: We'll stay on top of that.

[Time: 01:27:14]

Mayor Lane: Thank you for the explanation on those items. I don't see any further requests to speak on this. So thanks again. But I do think that we have a request by our city clerk. The she would like to speak.

City Clerk Carolyn Jagger: Yes, thank you very much. I would like to read a clarification in to the record if that would be okay for item number four. Uncorked wine lounge State liquor license. We want to clarify this is for a series seven, beer and wine bar, rather than a series 12 restaurant.

Mayor Lane: So that's the change from the documentation we had here.

City Clerk Carolyn Jagger: That's correct. The council report had an error, it was picked up on the agenda. It was noted. Everything else in the packet is appropriate. We want to make sure that is council is aware of this change and we take care of that.

Mayor Lane: Do we need to take a vote on it?

City Clerk Carolyn Jagger: Not if you're okay with it.

Mayor Lane: This isn't a vote.

City Clerk Carolyn Jagger: The new owner is here, he's ready for his grand opening. He'll be happy to hear that.

**ITEM 23 – SKYSONG GROUND LEASE AMENDMENT**



[Time: 01:28:26]

Mayor Lane: The next item, 23 SkySong ground lease amendment. Martha West here, senior real estate manager for a presentation here.

Senior Real Estate Manager Martha West: Good evening, Mayor Lane, members of city council. I'll be presenting to you the proposed seventh amendment to the Arizona State University Foundation ground lease with the city as it's contained in the report before you this evening. Mr. Washburn just passed out a couple of amendments that I'll talk about after I go through the proposal as you have it in your packet up until about half a minute ago. At the completion of the presentation, I'll share with you two modifications to the seventh amendment and one modification to the resolution 10492 that -- that the council packet didn't contain that you have now before you.

The proposed action before you this evening is to adopt resolution 10492 and contract 2004-119-COS-A7. The seventh amendment defines the location and configuration with the City's remaining 1.5 acre excluded parcel within the SkySong project. It's shown in the current location on the Scottsdale Road frontage. The location as you can see is noted subject to change. It provides a location for the City's 1.5 acre excluded parcel. That's at the southeast corner of McDowell Road and Innovation Place. It's the area that you see outlined in red on the area before us.

The parcel has an approximate 440-foot frontage on McDowell Road and a 142-foot depth along Innovation Place. In this configuration, the parcel will have pedestrian and vehicular access from both Innovation Place and 74th Street. This will be accomplished to an access easement over the portion of the Arizona State ground lease just south of this 1.5 acre parcel. The ASUF proposal before you supports an opportunity ASUF would like to pursue to bring a hotel to the SkySong project. The hotel pad would be at the southwest corner of the SkySong project right at Scottsdale Road and Enterprise Drive.

What you see today is the result of a month-long dialogue. There were two initial approaches. I'll describe them briefly to you before we get to the approach that's before you this evening. The first approach is buying the parcel and leasing it to ASUF. This would be the site of the proposed hotel and would be located at the southwest corner of the SkySong site. ASUF under this approach would pay the city a prepaid lease amount equal to the cities -- to the parcel's appraised value. The project perimeter landscape buffer and southernmost road Enterprise Drive, impacted the site of the developable area of the 1.5 acre parcel. Additionally, the office building footprint, building four immediately north of that parcel, north of the corner, would impact the site because of the need to share in some service area between the two parcels and the access drive near the structure east of the parcel but would also impact this parcel.

The second approach which is discussed and is here before me will be to have the ASUF to purchase the parcel at the southwest corner of the appraised value of the 1.5 acres. However the closing wouldn't occur for approximately 6 months and it would be contingent upon ASUF completing a deal with the hotel developer.

Both of the approaches contained a property value concern that ASUF shared with staff. The appraisal is \$37 per square foot. It shared the hotel use at \$1.6 million. And both came in at the identical value of \$1.4 million or \$37 a square foot. 2.4, excuse me.

The main deal points contained in the proposed seventh amendment are as follows -- the City's excluded parcel is specifically defined on McDowell road so there is no more floating parcel. ASUF provides access to the parcel from Innovation Place and 74<sup>th</sup> Street. Amendment seven will be effective on or before January 1, 2017, and ASUF, existing surface parking easement on the McDowell 1.5 acre parcel will be taken away prior to the seventh amendment being effective. SkySong LLC currently has a parking easement on the land that is contained in that 1.5 acre parcel at the southwest corner of McDowell and Innovation Place.

City council has two action options perfect you this evening. Option one is to adopt the resolution 10492 and the seventh amendment before you tonight. This option has the effect of supporting ASUF's plans to pursue a hotel development at the southwest corner of the SkySong project. Option two would be to take no action to modify the ground lease at this time. The City's 1.5 acre excluded parcel would then continue to float within the SkySong project. That basically covers the proposal as it's before you except for the modifications, and if I can, I'd like to move from the power point presentation to the Elmo if I could. Brian, can I do that myself, or do I need -- it's there? Fantastic.

Actually, I think what I'll do first -- oh, this will work. The parcel that you have before you at the southeast corner of McDowell and Innovation Place actually has been changed in terms of its dimensions in order to become a little bit deeper and a little less wide. And the reasoning for the modification -- and it was really at the last minute, was so that this parcel would not include the utility corridor along Innovation Place as part of the 1.5 acre parcel. So parcel depth has been increased by approximately 7 feet and the parcel width has been decreased by approximately 18 feet, but the parcel size remains at 1.5 acres.

There is also a new section within amendment number seven, and it deals with commercial rent. That's section 5.2.3.6. ASUF will pay the city additional annual rent for a hotel use on the southwest corner of the SkySong site if ASUF enters into a sublease on or before July 6, 2017. The amount of the additional rent is 42¢ per square foot until the expiration of the hotel lease. So for example, that would be \$42,004 additionally annually for a 100,000-square foot hotel building for 75 years. The payment timing and the taxes payable are all per the existing ground lease. If ASUF does not enter into a hotel sublease by July 6, 2017, then there is no additional rent payment, but the seventh amendment remains in effect in all other respects.

There's a final modification that I would like to bring to your attention, and that is the modification to resolution 10492. There is an additional sentence added to section one. When we began to speak about the opportunity to take in additional rent, the question we wanted to put to our bond council was if we should have any concerns, and that question has not yet been answered, so we want to add this language to the resolution. This authorization is conditioned upon city receiving an opinion from the City's bond council that there is no adverse tax impact to the city.

That concludes the presentation. ASUF is represented here this evening. I'm sure they would be happy to present to you their ideas, but if you have questions for city staff, we'd be happy to answer

those. Thank you.

[Time: 01:42:45]

Mayor Lane: Very good. Thank you, Martha. We'll go ahead and hear from the applicant of ASUF.

ASUF Representative Don Couvillion: We don't really have a presentation. I think staff's presentation pretty much lays out the facts. We're here to answer any questions you might have to see -- we believe the hotel is in keeping with SkySong's master plan and the vision and guiding principles that were established in what we call the bible. SkySong, the citizens ad hoc committee guidelines that were done in 2005, and the hotel and mixed use characteristics of SkySong are something we create seriously to create a live, work, play, learn environment. We've been hoping for a hotel. The market is improving. We believe that a hotel will be a good addition to the project, and we also would like the idea of maintaining the ability for the floating parcel to finally stop floating so we can work around it, plan around it, and hopefully help the city to realize the value for that floating parcel in the future. If you have any questions, I'm here.

[Time: 01:43:56]

Mayor Lane: Thank you, Don. Why don't you go ahead and stand by. We may have some questions of you and of the staff. Let me just say that I think obviously as we have moved through our relationship with ASU Foundation with regard to this property, there have been some modifications. As we know, we're on the seventh one here. Thing is an important one when it comes to the one provision that was exercising way back when in 2004 and putting this together, this 1.5 acres was going to be floating around until we define where it would be. Up until this point in time, there has not been an occasion to take that step to define it. Some understanding that cloud and that rudimentary -- I think that was one of your illustrations, don, maybe, but that on the back of a napkin. The cloud that was indicated was something I suppose we live with.

And so with this effort, and ASU Foundation with this particular project, it's like a lot of other things. We certainly are looking for continued success on something that the city is heavily invested in, and certainly at the very same time, we are very interested in how we are able to exercise our control over the 1.5 acres that was set aside for the city to determine its own particular future for. So trade-off on this particular case is some recognition of the fact that we're relinquishing that clouded area and saying that this is something that will work. We also understand that you're under a deadline or at least there is a requirement for to be somewhat expeditious in a competitive market on what you're trying to accomplish here. So some of the gyrations we've gone through in part were due to the fact we wanted to try to keep it simple. But as it is, it sometimes it gets complex in trying to find that simple path.

But in any case, I find this to be a solution for some sharing as far as what may be happening on that property as far as the city and citizens recovering on that with the additional payments offered, and at the same time retaining our right to determine at some future date that 1.5 acres that we're now looking at. So it's a matter of, I think, a good plan to continue the progress that I think you have been doing, the ASU Foundation has been doing over the last several years now and in fine form. We'd like to keep that up.

With that statement, I'd like to just -- Councilman Smith would like to make some comments. You know, I'm sorry. If you don't mind, I do happen to have one request to speak on this. So let me go to that first. So Cylee Gutting.

[Time: 01:47:15]

Cylee Gutting: Good evening, Mayor and members of the council. I'm a member of the Scottsdale Gateway Alliance. It's a nonprofit organization dedicated revitalization of southern Scottsdale. We represent a broad coalition of residents and business owners in the area. The Scottsdale Gateway Alliance board of directors has met on several occasions with members of SkySong regarding the potential land use. After study and attention, the Scottsdale Gateway Alliance is fully in support of this plan and believes it serves the best interest of the local community. You should have received several e-mails from our local supporters expressing their individual interest. The Scottsdale Gateway Alliance feels this presents a legitimate opportunity to create an economic value in the area while at the same time offering a unique space. A rooftop deck space and public access to meeting room facilities are exactly the type of environment that a newer and younger community is interested in. SkySong is known throughout the community as a center for innovation and the use of this space is consistent with their innovative reputation. We feel the city can do better than just the norm and offer out southern Scottsdale community something that is truly remarkable, usable and, aesthetically pleasing and not found anywhere else in the valley. We strongly encourage your support of this plan. Thank you.

