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#### **CALL TO ORDER**

[Time: 00:00:02]

Mayor Lane: I would like to call to order our January 21<sup>st</sup>, 2020 City Council meeting. It's a regular meeting. It's approximately 5:10.

#### **ROLL CALL**

[Time: 00:00:12]

Mayor Lane: Let's start with a roll call, please.

City Clerk Carolyn Jagger: Mayor Jim Lane.

Mayor Lane: Present.

Carolyn Jagger: Vice Mayor Kathy Littlefield.

Vice Mayor Littlefield: Present.

Carolyn Jagger: Councilmembers Suzanne Klapp.

Councilwoman Klapp: Here.

Carolyn Jagger: Virginia Korte.

Councilmember Korte: Here.

Carolyn Jagger: Linda Milhaven.

Councilwoman Milhaven: Here.

Carolyn Jagger: Guy Phillips.

Councilman Phillips: Here.

Carolyn Jagger: And Solange Whitehead.

Councilwoman Whitehead: Here.

Carolyn Jagger: City Manager Jim Thompson.

Jim Thompson: Here.

Carolyn Jagger: City Attorney Sherry Scott.

Sherry Scott: Here.

Carolyn Jagger: City Treasurer Jeff Nichols.

Jeff Nichols: Here.

Carolyn Jagger: City Auditor Sharron Walker.

Sharon Walker: Here.

Carolyn Jagger: And the clerk is present.

[Time: 00:00:38]

Mayor Lane: Thank you. A couple of items of business. We do have cards if you would like to speak on any of the agenda items. I should say on any of the agenda items, for Public Comment and there are written comment cards that are available on the table to the right. The yellow card is for written comments and the white card that you may have had up a little while ago is for the written comments. They are there to assist you with that, if you have a need to do exactly that.

Scottsdale police officers Eric Bolles and Ray Powell are here along with Scottsdale Fire Department paramedic Ned Greenleaf. Thank you so much, gentlemen, for all being here. They are here to assist you as you may be in need of their services. The area behind the Council dais are reserved for the Council and the staff. We do have restroom facilities over here to my left under that exit sign there.

And so it's there for your convenience. If you're having any problem hearing the proceedings, please ask the clerk's desk here for some headsets. They are available. And they can help you with that.

**PLEDGE OF ALLEGIANCE**

[Time: 00:01:58]

Mayor Lane: This afternoon we have Pledge of Allegiance by Cub Scout Pack 221 and Webelos 2. And the leader is Joe Searle who is here with them today. They are going to lead us in the Pledge of Allegiance. So gentlemen for that occasion you can stand, and if you can, if you're able, please also stand.

Cub Scout Pack 221, Webelos 2: I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

Mayor Lane: Thank you, gentlemen. Can you go ahead and turn, just swivel that microphone around. Line up behind. Introduce yourselves and let us know what school you go to and what your favorite subject is.

Cub Scout Pack 221, Webelos 2: Hi, my name is Greg, I go to Hopi Elementary. I am in 5th grade and my favorite subject is writing. Hi, my name is Max. I go to Sandpiper Elementary, I am in fifth grade and I like writing too. My name is Alex. I go to Pueblo Elementary, I'm in 5th grade and my favorite subject is reading. I am Chase, I go to Kiva Elementary, I'm in 5th grade. my favorite subject is social studies. My name is Julian, I go to All Saints' Episcopal Day School, and my favorite subject is math. I'm Adam, I go to Kiva Elementary, and my favorite subject is reading. I'm Carter, I go to Kiva Elementary and my favorite subject is writing.

Mayor Lane: Thank you gentlemen. Thank you very much for being with us.

**INVOCATION**

[Time: 00:04:10]

Mayor Lane: The invocation this evening will be from Chaplain Bob Frost, Detachment 1439, Marine Corps League, and Scottsdale Honorary Poet Laureate. Mr. Frost, welcome, good to see you.

Bob Frost: Honorable Mayor, members of the City Council, thank you very much. Please join me in prayer if you choose. Eternal Father, we ask thy blessing upon all here assembled. Lord we ask you amongst us this evening as we celebrate the life that you have lavished upon each of us. We pray for our Mayor, for our various levels of city officials and in particular for this assembled Council. We are asking that you would graciously grant them wisdom to govern amid conflicting interest and issues of our times, a sense of welfare and true needs of our people. A keen thirst for justice and righteousness, confidence in what is good and fitting. The ability to work together in harmony even when there is honest disagreement. And grant them personal peace in their lives and joy in their task. Finally tonight, we pray that you will guide, guard and direct our marines, sailors, soldiers, Airmen and guardsmen who are here and those deployed and around the world. Grant us peace oh Lord. Amen.

Mayor Lane: Amen. Thank you, Mr. Frost.

**MAYOR'S REPORT**

[Time: 00:05:39]

Mayor Lane: For Mayor report this evening, I would like to read a proclamation for the 25th anniversary of accreditation for law enforcement agencies for the Scottsdale Police Department and that proclamation reads Whereas, the City of Scottsdale Police Department received accreditation from the Commission on Accreditation for Law Enforcement Agencies (CALEA) on November 19, 1994, which is considered the international gold standard of accreditation for law enforcement agencies; and Whereas, CALEA accreditation helps professionalize law enforcement agencies and identifies best practices for those agencies through documented and proven policies and procedures that are reviewed on a reoccurring basis by independent trained law enforcement experts; and Whereas, the staff of the City of Scottsdale Police Department have continued the ongoing commitment of reaccreditation by proving compliance with 484 standards related to best practices of a law enforcement agency; and Whereas, the City of Scottsdale, its residents and partners honor and show our appreciation to the Scottsdale Police Department as we celebrate the 25th anniversary of being a CALEA accredited agency. Now, therefore, I, W.J. "Jim" Lane, Mayor of the City of Scottsdale, Arizona, do hereby proclaim January 21, 2020 as the 25<sup>TH</sup> Anniversary of Accreditation with the Commission on Accreditation for Law Enforcement Agencies. In witness whereof, I have hereunto set my hand and caused to be affixed the Seal of the City of Scottsdale in recognition of that. I think the police department deserves a nice round of applause.

We're actually going to go, we're going to do a little bit better than that. I would like to ask the Scottsdale Police Chief Alan Rodbell, Assistant Chief Scott Popp, Rich Slavin, Helen Gandara, Senior Police Analyst Cassie Johnson and former director of planning, research, and accreditation Will Davis to the front to accept a proclamation and congratulations. If you would, ladies and gentlemen, please.

(inaudible)

**PRESENTATIONS/INFORMATION UPDATES**

[Time: 00:09:33]

Mayor Lane: Well, we have a presentation from APS on a Peak Solutions Rebate and our presenter here is Brian Biesemeyer, Water Resources Executive Director. Brian, please come forward.

[Time: 00:09:51]

Water Resources Executive Director Brian Biesemeyer: Thank you, Mayor and Council. It's my pleasure to be here again this year as we got a nice large check from APS through their Peak Solutions Program and we have two folks, Patty McLaughlin and Anthony Aguilar from APS to make that presentation. You will see on the screen the totals we have since 2010 back to the City and back to our rate payers for participating in this program. And with no further ado, I'll have Patty come on forward with Anthony.

[Time: 00:10:35]

APS Representative Patty McLaughlin: As Brian was mentioning, APS Peak Solutions is an energy management program that provides a way for businesses to use energy wisely. This program has a positive impact on Arizona's environment by lowering energy use during hot afternoons and delaying the need to build additional power plants. And as Brian was saying, we have presented the City of Scottsdale with a little bit over \$1.1 million, with this year adding a check of \$114,639. So thank you so much. The City of Scottsdale is the largest load reducer for our program in 2019 and is the largest municipality. They reduce more load than any other municipality in the program. We really appreciate it, working with the City of Scottsdale. Would you like to come down and we'll present the check?

Mayor Lane: I probably should add, too. It's been a very good program and run for a number of years and actually incorporated in some very difficult years as far as energy, not only in consumption but in cost in the downturn of the economy. Some of this had some real impact on a couple of things working with APS and that's how we can conserve better. And we have worked closely with them on that as far as that's concerned. If you don't know this, the water department happens to be the largest user of power of any component within the City by far and away. And it's a major area of attention for us and a lot of things of renewable energy sources as well. This program has been very well done for us. Thank you, again, for that.

#### **PUBLIC COMMENT**

[Time: 00:13:12]

Mayor Lane: Next item of business is Public Comment and it's reserved for citizen's comments for non-agendized items with no official Council action to be taken on these items. Comments are limited to issues within the jurisdiction of the Council and speakers are limited to three minutes each with a maximum of five speakers and there will be another opportunity at the end of the meeting for some, for Public Comment. At this time we have five, a maximum of five. And just remind everyone, please, to state their name and their address before they speak and stay within the three minutes as best you possibly can. So we'll start with Sandy Schenkat.