Mayor Lane: Thank you. Councilman Smith.

[Time: 01:49:00]

Councilman Smith: Let me explain why I didn't want to put this on the agenda tonight. The reason came out in some of the presentation there. I was suggesting we ought to delay this because we were handed a multipage amendment, number seven to the agreement, literally 30 seconds before we started deliberation. We reviewed what is a modified perimeter of the property, moving in a few feet one way or the other east or west and a few more feet. We talked about a rent number, which was a surprise, \$42,000. We all welcome new money. Then there's the caveat we may not be able to accept the rent because we don't even have a tax council opinion that says it's not going to jeopardize or ruin our tax-exempt bonds that were used to finance this property. So I really felt that there were just a lot of unknowns that would justify in most cases doing this in a more deliberate manner than trying to sit up here and react to slides on the Elmo and changing deal and whatever. It may change before I finish talking here, so I'll try to speed up.

I do applaud the effort to identify the acre and a half. I'm all in favor of that. In fact, I think it was my action and the action of others on this dais several months ago that gave direction to the staff -- go figure out where our acre and a half is before all the land disappears. In point of fact, most of you will remember that discussion or direction was given at the time that SkySong asked for permission to build a 90-foot structure on the corner of Scottsdale Road and McDowell. You can see it on the map there. It's the big yellow piece there that's going to be 90 feet high. And I don't think residents can even comprehend what that's going to look like until it finally starts going up. You go down there now, you see building number four, which looks huge, and that is 60 feet, I think.

So our effort was at least I'll speak for myself. My effort was to identify an acre and a half that could somehow be used in a public park sort of way to scoot back this 90-foot massive building and make it less in your face at the corner of Scottsdale Road and McDowell. I thought it would be a nice amenity for the people in the neighborhood. I thought it would be a nice use of the acre and a half. I wasn't really looking for a way to make money this land. If we want to make money, we have a lot of land we can sell up north and make money on.

I think I'm wondering who is in charge here. This is our land, which we have leased to ASU Foundation. And they're telling us where the acre and a half is going to be. I expected staff to come back to us and say we have negotiated, and here's what we've got for you. What I'm hearing tonight is the ASU folks saying is here's what we'll allow you to have, provided of course, you approve of us building a hotel down on the acre and a half that was sort of the bubble you had before.

To talk about some of the history of this, and many of you know the history, that this project goes back to 2004 when we entered into this partnership with ASU Foundation. And some of the documents that were before council at the time talked about how we were going to create a creativity campus. That's what we talked about it being back in July of 2004. It was going to be 90% of it office and retail, 10% was -- or office and research and 10% was going to be retail and support. And then we got even more flowery in the language a month later in August 2004, and we actually gave this thing, this 37.5 acres a name. It was going -- we called at this time technology and innovation center. Still a million 2 square feet of construction, 90% was going to be office and retail or office and research. I'm sorry again. And then the rest was going to be retail services. And when we finally did the agreement, that's when we got definitive and said this thing is going to be called by name the ASU/Scottsdale center for new technology and innovation. And it's going to be occupied by organizations and businesses that have as they maintain a character and orientation and a focus upon creativity, technology, and/or innovation. Or businesses that contribute to or enhance or support that definition.

That's what we did. That's what we hoped for. That's what we agreed to. And by the way, that's what the city invested over \$40 million to buy the property and another close to \$40 million to do the improvements on the property subsequently. It was a pretty substantial investment of the citizen's money in this ASU/Scottsdale center for new technology and innovation. And we had other provisions in there. The buildings would only be 60 feet high. That was fine. Plenty of land there to get your million 2 of construction in and still have parking and everything else. Becomes a little limited if you chew up the southeast corner with apartments. Becomes even more limited if you chew up the southwest corner with a hotel and another piece of the western corridor with a restaurant.

And all of a sudden, you wonder -- I wonder how some of these things fit into the definition of the ASU/Scottsdale center for new technology and innovation. Are they supportive? I suppose anything is supportive, depending on how broadly you define that term. Remember we have invested -- we the city, you the citizens have invested almost \$2 million an acre in this property. And when you allow apartments to be built there, I don't know who is the one that went to Mark Taylor next door and said we're going to build apartments here but not collect property tax on them, but Mark Taylor, when you build your apartments, we expect you to pay property tax. And I don't know who decided when we build the restaurant here that we're not going to collect property tax on it, but somebody has to tell the guy that just built Tate Brewery that he has to pay property tax. Now we're going to build a hotel, and it won't pay property tax either. So it'll have a strategic advantage over the private sector, and I

just -- I'm deeply troubled by the fact that this project is morphing into a project of competing with the private sector for hotels, for apartments, for restaurants, giving them a competitive advantage that the private sector doesn't have, and all under the auspices that this is somehow going to enhance this notion of the center for new technology and innovation.

Will it complement it? For sure it will. But that's not what we -- that's not what you as citizens or the council up here agreed to spend \$2 million an acre to do years ago. And the consequence -- you know the consequence of this. The consequences if you chew up the land for apartments, and you chew up for hotels, and you chew it up for restaurants, how are you possibly going to get the square footage that was agreed to for -- in the agreement for office and research dedicated to the technology, the innovation, the kinds of things we bargained for?

I can tell you the answer of how you get that. You build a 90-foot building instead of a 60-foot building. And you do it right at the corner of Scottsdale Road and McDowell, right in your face. And that's the reason I had a problem with that building when we discussed it several months ago. It's the reason why I'd like to take our meager little acre and a half and use it to somehow buffer the citizens, the residents, all of Scottsdale, buffer them from the imposition of this massive structure.

So I guess I want the public to understand we didn't -- I wasn't here, but this wasn't built to make money for the city. I understand that. I get it. This was built to revitalize southern Scottsdale, provide as we said, a center for technology and innovation. But I don't think the citizens are getting their money's worth when what we're using this \$80 million investment for is to build hotels, restaurants, and apartments. This idea of live, work, and play environment which was mentioned earlier in the conversation, that's great when a private developer is coming in with a piece of property and want to develop it, and we tell them if you want to develop this with an apartment, we've got to have the live, work, play environment. We've got have the composition. That's not what we agreed to do on this 80 acres.

And in the course of six amendments and now seven, we are getting further and further away from that original objective. Further and further away from having any kind of return -- and I'm talking about a social return, not an economic return. I think our economic return over the whole 12 years is less than half a million dollars. I'm talking about a societal return. And I don't see a societal return on a hotel that is subsidized with city land. We want a hotel down here, if it deserves a hotel, that's what the private sector is supposed to do.

I see it as a poor way to earn a return on the investment. I see it as unfair competition to the private sector that actually does put up their money, buy their land, pay their taxes. I don't see that apartments, restaurants, hotel, all those things, support the goal we had in mind. If we build a research center, the apartments, hotels, and things that are necessary to support that are built by the private sector around there, not by us, not using your taxpayer money. If we do this, we're probably going to look at a still greater height for some other building on the complex in order to achieve the 1.2 millions of space requirement. I don't see a return tangible or intangible to the citizens. I think it's premature to be talking about this. Even if we were talking about it in 60 days, I supposed, I wouldn't feel any better.

[Time: 02:01:43]

Councilman Smith: If we have two choices, I will make a motion that we exercise option two which is make no change in the plan. I find that highly preferable to what we're confronted with tonight. Thank you, Mayor.

Mayor Lane: Thank you, Councilman. Councilwoman Milhaven.

Councilwoman Milhaven: Thank you, Mayor.

Mayor Lane: Did you make a motion?

Councilman Smith: I did make a motion.

Mayor Lane: You were waiting for a second?

Councilman Smith: I was waiting for a second. The motion is to go with option two which is to make no change rather than option one which was to do the hotel and acre and a half and that sort of thing.

Mayor Lane: Motion has been made.

Vice Mayor Littlefield: Can I ask for an amendment for that motion?

Mayor Lane: You can make a statement.

Vice Mayor Littlefield: As opposed to option two, make no item, how about a continuance on that? Could you accept that until we get some answers to some of these questions?

Councilman Smith: I would certainly accept a continuance.

Vice Mayor Littlefield: Then I'll second your motion.

Mayor Lane: The motion has been made and seconded for a continuance. So I think we're then ready -- unless someone wants to speak toward that. Oh, okay. I thought you were done.

[Time: 02:03:17]

Vice Mayor Littlefield: thank you. Our 1.5 acres are now located on the northeast parcel bordering McDowell Road and Innovation Drive as shown there. There are easements on the site, and an SRP well is located in the easement area of the site as well as an access easement to that well. Also both on the setback area. This is amendment number seven for us, and this amendment is not contingent on the abandonment and relocation of the existing access easements regarding the well. And no agreement has yet been made with SRP regarding that. That's something that we need to think about and something we need to consider. No agreement yet made with SRP. Unless, since information is coming fast and furious on this tonight, do we have any additional agreements to date on this? I can ask you. On the well.

Senior Real Estate Manager Martha West: Mayor Lane, Vice Mayor Littlefield, there's no actual

decision at this point, but there's been considerable discussion with Salt River Project with our water quality, director here at the city, and with other interested parties this well site and easement is -- in order to monitor wells that are part of the north Indian Bend wash super fund site. And the easement was put in place in approximately 1990. SRP tells us that they no longer need to themselves monitor the wells. There is a private consultant who does that monitoring, and that will go on for some years. The location of the easement is actually at the extreme -- the wells are at the extreme northwest corner of that 1.5 acre site.