[Time: 00:14:10]

Sandy Schenkat: Good evening, Mayor Lane and Councilmembers. I'm Sandy Schenkat. I just want to show this wonderful new booklet that Experience Scottsdale has put out this year. It is a delightful cover and with the family hiking in the preserve. So this should attract a lot of tourists. It's a gift to us from them, and since I have complained in the past, for the last two years, I felt it was appropriate that I share with you some new reading material for our tourists. This week has been a great week for Scottsdale. The Museum of the West celebrated its 5th anniversary and Mike Fox got a very special award for his contribution in Western Heritage from True West magazine. Also a big congratulations to Scottsdale Arts for appointing the dedicated and talented Alison Lewis as their chairman of the board. So 2020 is starting off to be a great year for arts and culture in Scottsdale. Thank you.

Mayor Lane: Thank you. Tom Frenkel, next.

[Time: 00:15:53]

Tom Frenkel: Mayor Lane, Council, happy new year. And the first time in 34 years of being here that I have ever taken the time to come to Public Comment but I thought I would start it, and share a couple of incidents with you that's, or a couple of thoughts on my end of it, going into the new year, and on a positive note, in politics, it's a political year. And there has certainly been more growth, less growth, higher, smaller, do it, don't do it. And a tremendous amount of respect for the process. And I have been on both ends of it. And certainly the difference is very few people are involved in government and especially take the time to do what you do. And it balances. And it balances nicely and what we end up with is a really beautiful community to live in, that my family and I have been able to have a business and raise a family. So thank you on a positive note. And more importantly, to share with you probably a better experience that happened two weeks ago on a Saturday.

Two or three years ago I came before you and I, for, we remodeled the old Boys and Girls Club on Rose Lane next to Saguaro High School. Approved it. Has been a great community thing. Since then, a temple is in there. A number of community functions, as well as a Bridge Club and I got a call two weeks ago on Saturday morning, 6:30, emergency line. Unfortunately I still have to answer, and said come to the building on Rose Lane. I was greeted, not really knowing what it was, well I did know what it was. They told me on the phone. Six squad cars out front. All white building. All four sides, 6:30 in the morning, plastered with the worst racist bigoted anti-religion that you could imagine. Looking at it, we have an event that day, people out of town and in town coming to it. 225 people scheduled to be there at 9:00. And I'm going to mention the two police officers that were there. Sergeant Jason Stumpf and Lieutenant Lee Campbell. Said, are you the owner? Yes. Said, we want you to run over, and the officers were in very similar uniforms to the uniforms that you see there, all blue or all black I guess they are.

6:30, 40 degrees, and they said, we want you to run over to Home Depot and get a 5 gallon bucket of paint and 5 rollers and 5 pans. And I watched. There were six officers. I watched two officers on each side of the building and for an hour and a half with their blue uniforms, they rolled every piece of graffiti off. Walked out of there full of paint, freezing. I did the worst of all of them. Very unusual. And we have buildings in Phoenix and Chandler. To have that happen, and to have, a police department, first of all a Lieutenant and a Sergeant that wanted to do it and officers that participated. What a beautiful way and nice city to live in and with all of the commotion. Thanks for running it. There are certainly wonderful things happening. And thank you.

Mayor Lane: Thank you Tom. Next would be Y Michelle Zhang.

[Time: 00:19:54]

Y Michelle Zhang: Good evening, everyone. My name is Y Michelle Zhang and my address is 7507 East Princeton. I feel obligated to come here today to share with you what happened to me three months ago. I was ticketed by police on October 24 at Osborn and Scottsdale Road construction zone for violating a no right turn sign which you can see here. At this time I had some doubts about the height and the spacing of the sign because multiple vehicles made the same right turn after my citation and one more driver got pulled over by police. So you can see another red truck making the same right turn. After the incident I contacted the City police, City transportation department to look up the sign standards and eventually submit a public information request. It turns out the barricade plan has expired for seven days at the time of my citation. On top of the wrong operation hours, this is the

City's ordinance in its own words. Why operating the barricade plan is illegal and subject to fine. Our City funded by taxpayer's money gave contractor free pass to break the law on our critical street for seven days. At the same time, go hard handed on drivers to collect hundreds, hundreds of dollars of fines. I wanted to ask our City Executive Team, are you proud of your behavior? And this is just one incident. One information request. If not because the freedom of information act, our government would never ever admit any wrongdoing.