The easement, because it was dedicated at a time before ASUF and before the ground lease had an access from McDowell Road and the easement runs clear across the -- along the northern boundary of the 1.5 acre parcel. But because of the location of the wells and the fact that the parcel is currently looks quite different today that, easement can be routed from Innovation Place and up to the well site in order for the monitoring to take place that the well is going to need. So we know as a practical matter that the extent of the existing easement isn't necessary along the northern portion of the 1.5 acre parcel. I've gone a long way to answer your question. I apologize.

Vice Mayor Littlefield: So that's still under discussion basically.

Senior Real Estate Manager Martha West: That's correct.

Vice Mayor Littlefield: There's some other points i was looking at as well as some that Councilman Smith was speaking about. And that is it's a good thing that we're guaranteed access from both Innovation Drive and 74<sup>th</sup> Street, and that's guaranteed by the ASU Foundation. And ASU Foundation will remove the existing surface parking easement that's on that land right now before the amendment seven becomes effective in January. So that's good also. I don't have a basic problem with the land piece itself. I think SRP will probably come through and work with us, and all this kind of good stuff. There are not many choices left out there for us to pick and choose from for one thing. And much of the land has already been built up or has plans on it for future development.

However, another major concern I have right now at this point is no opinion has yet been brought forward regarding the status of our tax-exempt bonds. And that to me is huge, because there's a lot of bonds out there. It can make a huge difference to the city. I'm basically supportive, but I feel that these questions should be considered first. Just for the protection of the city.

We still don't know what we're going to be doing with this land if we get it, if this passes. And a continuance passes tonight, or if it's approved, regardless, either of those two things, we should schedule a discussion with the council and staff regarding what the alternatives are regarding this land, what we want to do with it in the future, and this should be done in the next council season regardless of what happens here tonight. And I will support a continuance for the reasons that I mentioned.

I would like questions also on some of the things that Councilman Smith asked about the usage and the office space and the innovation centers that are supposed to be going in instead of hotels, and why that is now a justifiable thing to do instead. Because I was there. I remember this was supposed to be an innovation center and a technology center, not a hotel. And there's a huge difference. So those questions, I would like answers before we pass it. So i will support a continuance. Thank you.



[Time: 02:09:15]

Mayor Lane: Thank you, vice Mayor. Mr. Biesemeyer.

Acting City Manager Brian Biesemeyer: That well isn't going to go anywhere. It's part of the super fund monitoring. What is debatable and what could be changes is access to the well site. For clarity there, the well site itself is highly unlikely that would move. But the access to the well site and that particular area can be negotiated and changed.

Mayor Lane: Thank you. Councilwoman Milhaven.

Councilwoman Milhaven: I can't help but think my colleagues' concerns are crying over spilled milk. The real purpose of SkySong was to be a catalyst for this part of our community. It was a humongous dust ball for years. And the neighbors surrounding it were begging the city to do something to catalyze the neighborhood as we city property values go down and merchants leave the area. It has certainly served its purpose as a catalyst. If over the last 20 years, it's going to also include apartments and hotels, I think bravo. We need to be flexible and respond to what the market requires.

In terms of property tax, which was a big concern of my colleagues, doesn't matter what gets and built here. A deal is a deal. We're not going to collect property tax on anything that gets built here. Whether it's office or hotel or apartments, we're not collecting property tax. That's part of the deal. That's not what is at stake here.

You know, in terms of being a catalyst, I was doing some research recently, and according to Zillow, the neighborhoods in south Scottsdale are appreciating three times faster than the rest of the community. While we can grouse about specific land uses of SkySong and heightened density and grouse about apartments, all of that is attributing to the economic vitality and improvement in the home values in that area. And I think SkySong can be attributed with some of that great outcome.

In terms of some of the we don't know, the well site is on the proposed hotel site. It's not really the City's problem. The well is on the -- no?

Acting City Manager Brian Biesemeyer: Mayor and Councilwoman Milhaven, it's not on the hotel site.

Councilwoman Milhaven: Where is the well?

Acting City Manager Brian Biesemeyer: It's off of McDowell. It's on the proposed site for the city.

Councilwoman Milhaven: How would that compromise our acre and a half?

Acting City Manager Brian Biesemeyer: It would constrain -- it would possibly constrain it. It's up by McDowell Road. It's very close to the road. But it's a constraint on that property as far as where a building could be built. I don't think it's a large constraint, but it is a constraint.

Councilwoman Milhaven: So foots an acre and a half, what is usable acre and a half of that lot?

Acting City Manager Brian Biesemeyer: I'll defer to Martha on that.

Senior Real Estate Manager Martha West: Mayor Lane and members of city council, if it helps, I can put up on Elmo site plan that shows you the parcel at the southeast corner of McDowell and Innovation Place, and you'll see clearly the location of the well site. We can talk about access for a moment. I think you'll understand that the amount of space it takes is quite limited and would not have a significant impact on the developability of the 1.5 acres.

Councilwoman Milhaven: So let me ask it a different way. We still have 1.5 acres even if we take away the area of the well and any access we need to provide?

Senior Real Estate Manager Martha West: The well and the access would be within the 1.5 acres. However, they are -- the wells are actually located at the extreme northwest corner of that parcel. And the access can come in from Innovation Place, which means it doesn't have to extend across the entire northern perimeter of the parcel the way it does today. If I show you a site plan, I think it really will help.

Councilwoman Milhaven: Okay. Please.

Senior Real Estate Manager Martha West: The well is at the extreme northeast corner. The current easement that leads to the well site is adjacent to -- very close to the northern boundary of the parcel. We know that was a historic easement that made sense when this particular parcel was part of the Los Arcos project. Today what we're discussing with SRP and the other parties is the potential to have the access to this particular set of wells come in from Innovation Place and up into the location so they can park a truck and do whatever they need to do to monitor that well.

Councilwoman Milhaven: So is there anything in the agreement that's contingent upon SRP releasing that easement?

Senior Real Estate Manager Martha West: No. There's nothing contingent for SRP to change that easement. The discussions we've had have been very positive, and we expect we can accomplish this. We also learned something that I should add here. And that is that there are many well sites around the city that do this kind of monitoring, and when the parties include municipalities as well as SRPs, municipalities do not typically provide easements. It is simply an understanding between the parties that that work is done. And so in other words, this easement isn't necessary for the city to continue to provide access to the third-party consultant who comes to monitor the wells. The easement will be important if the ultimate use of the 1.5 acres is in the hands of a private entity, if the city for instance were to dispose of the 1.5 acres to a private party. Then it would be important for that access easement to be in a place certain.

Councilwoman Milhaven: So this easement isn't a typical easement. Is that what you're saying? That yellow line, we're not obligated to keep that yellow line clear?

Senior Real Estate Manager Martha West: It's not -- the parties would not typically ask the municipality, like us, to produce that easement. It would be an understanding there would be a monitoring company consultant who would come to the site.

Councilwoman Milhaven: So let me put it a different way. Can we build on that yellow line? If we wanted to put a building on that yellow line or use that yellow line for anything other than a route, do we have the right to do that without SRP's approval?

Senior Real Estate Manager Martha West: At this time we would not -- I would not want to say that we have the right to build a building on that easement. As a practical matter, we discussed with SRP how the consultant currently accesses the parcel. We're told they drive in at the curb cut at the bank immediately adjacent and drive through the parking lot and park in the first available parking space. That tells you there's a lot of practical application to how the well site is accessed.

[Time: 02:18:01]

Councilwoman Milhaven: I guess what I'm trying to say what's our legal commitment to giving -- if -- and maybe I'm thinking about these all wrong in my mind an easement says this real estate must be made available to the benefit of the utility. If the utility says we need that even if we say you don't need that, they can say yes you can and they win. Maybe the city attorney can help.

City Attorney: I think you described it fairly accurately. The SRP has the dominant estate and has the right to drive a vehicle on that stretch right there. So we couldn't do anything with that that would be inconsistent with driving a vehicle on it. If you want to talk about theoretical possibilities, it would be possible to condemn it out and give them a replacement -- replacement access accident and there would be the possibility we could condemn it out for very little money. But I agree with Martha. It seems highly unlikely we would come to that kind of a disagreement with SRP over something where there's an obvious fix and where their contractor is already trespassing on the bank lot to and not using the easement at all.

Councilwoman Milhaven: Would there be any risk to adding a contingency to say that SRP would be agreeable to releasing their rights to that easement?

City Attorney Bruce Washburn: There's always a risk. And --

Councilwoman Milhaven: If what you're saying is practically speaking, they don't use it, and there's a better way now anyway, you're sort of ever sounds like trust me, they're not going to ask for it, but we're not going to make it contingent on them not asking for it.

City Attorney Bruce Washburn: It would be up to ASUF whether or not that would be a condition they would be willing to accept. And I don't think we're being quite as strong as saying oh, yeah, no, this is never going to be a problem. There's always some potential for it being a difficulty.

Mayor Lane: Don, if you want to speak to that.

ASUF Representative Don Couvillion: Councilwoman Milhaven, the easement, the SRP easement and the well easement were conditions of title when we obtained the ground lease. We've been able to develop around these things. We were in the process of talking to SRP to have the access easement removed. SRP was very willing to work with us and has been in discussions with the city and with us to actually relocate the easement from the location that's shown here -- excuse me. Over to coming in

off Innovation Place and coming in up here. So the impact on the site with that relocation of that easement -- of the access easement will be minimally impactful on the site. We didn't feel like we should -- we didn't feel like a condition to this should be ours, because this was already a condition of title when the ground lease started. And we believe very strongly that with ours and the City's relationship with SRP, we can get it removed and as a matter of fact we already started that. SRP was amenable and convened a meeting. We now know the process that needs to take place to get the easement released.

Councilwoman Milhaven: What would be your concern about making it contingent upon this?

ASUF Representative Don Couvillion: It's mainly timing. The hotel franchise agreement will probably go away before the process can get done. The city wants to probably do an RFP on this property and sell it or begin planning the use for it. We felt as though having a process that will continue to move forward with SRP, and we think can get resolved fairly quickly, not quickly necessarily, because it's SRP, but can get resolved with a minimum of controversy, that there's really, you know, no need to do that. And since we inherited that condition of title, you know, and we didn't insist that the city remove that condition of title before we took the ground lease, we felt that, you know, it was fair play to -- since it was an existing condition, to leave it in place.

Councilwoman Milhaven: What I'm trying to get to, the city gets an unencumbered acre and a half, Martha, you don't have a sense of net of that easement, how big that parcel is. I know you said a very small portion, if it's not an acre and a half, what is it?

ASUF Representative Don Couvillion: Can I point out one other thing before Martha answers that question?

Councilwoman Milhaven: Certainly.

ASUF Representative Don Couvillion: The setback is 30 feet back from curb. It runs a little bit past the midline of that easement.

Councilwoman Milhaven: Oh, that's --

ASUF Representative Don Couvillion: So most of the easement is in the setback in the front yard setback of the project. Upon I don't think the impact on that is, you know, too significant.

Councilwoman Milhaven: That's a different story. Is that right, Martha? Can you confirm that?

Senior Real Estate Manager Martha West: Yes, Don is explaining the situation in terms of the setback. There is a building setback that must take place between curb and the beginning of development. And that is 30 feet. There will be a portion of that easement is actually within developable land, outside of the setback area but not significantly.

Councilwoman Milhaven: Can you quantify "not significantly"?

Senior Real Estate Manager Martha West: I would say about half of it is.

Councilwoman Milhaven: Half of what?

Senior Real Estate Manager Martha West: About 8 feet. It's a 16-foot easement. 8 feet would be outside of the 30-foot setback, starting from the McDowell curb.

[Time: 02:25:08]

Councilwoman Milhaven: All right. I'm not going to split hairs any further. The other point I was going to -- so that point is -- I'll move away from that. I think the bottom line here is that this is all about where our acre and a half is. Any other conversations are really not relevant, whether or not we want a hotel here, we're not agreeing to put a hotel here. We're agreeing to claim our acre and a half which is what council member Smith wanted in the first place. Since it's a matter of identifying our acre and a half, we can decide later what we're going to do with our acre and a half. That's not contingent on this either.

I'd like to make an alternate motion to approve the resolution.

Councilmember Korte: Second.

Mayor Lane: Would the seconder like to speak?

Councilmember Korte: I'll take this opportunity and I appreciate the stroll down memory lane Councilman Smith, but I have different story to tell. The Korte family was invested in this for over four years, and we witnessed the rise and fall of Los Arcos. The Los Arcos went dark I recall in the 90s and then it was Bashas and then it was Oscos and then Los Arcos and then vacancies and a domino effect down McDowell Road and up Scottsdale and down Scottsdale Road, small businesses went out of business. Restaurants gone.

And for several years, this southern part of our city, the neighbors, and the businesses within this area dealt with real fear of unknown. It was a fear. I was there. We saw our property values tumble. And then, you know, the city didn't sit back, but some of the things the city tried to do, maybe -- well, one of the first renditions after the site was leveled was a Walmart and Sam's Club development. Some of us may remember that. And the city council at the time actually approved a subsidized project development for that Walmart and Sam's Clubs to the tune of \$40 million. It was a done deal. And if it hadn't have been for the leadership of the Scottsdale chamber of commerce leading a referendum, which was successful, we would have a Walmart and Sam's club on that corner and subsidizing it for \$40 million. Or \$80 million similar to what we're doing with SkySong.

We'll talk about return on investment. Two years later, I thought staff did a really good job. ASU Foundation expressed interest, and started working on what could be done on that corner. And when we talk about that return on investment, Councilmember Milhaven is absolutely correct. It was a catalyst for development this is a true infill project. It may not look like it sometimes. But it is a true infill project. As any infill project, we have to look that the differently and be more flexible. We've got to be more creative. That's what infill projects require.

So fast forward SkySong takes ground in 2005, I believe. And while maybe the catalytic nature did not take hold as we had hoped, we were dealing with a great recession, but look at us today. It is pretty phenomenal, and for us to be looking at that 1.5 acres worth \$37 a square foot is about 50% increase than it was the value than two years ago. I know. I was there.

You know, community development and community life and urban lifestyles are different today than they were 11, 12 years ago when SkySong was originally conceived as this innovation center. It's totally different. The current models, centers of commerce, and as we're seeing the concept of another center of commerce taking place at McDowell and 64<sup>th</sup> Street, that center of commerce is office, some retail, a hotel, and residential. And it's right -- which is here at SkySong. I believe that successful, sustainable, mixed-us projects in that model is what is required today for today's center of commerce business lifestyle. And I will be supporting this motion.

[Time: 02:30:01]

Mayor Lane: Thank you, Councilwoman. Councilwoman Klapp.

Councilwoman Klapp: I see SkySong as being a self-contained center, and it is a technology and innovation center because of what occurs inside those buildings and partly research and partly a variety of things if you have some of its own operations within the center. When you have thousands of people, and then you consider how the use of that property is -- how that property is used, you have to remember that they bring in to their facilities on a weekly basis many, many hundreds of groups of people for meetings and for discussions, a variety of things.

Some of these people are coming internationally, and so because of that, the way this property is used is ideal for a hotel. Probably one of the most ideal places to have a hotel, because they have a lot of visitors that come to the center. And they have to stay somewhere. So the hotel is a use that will be well used, I believe, by SkySong itself to house people who come and work there, visit there, get together there, whatever they do in those buildings.

If you go through those building, a concept that this is indeed an innovation center. All the businesses. I don't think we can argue that it's not fulfilling the promise that we had thought it would 10, 12, 15 years ago. It certainly is. It's exceeding the expectations of the community as far as the activity that occurs there. So the need for housing such as apartments, was necessary back when the apartments were built. The need for a facility such as a hotel to serve the needs of SkySong, the restaurants, thousands of people have to eat. And right now, they have a small little coffee shop, and kind of a small operation within one of the buildings. That's pretty much it. If people within SkySong want to get a meal, they have to go elsewhere. So there's a great need also for restaurants, which will also serve the neighborhood.

So I think that what is happening on this corner was with SkySong is pretty remarkable, and the fact that we've been able to identify a parcel that could be owned by the city and hopefully sell it, because in the discussions we had a few months ago, I was certainly a proponent for not having a pocket park or a park in general, because first of all, I don't believe that people would use it, and secondly, then the city has to maintain it. It would take our resources to take care of that land.

The best possible use for the 1.5 acres is to put it on the market eventually and sell it and get the income off it rather than use it for some city purpose which is not needed within this particular all-encompassing almost village you have on that corner. So a pocket park would be wasted. The hotel use is not what we're necessarily talking about today but the property that is identified to be owned by the city. I think it's an appropriate spot.

I certainly would not want to continue this. I think we should move forward, and I'm certainly in support of making that happen with the motion that was made tonight.

[Time: 02:34:08]

Mayor Lane: Thank you, Councilwoman. There's been a little bit of talk about the history here. I'll try not to recant some of the same things, but from a different perspective, I was here when we agreed to this particular contract with ASU Foundation, and I frankly was opposed to it. And I was opposed to it for some of the very same reasons that Councilman Smith talks about right now and today.

There is a little bit of desperation. That area had been nearly blighted condition with the loss of Los Arcos. We went through the Walmart and Coyotes arena. Not subsidized enough that the Coyotes decided to take 200 million in Glendale. We can see where that went. The bottom line was this was put together at great advantage certainly to ASU Foundation because of the fact they were taking risk in this. I'm not going to argue the points for or against that contract. I voted against and I stand by that.

One big thing that's happened in the meantime no matter who is responsible for how a McDowell Road corridor has been revitalized. We all have played a role in this, I believe. But one thing is we're a partner in this. And one of the reasons that we have amended this thing, six previous times was to make sure we were working with partners for the success of it. There were people on this council that would have frankly voted against things purposefully because they were opposed to it. And that's like shooting yourself in the foot. We had this investment. We had partners. We would have been crazy not to continue to play a partners' role with them. Because their destiny was part of our City's destiny. So it was important for us to do that.

Hotels have always been called for. It's within the agreement. It's always been talked about. I think that point along with anything else that might be sort of advantage competitively for ASU Foundation and the competitive market is a small one.

We the big change we made was with the apartment building. And frankly, we were relieved of some obligation, \$3 million in that allowance. But at the same time, we were, and they were, I think, I put a lot of stock in the team Dr. Crow put together to do this. No matter whatever else, they have done a fantastic job of continuing to push it. Much more so than any other research and development park or whatever they used to be called many years ago. They have done an outstanding job with it. God knows what we would have put up there. I mean, as far as the council is concerned or even as a city. That's not -- and I'm not even -- I don't even want to go there.

The fact remains we're working with some partners. They've done a good job to this point in time. They're on a timetable. We're trying to make sure we continue to facilitate the things that are

acceptable on that site. And see that the city, and the taxpayers get that small portion maybe, I might say, of what is due back to us on the basis of increased value for that acre and a half that was allot in the initial and also in the execution of that particular type of application. And I think that it's a good place to be.