During the entire process, I have talked to Police Department, Transportation Department and no one apologized. No department admitted its responsibility. And no one has said what can be done to prevent the future violations. I am just constantly amazed by how arrogant and self-serving our City has become from the very bottom to the very top. So this is some other violations of the signs based on national standard and local standards. The incident indicates our City is not in violation against driver's rights and a shady scheme to achieve financial gain. I urge City Council to investigate, come up with solutions and issue apology statements to all the drivers involved. Ms. Sherry Scott has all my information. Thank you very much.

Mayor Lane: Thank you, Ms. Zhang. Mr. David Ortega.

[Time: 00:22:46]

David Ortega: Mayor, Council, thank you for your service. My address is on file.

Mayor Lane: Pardon me, David. Former Councilman, David Ortega.

David Ortega: Thank you. When people asked me what is going on in the City? Why does it take an initiative to remove a development in our Preserve or why does it take a referendum to stop a project on the canal that is crowding the canal and hurting 5th Avenue, I tell them that the system is working. There are checks and balances allowed by initiative and by referendum because it's got to start at the top. And the top is the people. The people are the one who gather and contribute to the General Plan. It's not a top down. And of course, I have been in your shoes, where we take the General Plan as our bible and that takes a process to get through to do that.

One of the worst examples that's been happening is that the Council has been kind of free styling some of the downtown issues and the downtown overlays when it comes to type one, two and three buildings. An example of that is the South Bank where you can see if, you will see the canal and the South Bridge project. And what I'm pointing out to you that this Council approved type one, up to a certain point and then type three along the canal. If you look at it, it looks like a little stick or what I would call gerrymandering zoning. What they did is, took a piece of property, knowing that that property is only about 125 feet deep and they left the first 40 feet as type one, and then the back 80 feet as type 2. And that was your action that caused that. Maybe someone wasn't watching when this happened. But it's resulted in a very awkward referendable project, this is the original South Bridge which is three stories at the canal.

I pointed out last time, what happened was they were, again, using 40 feet at type one, which is the general 5th Avenue area and then zoomed up 150 feet, and what I believe is wrong zoning. And that's a template that you all provided. Then they also ate into the canal, which we discussed last time, because of its effect on the convergence. The one voice, when I protested this, was the City Zoning

Official who said, in hindsight, this probably should have all been type one. You can see that in the record on August 29th and you'll see why this was a poor choice and why we need to work on our General Plan to make things better. Thank you.

Mayor Lane: Thank you, Mr. Ortega. You know, just a point of order I suppose. We don't clap. We don't boo here. We let it go for a very nice thing. Certainly for the Boy Scouts we do do that. I would appreciate if we can do that. I appreciate your sentiments but we try to make sure it keeps things calmer. Patty Badenoch.

[Time: 00:26:37]

Patty Badenoch: Well, I'm not a Girl Scout, Boy Scout. Patty Badenoch, 47 year resident in Scottsdale. Parada del Sol 2020, was submitted as an entry, Stand Up for Old Town Scottsdale. The entry script in essence represents a collaboration of Scottsdale citizens who love the western character and the ambience of downtown. The local group has citizens of all ages stating, we love Scottsdale. The float was to be a decorated horse, driven flat bed, hay bales and Mexican import from the old town area. It was going to be wonderful. Country Western music. Such as Happy Trails and You Are My Sunshine. A husband and wife rejected the entry. On what grounds? Too political. You can't make this stuff up. These participants are well-known individuals that have given much more of their time for the betterment of Scottsdale than most of us. Political, please. Tell me of one adult of this year's Parada that does not have a political decision. The decision was made by chair to her phone, a board which they concluded and denied the applicant's request to even state her own case. I wear a shovel as a symbolic reference to say there is a lot for shoveling to do than the clean up when the crew comes to clean up the mess of the Parada when it's over. Thank you.

Mayor Lane: Thank you. Okay. Moving along.

#### **ADDED ITEMS**

[Time: 00:28:43]

Mayor Lane: We have, there are some supporting materials for Item No. 23 that were added to the agenda. Outside or I should say inside the required ten-day minimum to add it to the agenda and make it publicly known. We do need and I'm requesting a vote or a motion to accept the agenda as presented or continue the added item to the February 4<sup>th</sup>, 2020 City Council Meeting. This is for item 23.

Councilmember Korte: Mayor, I move to accept as presented.

Councilwoman Milhaven: Second.