As far as that easement, I'm looking at a long driveway coming in at a curb cut. Why SRP would have any problem saying we would have any problem with putting a curb cut here and coming in here. I don't think that's even an item to be concerned about. But at the same time, we have now, and this is what our initial effort was to be is to find where that acre and a half was going to be. Well, there it is. We did have some interest. We had some designation that it was on the same site as where the hotel is in order to facilitate a quick move and in some recognition we were looking at that piece of property. If someone had thrown up a plot plan of that other property, there are easements and all kinds of things that reduce its size to 1.37 or thereabouts. It's much more convoluted if we just tried to take ownership of it.

There isn't any doubt we're working closely with them because it's in our best interest. We want to make sure what the real advancement of McDowell Road, the enhancement of that economic engine down there continues. And they're a part of it. Yes, it was an interesting deal, and I didn't necessarily agree with all the provisions, probably not most of them. But the fact is we're here. It wasn't with my vote, but we're here, and it has done some phenomenal things for us, and I think we want to continue that relationship and make sure we have that partnership.

So I'm certainly going to be supporting the alternative motion. Councilman Phillips.

[Time: 02:39:48]

Councilman Phillips: Okay. Well, this is just to explain why I'm going to be voting for the alternative motion too. And probably everybody knows that I've been critical about ASU Foundation and SkySong for a long time mostly because it sits there like a compound. People go in and nobody comes out. It's not really a community place and I've been criticizing that point. Let the community be involved. Sitting down with them when they're talking about this hotel, they did mention the fact that there will be a family restaurant at the bottom, and it will be open to the public. So I thought well, there's some lemonade out of the SkySong.

And then it seems like this -- if I remember correctly, and other people have better memories than me -- I think where this acre and a half parcel -- that's where we started out. I think it was like three acres or 4 acres at the beginning and floating all the way around a circle and we ended up pretty much in the same thing. We got the good frontage property on McDowell. Whether we do something with it or sell it.

So I always wanted to see SkySong succeed publicly. I wanted to see it become part of the community. I wanted the community to be proud of it. I have always felt like it isn't. I always felt like it's its own little entity and it's not welcome to the rest of the residents in the neighborhood. I'm hoping this will help that fact. So that is why I'm going to be voting for it. I hope I'm not wrong in that respect. So thank you.



[Time: 02:41:37]

Mayor Lane: Thank you, Councilman. Councilman Smith.

Councilman Smith: Thank you, Mayor. I will try not to offend my colleagues here by talking about spilled milk or going down memory lane. We're getting a little personal here, but I reiterate, I have no problem with SkySong in terms of how it has met much of the original objective in terms of being an innovation center, and indeed being a catalyst for the neighborhood as many people have pointed out. I probably take a different view. I don't think a hotel is a catalyst for anything. I don't think a restaurant is a catalyst for anything. And I don't think apartments are catalysts for anything. That takes nothing away from what I think has been the catalyst and what has been a good thing. And it really to the extent we stuck to the original mission, it has indeed been a great catalyst for the southern portion of Scottsdale.

I don't agree that our only objective here tonight is to identify the acre and a half. If it were, we wouldn't all be sitting here talking about a hotel. Realistically, this is a package deal that we're being offered by ASU. We didn't negotiate it. Or did we? I don't know. Let me ask the city manager if I may, because the council report as everybody may have notice side not signed by any charter officer. So we got all kinds of charter officers here. Were any of you involved in this, in favor of it? Why did it come to us? Why did you bounce it up to us?

Acting City Manager Brian Biesemeyer: Mayor and Councilman Smith, due to the timing of the other than and ASU Foundation's request to get this in front of you, it was negotiated through staff. I didn't sign off of it. It's a policy decision for council to make. I was not integrally involved in this. I didn't feel I should enforce either of the options.

Councilman Smith: Does the city treasurer have a review one way or the other? It has financial implications.

City Treasurer Jeff Nichols: Mayor, Councilman Smith, I was not involved in the negotiations. I did express some concerns related to the appraisals of the parcels, both appraisals were done by our appraiser, and they're both exactly the same. I found that odd given the different encumbrances or different properties. I had concern about what we finally would get from this parcel thinking that council would eventually want to sell this parcel and what type of response we would get to an RFP if it was put out on the street. But I was not involved in the discussions with this agreement.

Councilman Smith: Well, the directive to staff many, many months ago was go button up where our acre and a half is. And now I'm hearing that at least neither of you and I assume Mr. Washburn, you were not involved in the negotiations either?

City Attorney Bruce Washburn: I was involved in them to some extent. My office was involved in documenting the agreement that was reached. And so to that extent, we were involved in that. In terms of it being brought forward to council, for what it was worth, my opinion was the council should have the right to decide whether or not to accept the proposal that was being made by ASUF as to whether or not you should accept it or not, I have expressed no opinion on that.

Councilman Smith: So you were involved at least in documentation but not in negotiation.

City Attorney Bruce Washburn: I was involved in them to some extent. Most of the negotiations were handled by the real estate department. Joe Padilla in my office was present during the negotiations, although his role primarily was to handle the documentation.

[Time: 02:46:17]

Councilman Smith: I'll say again, speaking for myself only, I guess, my goal, my objective was and that's what I thought we were giving as direction for staff was to button up where the acre and a half was. If I wanted ASU to tell me where the acre and a half was, I would have called Don or Sharon or somebody else from ASU and said where the hell is my acre and a half? They would have said yours is the one with the well on it.

I don't agree with the idea this is an infill project. An infill project is when a developer comes to you and as a parcel of land and has assembled it, and he wants to do something with it, make it better than what it was.

This is a parcel of land that you citizens own. And you own it because we spent the money to buy it. We spent your money to buy it. This is city-owned property. It is not privately owned property. And city-owned property, I'll say it again, fruitless as it may be, city-owned property should not be used advantageously and competitively advantageously to compete with the private sector for hotels, apartments, and restaurants. It had a purpose. It's done a marvelous job in meeting that.

We or they or this property have no business building hotels to compete with the private sector. And I guess we'll just assume that this is going to be our acre and a half, because that's what they have offered. And it's a little bit unencumbered with super fund and well sites. It's only half. The other half is in the easement. So I feel like I'm in the twilight zone here, so I guess I'll stop talking.

[Time: 02:48:20]

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

Vice Mayor Littlefield: Thank you. I just have a couple of quick concerns, Mr. Washburn. The bond issue about the tax-exempt status of the bonds we used to pay for this, do you have any time frame on that as to when you should expect to hear back on what when that's going to come back to you?

City Attorney Bruce Washburn: Based on past experience, it's probably a week to 10-day process to get the opinion from bond council.

Vice Mayor Littlefield: From now?

City Attorney Bruce Washburn: Yes. Actually the gentleman who works on it is not in the office this week. He'll start on it on Monday. I would -- based on past experience, usually sometime next week, we would get that response. I would like to make the point that this approval is conditioned upon getting a clean bond opinion. If we don't get a clean bond opinion, there is no seventh

amendment.

Vice Mayor Littlefield: That was my next question that that was part of the conditions of this approval. It does look like it's going to pass tonight. I wanted to make sure we didn't mess up our bonds here.

City Attorney Bruce Washburn: That's in the resolution.

Vice Mayor Littlefield: Okay. Don, I have a question for you. What is SkySong's eagerness here -- what is your time frame on doing this? Why does it need to be done so quickly?

ASUF Representative Don Couvillion: Vice Mayor Littlefield, the hotel developer that we have been working with we've been working with for a few months. There's been a merger between two of the major hotel companies in the U.S. Marriott and Starwood. We have been able to, through that hotel developer to obtain a franchise agreement with a Starwood brand hotel. And the franchise agreement is in place and our hotel developer spent \$75,000 to obtain that. So since we now have the franchise agreement, when the merger happens, there will be a big -- I went through a couple of mergers myself. On how to describe temperature it's a big descent of inertia on the two organizations. At this point the management of the company could make our life miserable in terms of the franchise agreement. We're trying get this done before that happens.

Vice Mayor Littlefield: Okay. That makes sense. As I say, I don't have a problem with --

ASUF Representative Don Couvillion: Oh, and one other item.

Vice Mayor Littlefield: Yes?

ASUF Representative Don Couvillion: If we hold this off until August, the franchise offer will expire anyway. They're only good for 60 days -- or 90 days.

Vice Mayor Littlefield: Ah. That's interesting. That does change things.

ASUF Representative Don Couvillion: We don't ask for fast timing unless we really need it. It's really been one of those things where we've -- it's just come on us like a freight train, and we really appreciate all of and you staff working with us to get this accomplished.

Vice Mayor Littlefield: Well, I'm still a little concerned that we don't have some of these answers. I would love to have them before we have to make this decision, but hearing that, which I was not aware of, I will withdraw my second, because if we're going to have a hotel on this, we want the best. So I don't want that to expire and then not have a franchise agreement. Thank you.

Mayor Lane: Thank you, Vice Mayor. Council member Korte.

Councilmember Korte: Mayor, I call for the question on the alternative motion to approve -- it is an alternative? Yes. Approve resolution 10492 and COS contract number 2004-119-COS-A7.

Mayor Lane: I don't even know -- we don't have any further comments in any case. The question is

called. And the alternative motion is on the table. It's been just expressed. Those in favor please indicate by aye. Those opposed with a nay. And register your vote. Motion passes 6-1 with Councilman Smith opposing. All right. Thank you very much for the information. And staff for your input.

**ITEM 24 – SPECIAL EVENT USER GUIDE**

[Time: 02:53:00]

Mayor Lane: We'll move on to our next and final item on the regular agenda. That is item 24 of the special event users guide. And we have Karen Churchard. We did have. I was going to say she was here earlier.

Tourism and Events Director Karen Churchard: Mayor, council members, good evening again.

Mayor Lane: Welcome again.

Tourism and Events Director Karen Churchard: I am here to give an overdue of our first edition of the special event user guide for you tonight. First I want to just go over -- this was a list of the items that were in the table of contents back in march when we went through the special events ordinance process. We provided you with a draft of what the special event user guide would contain. And these are the ten items that we listed.

The one item that I wanted to call attention to is the review requirements, because that is, I think, a lot of the questions we might have tonight pertaining to that area. So part of the review requirements, there's 16 categories that we will require the application to know about, and that we will need to review with them. And within those 16 requirements is the one that I know there's some questions on, which is the notice and notification for neighborhoods.

So following the adoption of the special events ordinance which did take into effect on July 1, our focus was actually compiling all this information from the different departments and areas to provide as much information for the applicant in terms of going through the permit and the application process. So the user guide process as part of the ordinance goes in this fashion. We first were required to draft it, and then it was to be reviewed by the city attorney and following the review and somewhat approval from the attorney's office, we were to file it with the city clerk, which then needed to be filed for 30 days in advance before it took effect. At that time we also posted on the website, and we sent out notification to all the people who participated in the public outreach process as well to the council that the first edition of the special event user guide was on our website.

Back in February when we did our work study session with council, one of the items we reviewed in pretty much detail and got good feedback from council was pertaining how we would do notice of application, from an application standpoint, if it included street closures and once the event was actually approved, how would it notify. Like when would we do that? Why would we do it? And who would do it? In two of the three cases, staff would be the ones that would notify I have at website and through e-mail notification. The only area that we left still to the applicant was if it had street closures. However, we still would notify that they applied and if they're approved. But it was up to them to

notify and get signatures from nearby neighbors and businesses that might be affected by that street closure.

So in review, the residents and businesses will receive notice of a special event as follows -- in the case of if it's a street closure, you will get notification by the actual applicant, and in the case of all events, whether they have street closures or not, the notification would be sent by city staff through an e-mail process as well as on our website and, we have a new added process that we'll be implementing which is the opportunity for somebody can opt in to an RSS feed, and they'll receive notification automatically once an application goes through our city process. In terms of what the staff will do, we will evaluate the information that's provided by the applicant, and anything that's received from neighbors or businesses in deciding whether the application meets the ordinance criteria in order to issue a permit. As determined on the staff by case-by-case basis, we may go and do a second notification if we feel that would be helpful in us making our decision. And then the applicant, again, would -- they would have to demonstrate they meet all the criteria is within the ordinance itself, including that the event's net aggregate impact will not be negative.

I want to mention on the new online application, the process, we ask four questions about the event. Pretty much at the beginning. One is basically describe your event. The other is tell us what all the different parts of the event will have in terms of components, retail performances, activities so far. The two final questions would pertain to the impact on how it would impact the neighbors and what the eventual event applicant will do to address any negative impacts as well.

And then in terms of next steps, we're just asking you to direct us to how to proceed with the implementation of the special events ordinance, which includes the user guide, and whether it's in its current form or any changes to council may desire, you want to mention any amended sections would be prepared by staff, and then we would have to post those for 30 days. The city clerk has it to be for 30 days before it would go into effect. Any sections that are not amended by or directed to be amended by council would be asked that those go into effect immediately now that the actual ordinance is in effect. I'll ask if there's any questions.

[Time: 02:59:43]

Mayor Lane: Thank you, Karen for that. We do have some requests to speak from the public. We'll go ahead and hear from them, and then certainly I'm sure that we'll have some questions from there. Start with Aaron Shearer.

Aaron Shearer: Hi. My name is Aaron Shearer. I'm with Green B Produce Farmers Market. We do farmers markets in communities here in Scottsdale. I currently reside in Washington. I no longer have an address here in Scottsdale because of the special events code and of the problems we've had in the past with it. Force forced to shut doors. Hopefully coming here in October I'll have an address to give you that's in Arizona. Currently at this time I don't have one. I have had a lot of problems with the special events code and enforcement of it in the past. The last two and a half years actually I've been battling with all of this. I was really excited to see that they were coming out with a new code and new handbook. Maybe there would be some guidelines of enforcing the code and enforcing the rules and restrictions you guys had. I'm sad to see that it didn't really touch on any of that. But-- within your handbook, it talks about restrictions on days.

A lot of the council meetings, you were promised and concerns about the farmers markets and being allowed to expend the 24 days or 10 days per quarter. And the staff said oh, don't worry, we'll put it in the handbook. There is no process for extension, meaning I won't be able to have my markets because I go over 24 days a year, and I go over 10 days a in a calendar quarter. They said that would be addressed in here. And it's not. I contacted Cheryl with special events and I also have talked with Randy Grant about the processes that are going to be held for those events on private property that will extend those days. And there's no options for us. People on private events on private properties don't have a chance. We can't extend it or appeal it or get a conditional use permit. We can't get a licensing permit because we're not on city property. If you go to get a variance, they take so long that it's not worth it. They promised there would be provisions that we can contest it or appeal it, and it's not.

Observingly I can have my markets in the first and second quarter but I can't come back for a second season because of the day restrictions. Now we have to apply for permits per quarter. So when the code says that, you know, it's 24 days in a calendar year for a permit, no more than 10 in a calendar quarter. The handbook says we are to apply for a permit every quarter. Now we have to pay a hundred dollars every quarter to get a permit. So if I wanted to have a special event throughout the year, you would have to get four permits for the four quarters and pay \$400 for a period of a year where before, I only had to pay for one permit and I got 48 events through the calendar year. Now we have to go every quarter to get a new permit which doesn't coincide with your code. Nor does it coincide what is in your fee schedule. Nothing is mentioned about getting a new permit every quarter.

Then we go into signage the very back. This is a problem I've had for quite some time with the code, with your signage code, and it's a matter of enforcing the code correctly. The signage section of the handbook doesn't really go into great detail what the criteria is in allowing signs and the criteria they do have listed hasn't been enforced before. Before it was no signs whatsoever. I don't care what it is. No signs whatsoever. So to kind of tell us that we can't have signs approved is kind of a long shot. On the space it looks good but it's not really going to happen. And that's a problem that I've been having. I hate to be back here in front of you guys again. Maybe they could change the wording in that and put in some sort of criteria of exactly what they are going to enforce versus just kind of make it so broad.

[Time: 03:04:13]

Mayor Lane: Thank you, Ms. Shearer. Next is Sonnie Kirtley.

Sonnie Kirtley: Good evening. Good night. Sonnie Kirtley, Coalition of Greater Scottsdale. Our address is on file. On page 14 of the user handbook, it's referring to the use of street public parking spaces and quote must obtain adjacent business or residential input. I wish this were quantified, because one of the major problems we've had if you recall the last two years ago, Craftsman Court, the notifications were simply a short distance. So for example, Dos Gringos just had to reach to the bar across the street and the vacant building and get support for whatever event they were going to do. When we talk about a construction project, we give notice to residents and businesses 750 feet distance. Please consider such a distance for notification. If I am on Craftsman Court, and the bars at the end are going to have a musical event or some special event and I'm one of the 40 businesses on up

the street, I don't need to be notified because my distance is too great. However, the impact is going to be there. So I would recommend that we get some empirical quantification of a distance that needs to be notified by the applicant or by the city. Karen's group has done a great job of coming up with several methods for the city to reach out to area merchant, those that agree to jump to a website or be notified by e-mail and taking time to watch for e-mails from an application. So Craftsman Court is an excellent example. We'll have more and more examples as our businesses turn over.

One interesting thing that just causes a great chuckle is page 10. It says that you're to contain your sound within the event footprint. When has that ever happened? I live more than a mile away from the entertainment district. I can sit on my patio and listen to certain D.J.s. How is this enforceable that raises the question. Is this users' guide information or enforceable? Thank you.

[Time: 03:06:53]

Mayor Lane: Thank you, Ms. Kirtley. Next is French Thompson.

French Thompson: Good evening, Mayor Lane, my city council members. I want to thank the city council and all of staff for all the work that's gone into putting together this new revised special events ordinance. I appreciate city council asking that the word "special" stays in it. There's a huge amount of work that's gone in it. I'm a little concerned there are a few things that have been left out. One of them is talking about the neighborhood notification. I think that I agree with Sonny Kirtley that 750 feet would be a much better radius to notify people that would be affected by these events. If the city takes on this responsibility, I think they should notify every single merchant, every homeowner that would be within an area, and I would definitely be getting those e-mail addresses and addresses for those people, because I don't think requesting people to go look at a website every day to see whether they're getting an event in their neighborhood is really an adequate way of notifying anybody. I think the timing of this stuff, I think, and adequate time at least 14 days should be given to collect all the input after the application has been submitted and the neighborhood notification is given and prior to issuance of the permit. I think disclosure would be the full event application and the attachment neighborhood input forms should all be made public and available to merchants and residents for review prior to issuing the permit.

As far as negative impacts, you guys have been involved with the negative impacts that have been going on with an event last couple of years. And I would certainly like to see that this special event ordinance addresses that, that there is a measurement of net negative impact should be determined by the staff, not by the event producer, due to the obvious conflict of interest. I think a definition of net negative impact, if more than 50% of the neighborhood input respondents state that the event would have a negative impact on them, then the event should not be permitted unless a negative impact can be resolved to the satisfaction of those being identified as potentially negatively impacted.

So, you know, these are some things that I think are little details I would certainly like to have the city council ask staff to include. I think from what I've seen, the pendulum has gone too far the other way. I agree that losing the farmer's market was never an intent of anybody who was initially talking about changing the special events. I think that was a positive thing. And we've got 2, 1, 0, seconds. So thank you for your time.

Mayor Lane: Thank you, Mr. Thompson. That completes the public testimony on that. If we have any questions of staff. Now is the time. Questions, comments. Councilman Smith.

[Time: 03:10:34]

Councilman Smith: I guess these are questions of staff. I know -- could you come back up to the podium and put up the slide that had the 3 columns, streets and no streets and whatever the thing was. And I know we must have looked at that when we talked about this before, but share with me why street closures are dealt with differently than other events -- events that close streets, why are they dealt with differently than other events?