Mayor Lane: Motion is made by Councilwoman Korte, and seconded by Councilwoman Milhaven. Do we have a request to speak? I'm sorry, it would be Vice Mayor first. I'm sorry.

Vice Mayor Littlefield: Thank you, Mayor. I will not be approving this. I don't believe that this change was given enough time for our citizens to be aware of the change, consider the change and act upon it. I don't believe that they have had adequate access to this, and it should not be on our agenda



tonight. Thank you.

Mayor Lane: Okay. Please, yes, Councilwoman?

Councilwoman Whitehead: Yes, that's what I was going to say as well. It's a 600-page document. It was added to the public, the link was made available to the public this morning, am I correct in that?

Mayor Lane: I'm not sure if I have that.

Councilwoman Whitehead: It's my understanding that it was broken, and the public had access to it just this morning. Can you clarify?

City Clerk Carolyn Jagger: Your Honor, and members of the Council, the majority of the item was complete and posted ten days in advance. Some additional documents were added, but it was available to the public in the supplemental packet that went out to the Council last Thursday.

Mayor Lane: Okay. Thank you, noted on that, any other request to speak on the subject? Motions have been made and seconded. It's indicated. I see no further comment on that item to accept. We're ready to vote. All those in favor please indicate by aye, register your vote and those opposed with a nay to indicate your vote. As you can see on the screen it's 5 to 2 with Councilwoman Whitehead and Vice Mayor Littlefield opposing it. That supporting information will be accepted as presented.

#### **CONSENT AGENDA**

[Time: 00:31:40]

Mayor Lane: And we will move on then to our Consent items. And that is a Regular Agenda item that is being affected there. Consent items 1 through 21, I do not have any public testimony on any of those items, unless there is any questions from the Council at this point in time, I'll accept the motion to accept. Vice Mayor?

Vice Mayor Littlefield: Thank you. I do have one question. And it's for the Police Chief.

Mayor Lane: What item is it?

Vice Mayor Littlefield: This is regarding Item No. 12 on the Consent agenda.

Mayor Lane: Okay.

Vice Mayor Littlefield: It's very general, I just wanted to know if you had any problems at all with allowing beer and wine in our public parks.

Police Chief Alan Rodbell: We have not, to the best of my knowledge, had any issues under this amendment.

Vice Mayor Littlefield: Thank you.

Mayor Lane: Okay. With that item answered, question answered, we can move on then to point at hand, no further comments that are seen so on the Consent Agenda items 1 through 21, I ask for a motion to approve as presented.

Councilmember Korte: Mayor, I move to accept Consent Agenda items 1 through 21.

Vice Mayor Littlefield: Second.

Mayor Lane: Motion has been made by Councilwoman Korte and seconded by Vice Mayor Littlefield. All those in favor indicate by aye, and those opposed with a nay. It's unanimous then on those items in the Consent Agenda.

### **REGULAR AGENDA**

Mayor Lane: We will move along to the Regular Agenda.

#### **ITEM 22 – SENIOR LIVING AT MCDOWELL MOUNTAIN RANCH REZONING AND ABANDONMENT (8-ZN-2019 AND 5-AB-2019)**

Mayor Lane: I probably should have announced earlier, but I have to at this point in time, any case, Item 22 has been withdrawn as request of the applicant and that was Item 22, Senior Living at McDowell Mountain Ranch Rezoning and Abandonment, 8-ZN-2019 and 5-AB-2019.

#### **ITEM 23 – FIESTA RANCH REZONING (6-ZN-2019)**

[Time: 00:33:56]

Mayor Lane: So we have the one remaining item on Regular Agenda, and it's Item 23. Fiesta Ranch Rezoning 6-ZN-2019. Presenter is Doris McClay, our Senior Planner. Welcome Ms. McClay.

[Time: 00:34:15]

Senior Planner Doris McClay: Good evening, Mayor, Vice Mayor and City Councilmembers. Doris McClay with the Planning Department here to present the Fiesta Ranch rezoning case. 6-ZN-2019. The subject property is located on the south side of East Rio Verde Drive, east of North 136th Street. It's 273 acres, surrounded by properties in Maricopa County. The current zoning is under the single family residential environmentally sensitive land district. There are two zonings on the property, R1-70 ESL and RL-190 ESL. The applicant is requesting to rezone to the Planned Community District with comparable zoning of single family R1-43 and single family R1-18 as well as the open space OS zoning districts.

The subject property under the General Plan is under the ruled neighborhoods designation. This, the proposed zoning case meets the definition of rural neighborhoods in that it is less than one dwelling unit per acre. The applicant is proposing .83 dwelling units per acre. Therefore, it has been determined that a General Plan land use amendment is not required in this case. The zoning case will provide a 100 foot Scenic Corridor along East Rio Verde Drive and 50-foot Desert Scenic Roadway Setback along

136th and 141st Street. The R1-18, R1-43 and OS zoning districts will allow for a clustered development and large contiguous tracks of NAOS.

Here is the development plan. The plan is stipulated to a maximum of 227 lots. At the Planning Commission meeting, the applicant was proposing 260 lots. After the Planning Commission meeting, the applicant reduced that from 260 to 227 lots. This is the open space land for the development which will provide approximately 46 acres of area that will be under the Open Space zoning and 109.3 acres of NAOS. Staff has received significant amount of correspondence in opposition to the rezoning case. That concludes staff's presentation. The applicant is here to make a presentation. Thank you.

Mayor Lane: Thank you, Ms. McClay. We may have questions later. I will go ahead, Mr. Berry, if you would like to make your presentation.

[Time: 00:37:21]

Applicant Representative John Berry: Mayor, members of the Council, for your record, John Berry, 6750 E. Camelback Road. Many Scottsdale residents share a common goal, and that goal is to preserve the Sonoran Desert that we treasure. And other than spending taxpayers dollars to buy it, which we've done, the best way and most effective way we do that is to encourage master-planned communities. And the individual that has proven that master planned communities are the vehicle to achieve that important goal for our citizenry, to preserve more desert, is Lyle Anderson. Lyle Anderson is a visionary.

Some 40 years ago, he had the idea, audacious and heretical as it was at the time, was to build with the desert, not against the desert. He pioneered the techniques at Desert Highlands and Desert Mountain that now constitute the very fundamentals of our Environmentally Sensitive Lands ordinance. He pioneered the techniques that we take for granted today. Development envelopes. Preserving wide areas and swathes of the desert. Preserving our washes. They used to be bladed over. Fewer walls. Less pavement. And very strict design requirements of color, materials and architecture, unique to the Sonoran desert. Lyle was a pioneer, but his peers in the industry at the time thought he was crazy. Lyle went from crazy to copied. And tonight, this is another show case Lyle Anderson project that demonstrates how to environmentally, sensitively design in our precious Sonoran Desert.

Let's take a look at the context of this proposal. This is our site and the staff noted when we were here at the Planning Commission the overall density was .95. We've reduced it to .83. The General Plan allows up to one unit to the acre. We are below that. In the middle of our project is some R1-18. The only project in the City of Scottsdale that joins our property is Riata Ranch. Another master planned community. Approved right next door to us, one and a half units to the acre with zoning densities higher than our 118. To the south, Story Rock also approved at .96 units to the acre with our 118 zoning in this development. Sereno Canyon approved at one unit to the acre, again with densities even higher than what we see in the R1-18 in our proposal.

[Time: 00:40:15]

Now, this is a unique location. It is surrounded in the red color here by Maricopa County. The blue is the City of Scottsdale and this is Riata Ranch, approved at one and a half units per acre, while we're at .83 units to the acre. How did we treat, how did we buffer those county neighbors that surround us

that have the equivalence of the R1-43 zoning in the City of Scottsdale? I like to call it "belt and suspender buffers." Here is what we did. Around every side adjacent to the county, we put in place a preserved desert boundary. In some instances, it's 1500 feet deep. After that buffer of natural preserved desert, there is R1-43 zoning beyond that. "Belt and suspenders" open space to R1-43 zoning. Now, Lyle's site plan for Fiesta Ranch incorporates all of the techniques he used at Desert Highlands and Desert Mountain and were incorporated into our environmentally sensitive lands ordinance.

Let's talk a little bit about some of those impacts. What about natural area open space, preserved desert? Part of ESLO, not in the County. Building envelopes that Lyle pioneered, not in the county. Perimeter walls, you can do them in the County. Public trails, not in the County. Trail connectivity, not required in the County. Scenic corridors for roadways, nope, not in the County. Building height, 30 feet in the County right across our boundary line. 24 feet in the City. Native plant preservation, not in the County. Wash corridor preservation, not in the County. What is the impact of not incorporating Lyle's pioneering techniques to preserve our precious desert right across the boundary from us. These are pictures of one-acre zoning in the county in close proximity to our proposed development.