Tourism and Events Director Karen Churchard: That was a recommendation we made. While we would still notify of any event application, we are asking for an additional step by those who want street closures. There's some events that don't require any closure of streets. We would still notify on those. We feel it's important there be human interaction between the event applicant and the actual merchants and in some cases residents where they would get signatures up front that there was a request for the closure of streets.

Councilman Smith: I think the human interaction is a good thing. But let me understand. Are you saying the city would be notifying everybody no matter what the case is? It's just you have an additional step here for the street closures?

Tourism and Events Director Karen Churchard: We would notify as I mentioned through -- you can go on our website and see any applications. We'll be sending out e-mail notifications -- right now we have 750 addresses, and anybody can be added to that address to be notified of any event application. Then we'll also notify events that have been approved. In the case of the street closures, again it really comes down to some of the bigger events like the Rock n' Roll Marathon that the applicant is required to notify.

Councilman Smith: I think that's good. But again, even though the applicant is doing some things, will the city also be pushing out a notice even on street closure items?

Tourism and Events Director Karen Churchard: We would still -- we would push out the application -- in the application, they would be required to show what streets would be closed. That would be part of the application we would push out, yes.

Councilman Smith: So if I'm a business person or whatever, I'm going to hear from the city on every event equally.

Tourism and Events Director Karen Churchard: Right.

Councilman Smith: If it's a street closure, I'll also get a knock on the door maybe.

Tourism and Events Director Karen Churchard: Yes.

Councilman Smith: I think it's important that the city have a notification responsibility regardless of



whether it's a street closure or not. We accept that responsibility. And the middle column looks like we're abdicating it to the applicant rather than adding the applicant to the process.

Tourism and Events Director Karen Churchard: And thank you for saying that. That wasn't the intent. The intent was just to show they were required to take an extra step if there was a street closure versus other applicants.

Councilman Smith: Okay. Somehow whether you clarified it in the manual or whatever, I think it should be clear that no matter what the event is, the city will make an effort to push out the notice, and then for street closures, expect a visitation or whatever. The net negative impact concept -- what slide dealt with that? You had something that talked about who was going to do that.

Tourism and Events Director Karen Churchard: That would be the applicant will unusually -- is required to answer some specific questions with the online application. And I mentioned that there were four questions that would be asked of them specific to the event that would assist us in making that decision. But the decision will be made by staff in terms of whether the event is net negative or positive. So we would do that first by learning more about the event. We have asked four specific questions and then offering that opportunity for those who had received the e-mails from you that they could provide input back to us about those particular events, whether they felt they were positive or negative.

Councilman Smith: What caught my attention and I don't remember what slide it was, but you have a slide in there that says something like the applicant will demonstrate that the event is net negative impact will or net aggregate impact will -- yeah, there it is.

Tourism and Events Director Karen Churchard: They'll do that through the application process by answering a number of questions.

Councilman Smith: They can demonstrate it all they want. You will be making the decision of whether or not it in fact has a net -- you or whoever you delegate this to. I would urge to you somehow make it clear that the applicant has a responsibility that the event have no net aggregate impact. But that decision will be made by the city, not by the application. Obviously they'll say my answer is good for everybody. Did you give consideration to the question that was asked by a couple of speakers here that the scope of your notification, the coverage be wider than what you have prescribed here? Because 100 feet or an adjacent street or whatever, seems fairly restrictive, fairly tiny.

Tourism and Events Director Karen Churchard: Yes, we have. I think that really comes down to an event by event. I don't want to get too specific. I mean in some cases 750 feet might be way too much and in other case, it might be too little. I think it would be case by case how far the notifications should reach.

Councilman Smith: Case by case doesn't give anybody very much to hang their hat on.

Tourism and Events Director Karen Churchard: I say case by case, because it really comes down to the size, the nature, the number of days, the hours that the event -- when the event takes place. So many things to consider. But we certainly would take direction from you in regard to that.

Councilman Smith: Well, I personally agree -- I thought it made sense of what they were saying of increasing the area of notification, particularly in this electronic age when it's just a matter of punching a button. You can notify everybody in town for that matter. I see very little downside to notifying a large number of people versus a small number of people. I think the notification, I don't know whether this is in your intent or not, but I don't consider putting it on the website as being notification. Folks that are affected are going to be trying to run a business and trying to make sales. It'll have to be more of an affirmative action.

Tourism and Events Director Karen Churchard: I agree. That's why we're doing two steps. We'll be sending out e-mails. Right now the plan is biweekly, and we also will be showing how you can go on your own computer and sign up to RSS feeds and every time an application is sent, you'll get an e-mail immediately sent to you.

Councilman Smith: Thank you.

[Time: 03:18:04]

Mayor Lane: Thank you Councilman. Councilman Phillips.

Councilman Phillips: Thank you Mayor. So since this says presentation, discussion, possible direction to staff. I am sad to see that the farmers markets fell through the cracks there so I think we should add a provision for the farmers market extension. And the four quarter permits. Perhaps we can do an extension fee instead of making them go through the process four times that does seem to be that is what you already once you are in the queue you should be able to continue with it. Signage criteria does need to be defined. The notification distance, I have to agree that should be case by case. If some of these events is going to be a chess tournament, I don't think people 750 feet away are going to care they aren't going to make any noise. It does matter what the event is. A 14-day input before issuance of permit I think is a good idea. The other one was the responsibility measurement of net negative aggregate, you answered that question. So that is what I am looking for. Thank you.

Mayor Lane: Thank you, Councilman. What was the last item you mentioned?

Councilman Phillips: Net negative one?

Mayor Lane: Yeah. What is it you were looking for on that one if you don't mind me asking?

Councilman Phillips: Well, just it should be determined by staff, not the event producer and Councilman Smith brought it up and she said it'll be staff.

Mayor Lane: If it matters just for the record, and I know we're not handling this -- we haven't chosen to handle this in the same way we did and that is making a motion for some specific changes. I would certainly second those items specifically, I think. Okay. Thank you, Councilman. I didn't mean to interrupt your stream of thought there.

Councilmember Korte.

[Time: 03:20:17]

Councilmember Korte: Thank you, Mayor. When we were talking about this before, I don't know, it was 2 or 3 months ago, the restrictions on dates, I specifically expressed concern on the impact of the farmers market. And staff assuaged us that farmers market would have a special deal, and they could continue, because that certainly is an icon in our downtown every Saturday morning in the winter. So tell me what happened and I'm sure that you're looking at fixing this.

Tourism and Events Director Karen Churchard: The farmers market in the downtown is a separate farmers market than the person spoke about earlier. But to answer your question, we are working right now with the downtown farmers market in a partnership with them. We're working with the legal staff in regard to that. So we are working on that, and we can certainly address the other concerns and questions that came up this evening as well.

Councilmember Korte: So the other farmers market here -- where is that located?

Tourism and Events Director Karen Churchard: In north Scottsdale on private property.

Councilmember Korte: On private property.

Tourism and Events Director Karen Churchard: It's a different deal. It's totally different, yes.

Councilmember Korte: Thank you. When we look at some of these additional staff activities, have we put a cost to that? Is staff able to absorb these additional activities as defined? I know you don't have a large staff.

Tourism and Events Director Karen Churchard: We have 6.5 people that work with us. So we are small but mighty. We have been working on that -- how we would administer this. We were able to hire a part-time person that is not through the city that is going to help with this. But depending on how much direction we get from council in terms of how much we need to notice and notify and how, I feel comfortable with the way we're presenting it today. If that were to change and require a lot more, then I would be concerned about the staff being able to handle all of that information. The other thing I really want to quickly point out, it was mentioned or recommended that we allow 14 days for the notice notification. Right now we have that in a 10-day window. We would have really have to work lean and mean within the ordinance that was identified to meet the requirements we have set out for giving answers to the applicant as well as allowing the community to certainly give us their input on whether they feel that event is positive or negative.

Councilmember Korte: Thank you.

[Time: 03:23:12]

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

Vice Mayor Littlefield: Thank you, Mayor. A couple of things as I went through and read the item with the user guide. On page two of the council report under analysis and assess am, you mentioned

that the guide is intended to cover the applicant requirements and not the city responsibilities. And I think this is causing some confusion for a number of especially new people that come in. Perhaps it could be considered to add some notes about the city responsibilities on that, and the reason is if it's causing confusion now, it's going to cause confusion in the future. It's not going to go away. I think this would be a clearer process for people as they move through the process, and there would be no surprises that way. And a good example of this is like on page three of that user guide, where you have city staff will bloop bloop bloop, applicant will bloop bloop bloop. It's very clear and concise and very much to the point. So something like that, at least in the areas that are starting to come up with a lot of questions. Maybe that could help something like that.

Tourism and Events Director Karen Churchard: Thank you. I agree.

Vice Mayor Littlefield: The city should be responsible for notifications, any and all that are under this ordinance. The city collects the names and has the e-mails, so it's reasonable to have that extension that you're already doing. This I think also involves notification of street closures. That is an area which when I read was a little confusing as to what was doing what there. I think the city needs to take the lead in that. There's no real reason to make a distinction between these two types of events. One with or without a street closure except possibly to expand the notification perimeters as needed according to what streets are being closed.

On the slide, you say the applicant will demonstrate that the event will meet all criteria in the ordinance including the event's net aggregate impact will not be negative. To demonstrate that is okay, but it also needs to be measured quantitatively, and it needs to be decided by staff, not by the applicant. And not by the event producer if it's different. One measure seems reasonable to me is the 50% measure. If the input you receive is 50% more positive, no negative impact. If it's 50% or more negative, then there's a problem that needs to be fixed, and that would be a net aggregate number. If it is negative, there ought to be a way that whatever issue it is that's causing that could be addressed and fixed, and if it can be resolved, then to the satisfaction of those who felt that they would be negatively impacted, then disagreed by the event producer, by those in the neighborhoods or close to it, then the application could be reviewed again with the goal of moving it forward and granting a permit. Neighborhoods also need a definition for notification requirements, and I think the areas for the event was a minimum radius of 750 feet is a good measurable definition for most cases. I think that should be the standard.