Now, one of the key goals of the environmentally sensitive lands ordinance and the Character Area Plan is this - encourage. Now it says encourage. It doesn't say maybe yes, maybe no. It says encourage. This is the guidance. Encourage large continuous areas of open space, rather than small fragmented pieces of natural area. Why is that? Because it's better and more meaningful. Let me give you an example of how that works out. This is an example of two different scenarios. Eight homes in each of these. Eight homes in each of these. This is R1-43 where each property owner gets to decide where they put their preserved desert with minimum requirement of 30%. They get to decide in brown where they get to put the preserved desert.

With amended development standards and as part of the master plan community, if you do R1-18 size lots, what do you get in return? You get continuous, contiguous and meaningful open space, a third more than if you did it all at R1-43 lots. Another key goal of ESLO and the Character Area Plan, is again the word encourage, encourage development proposals. I know it's unusual to say somebody is going to encourage a development proposal in some camps but encourage development proposals which exceed the existing national area open space and design requirements. Does Lyle do that? Has he achieved that? It's in his DNA. Of course he's achieved that. He would do it without ESLO. What has he done? The required NAOS, it's already very strict to preserve 30% of the natural desert on the site. Lyle's preserving 40%. 109 acres of preserved desert and the tax payers aren't paying for it. But they get to use it. A 33% increase over what is required by the very strict ESLO ordinance.

[Time: 00:44:22]

Mayor, members of the Council, in conclusion, Lyle several years ago was inducted into the Scottsdale History Hall of Fame. For lots of reasons. Decades of involvement in leadership in our community, serving on boards. Decades of philanthropy for our community. But you know if you ask him, he will tell you, one of the things he is most proud of, in terms of his involvement in our City, is realizing his vision for how we can develop in the desert. You know, we didn't know how good development could be in the desert until Lyle Anderson came along and developed Desert Highlands and Desert Mountain. Those are lauded with accolades not only in the state and in the valley but across the country and in

some instances, around the world. They come to Desert Mountain and Desert Highlands to see how it's done in the desert. He pioneered ESLO. Our tourism cache was enhanced because of Lyle's pioneering efforts that were unpopular at the time. Our quality of life in Scottsdale enhanced. Everybody that lives in a master planned community in north Scottsdale, Troon to Troon North and down the line owes a debt of gratitude and stands on the shoulders of Lyle Anderson. You know, Mayor, and members of the Council, Lyle has earned the right to do it right again. Mayor and members of the Council, I am happy to answer any questions. Mayor, I note I had a minute and 30 seconds left. If I can transfer that to my rebuttal, that would be wonderful. Thank you.

Mayor Lane: Certainly if you need it, that's fine. We go then to the public testimony on this. I would like to remind everybody to certainly say their name on the podium just for the record and of course their address. And we will start with Robert Anderson and next will be, there is approximately I should say about 25 to 30 cards here I think. So I'm going to just leave it at the three minutes. If you don't leave it at the three minutes, it's appreciated to make sure that you make your point and then allow others to do the same. So Robert Anderson, followed by Suzanne Dreher.

[Time: 00:46:44]

Robert Anderson: Hi, my name is Robert Anderson. I know I'm wearing a cowboy hat and I'm Scottish but I've lived in Scottsdale for 30 years. I live on north 141st Street. If that map was here it would be right next door to that. A planning situation that we just saw, I oppose that. I fail to understand how that would even come through planning and get this far. Because it goes against the Character Area Plan that you yourself devised in 2000. So I oppose this strongly. You have no idea how strong. And you know what, there is a lot of people here that do want to talk but there are a lot of people here that won't talk. And I would just like to say that for everybody that doesn't say anything tonight, I would like to ask them if everyone in this room who opposes this say aye. That gives you an indication as to how many people actually oppose this plan. Sorry, Lyle.

Mayor Lane: Thank you, Mr. Anderson. Next is Suzanne Dreher. Followed by Christine Frank.

[Time: 00:48:22]

Suzanne Dreher: Mayor, members of the City Council, my name is Suzanne Dreher. I am here tonight on behalf of several members Scottsdale's residency who are not able to attend this meeting tonight. I am here on their behalf. I have a stack of letters that have been turned into the clerk. I would like to read just a few brief sentences from one of the letters authored by Karen Baldwin. I have been a Scottsdale resident since the early 1990s and have lived in two of Lyle Anderson's award-winning communities. His commitment to preserving the natural desert and the environment has raised the bar for expectations for development of our City. This plan is yet another example of how a residential neighborhood can be built while still preserving open space and protecting the natural desert environment. Thank you.