Also other businesses beyond that point that may be affected by an event should also be noticed. You give enough time to collect the responses, 14 days was mentioned. That's fine with me also. And two weeks should be adequate. Those responses then should be tabulated and made public before permit is issued so people have a chance to review them if they're concerned. And full disclosure should be available as in most things with the city, and most of the things that we do. And anybody who is involved in that, who has received input forms or interested parties, would have the right to review and take a look at them before a permit is issued. And that's what I have to say. Made some notes on this tonight too.

Farmers market is something that we need to figure out some way that we can work through a possible way to keep them going. That's something I think we would all be interested in doing even if it's something that has to come back for approval. However it's done, I think that is something that kind of

fell through the cracks as some others said. The fact that they can't extend, they can't appeal, there's no way to turn, there's no path to take, I find that kind of limiting. Signage, definitely need to work on that for a number of different things.

And I think by and large, you've done a very good job, and I'd like to say that. You guys have work hard. I know that you have. It's a lot of work you've put in, and I think it's a very good job.

[Time: 03:29:00]

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

Councilwoman Klapp: I think Vice Mayor Littlefield covered the things I would say. I would reinforce the concept that she led out with is one thing I would recommend is you make it clearer in this document, the City's responsibilities for people that are reading this handbook and maybe not understanding who the decision maker is about net negative impact, I think is a big one. You have to make it clearer to people who is making the decisions related to this. There needs to be some measurable way to make that decision as was recommended.

And it would seem to me that the more clarity you could provide throughout this document on -- I think there's just some sections that if you reread it yourself, you would probably see you've made some assumptions that are only meant for an event producer, but for anybody else reading it, they may not understand, you know, what is the city going to do about any of these decisions that have to be made all along the way, including notification, who is doing the notifications. There's just not enough clarity about that to -- I think that's why you're getting so many questions from us and questions from people in the audience as well is that -- not saying that the work that was put into it was not good work, you need to go back and cross the t's and dot the i's and there's an understanding of how you follow this document.

As mentioned by one of the speakers about signage is one to take a look at. If there's no good clear understanding about signage in there, it needs to get a little clearer for anyone. Signage in this city, you know, is exceptionally important, and we want to make sure anyone who is producing an event understands what our signage requirements are for special events.

I do have a question, though much since we have primarily dealt, even though this does deal some with private property, what is the process for an event on private property such as was suggested with this farmers market? They have no recourse. I guess understanding that, you know, farmers markets and such would be available with a license, but how do you handle a private property request for such an event?

Tourism and Events Director Karen Churchard: Right now, the person who wants to hold an event on private property has to get permission from the person who owns that property. However, whether it's on the way the ordinance was written and approved by council, it doesn't -- regardless of whether it's on private property or public, it still goes through the same process and still subject to the same duration of days and when those events can occur.

Councilwoman Klapp: But you're not allowed to have a license if you're on a private property.

Tourism and Events Director Karen Churchard: That's correct. You wouldn't have a license with the city because we don't own the property.

Councilwoman Klapp: And conditional use permit?

Tourism and Events Director Karen Churchard: No.

Councilwoman Klapp: Okay. That was obviously a question. Let's see if I have anything else.

Mayor Lane: Excuse me one second. There's some issue that the councilwoman has.

Assistant City Manager Brent Stockwell: I think I could add some clarification. So the events on private property -- one of the issues we identified for you back in march when you approved the ordinance was that the current zoning ordinance doesn't allow for outdoor temporary outdoor retail anywhere. So we said this is an issue we still need to work on and come back to you with. It's absolutely correct that we don't have any process right now within the special events ordinance or the zoning ordinance to allow an ongoing regular farmers market on private property. So we could allow that through the special events ordinance if the council directed us to create a definition for farmers market and carve out a certain amount of permitted days allowed for that usage. Otherwise right now, it wouldn't be allowed on private property. What we're doing on public property is for the example of old town farmers market, we're working with them to negotiate a license agreement that as we go through that negotiation, will bring that back for council approval and the council would vote on that use of property subject to those terms.

Regarding the signage, I also wanted to comment on that briefly. All of the signage regulations are covered in the zoning ordinance. There's nothing in the special events ordinance that really covers signage. Right now, any signage related to special events has to follow the same, you know, zoning ordinance rules for temporary signage anywhere in the city. If you can only have a certain number of signs for yard sales, you can only have a certain number of signs for special events. They can only be a certain a distance away. My understanding is the Planning Commission has initiated a text amendment related to signage which will cover temporary signage which will explore the issue of special event signage as well. You'll have coming back to you in the fall or at some point in the future some recommendations from the planning commission and staff relating to how to handle temporary signage in the city.

Councilwoman Klapp: Okay. So if that occurs, then if that's acceptable and passes, then there would be a section added to the handbook that would explain signage for events.

Assistant City Manager Brent Stockwell: Yes, that's correct. There would be a change to the ordinance, and then a companion section in the guide that would explain that.

Councilwoman Klapp: And I appreciate the fact you're working on the process for handling a farmers market on private property, to find a way that could be worked out.

Assistant City Manager Brent Stockwell: And as we discussed that with the planning and development

services department, the cleanest way to do that would be to amend the special events ordinance to include that, to make it clearer that the council did want to hold farmers markets for a certain duration on public or private property, you know, subject to any additional regulations you would set. That would be the cleanest way to do it. But that's up to your direction.

Councilwoman Klapp: I won't reiterate the comments that have been already made about other things that have been necessary to make this a little more clearer, and I appreciate all the work that was done with this. And so when you make these changes from the discussion tonight, you will then post those so we can read them and then, you may get additional input, as I understand, related to the way the changes are made, and clarified in the document.

Tourism and Events Director Karen Churchard: Yes.

Councilwoman Klapp: Okay.

[Time: 03:36:36]

Mayor Lane: Thank you, councilwoman. I just want to reiterate a little bit. Obviously number one, I second most of the items that Councilman Phillips mentioned earlier. I want to make sure that's on record. Other than that, what I'm hearing too, and I'm concerned about is really there's a sense out there that we don't really want special events here. And one of the things that become a real problem is the extent of risk. So whenever we have some kind of judgmental or we have some broadcast that, you know, there's -- and I know the term has been used before, some kind of veto over a particular event producer or otherwise that may be imposed upon by somebody selectively or arbitrarily, it creates an environment that is seen as being hostile to them. So maybe that's what we want anyway. That doesn't happen to be what I want.

But I am concerned about some of our legacy issues, whether it's something that the public really likes, whether it's a farmer's market, or whether it's a Parada or the Hash Knife and those kinds of things, when we start to define what it's going to take for them to do something that they've done civically for 50 years, 60 years in some cases. I'm just real concerned. And then when we start making exception, if we do, you know, where does that begin and end? So it's a careful play. And so I just -- you'd like to be fair about it, and we don't want to be biased one way or the other for something or necessarily opposed to something unless it's something completely off the charts and not something we want to have.

I think it's an important thing when we try to quantify, and I think Vice Mayor mentioned it and it's been mentioned before. However you can quantify these things, and I know that's not an easy thing to necessarily do, but we're going to have to put a certain amount of faith in the staff to make those assessments. But there has to be some criteria, some guidelines in those judgments and I don't mean a matrix necessarily, even though that might be the play. As clear and unbiased as we can make it in the application is going to be an important component. I don't know they see a lot of problems in what we have here, in the guideline, but just the to remain cognizant here or in the ordinance. That's my only other guidance as far as I'm concerned. Councilman Phillips.

[Time: 03:39:10]

Councilman Phillips: Thank you, Mayor. Excuse me again. I just wanted to apologize for earlier. I didn't say what a great job you guys are doing. I understand how hard it is and I hear you have 6.5 people doing it, it's insurmountable. I'm amazed and proud of our staff for everything we do. And we really appreciate all your work and hard effort.

Mayor Lane: Councilmember Korte.

Councilmember Korte: Thank you, Mayor. On the farmers market, I'm not sure if you got the direction to perhaps carve out something for farmers market, whether it's private or public.

Tourism and Events Director Karen Churchard: Yes. I actually have been doing some research already and have some ideas and suggestions from other cities. So we'll bring those forward.

Councilmember Korte: Great. And the last thing, you know, we are changing the culture of our events big time in the city with additional fees, restrictions on time, measuring negative impact, and all of those are good, but I think it would be important for us to track moving forward, the number of inquiries that we get for an event and track those that we lose as in lost sales, and those that are successfully scheduled and occur. To see what that -- to track that and get a feel for the impact of this ordinance.

Tourism and Events Director Karen Churchard: Okay.

Mayor Lane: Thank you, Councilwoman. I think that pretty much completes the input you're going to receive from us tonight. So I do very much appreciate the work you've done, and I think this has been somewhat of a -- I won't call it a labor of love. I don't know why I was going that direction. It's certainly an exhaustive process, and a lot of pressure, I know, put upon everyone, some necessary, some unnecessary. But very much appreciate what you're trying to do there, and it's not an easy path, even with the direction we've given you. It's not some easy answers for some of it. But thank you very much. And everybody who has lent anything to the discussion tonight too. So thank you.

## **ADJOURNMENT**

[Time: 03:41:47]

Mayor Lane: That completes our regular agenda items. We have no further public comment or no citizen petitions and no Mayor and council items I'm presuming.

Councilmembers: Move to adjourn.

Councilmembers: Seconded.

Mayor Lane: So moved and seconded. We are adjourned. Thank you very much.