Mayor Lane: Thank you, Ms. Dreher. Next is Christine Frank. Followed by Robert O'Neil.

[Time: 00:49:38]

Christine Frank: Mayor and Councilmembers, my name is Christine Frank. I live in far north

Scottsdale just south of Stagecoach and Windmill. You're considering a request for an up-zoning, Fiesta Ranch. I urge you to deny it. It's just too dense! How is that for an eloquent smooth refutation of the proponent's arguments. Seriously, the city's cost to service this project will exceed the income from the residence and the proposed average lot size is out of compliance with the General Plan and inconsistent with the existing surrounding 3-acre lots. As you consider this matter, please know that these up-zonings pull the rug out from under the existing homeowners who invested in Scottsdale to enjoy the desert. They invested their hard-earned dollars expecting that existing zoning would protect them, protect them from overly dense development that devalues of their properties. Protect them from being denied the enjoyment of the desert they came for and protect them from having their tax dollars wasted on developments without a reasonable return. I am attending this meeting in part to observe, observe potential candidates, candidates for City Council and Mayor who will take the side of existing residents. We want candidates who will listen to compromise and who help us protect the value and enjoyment of our properties. In my homeowners association, there are about, 100 properties, I am guessing about 175 residents, I hope my neighbors and I can support those of you who share our values and make decisions consistent with them.

Mayor Lane: Thank you, Ms. Frank. Robert O' Neil followed by Patty Badenoch.

[Time: 00:51:35]

Robert O'Neill: Honorable Mayor Lane and distinguished venerable Council people. Talk into the microphone it says in the instructions. I am here tonight to oppose this particular development. I'll tell you a bit about myself. I hope I have enough time. I will speak fast. I was born in Canada. As a young man, I realized I wanted to pursue the American dream. When it became available to me, I immigrated to the United States and five years ago I became an American citizen. I wanted to chase that American dream. My American dream, so basically, you have to scratch, put money together, we lived in Philadelphia. We decided that we wanted to live in the desert so we picked a rural area. I live at 138th and East Quail Track Road. That was the American dream. Then we find out from what the real estate agent, they are proposing a development right next door. So my house will overlook the wash that overlooks this particular development. I enjoy the desert. I enjoy when I'm having breakfast in the morning and watching a bobcat walk by my pool. When neighbors tell me there is a mountain lion in the area.

Three weeks ago, a coyote grabbed one of my dogs and tried to pull him into the desert, and I rescued him. That's the rural community that I signed up for. That was my American dream. What we're now being asked to do is to take another person's American dream by buying a piece of property, having it appreciate, and then going to structure it in such a way to make a financial gain. That's their American dream. But they're doing it on the backside of my American dream. I thought, when I moved to this country, everyone was equal under the law. My American dream was just as valid as their American dream. What they are asking for now is a variance. My question to the Council, that variance, what was wrong with the original variance, the original zoning of this particular area? Why is there a need for a change? Has the desert changed? No. Have the people living there changed? No. So why would we give them the variance? I was at the planning meeting. Again, my American dream, they're taking my American dream and taking part of that dream to pay for their dream. Right. They bought the property. They want to sell the property but they realized that the finances aren't there so what do we do? We'll pack them in denser. We'll make it denser and now me and the other people living in the area are going to be paying for their American dream. I didn't work all my life and

struggle to become an American citizen to chase that dream and to have someone take it away from me. Thank you.

Mayor Lane: Thank you, Mr. O'Neil. Patty Badenoch, followed by Karen Nability.

[Time: 00:54:46]

Patty Badenoch: Good evening. Patty Badenoch. 47-year resident of south Scottsdale. This project, this so-called master planned community showcase is just another example of the City's means to move a goal post and change the rules. Yeah it meets the guidelines but misses the nature and the spirit of our town. I was out there today and drove the road. It's got hills and curves and gullies. I don't see how your infrastructure is going to support this. We're really getting pretty tired of paying for the infrastructure that you say the development pays for, because it's not. Thank you.

Mayor Lane: Thank you Ms. Badenoch. Karen Nability? Followed by Sharon, I think it's Newbill.

[Time: 00:55:45]

Karen Nability: Hi, Karen Nability. First, Lyle, you have built a beautiful development. I have seen different developments, they are beautiful. But this, this development is not Desert Mountain. It's very dense. In 2000, then City Council approved the Dynamite Foothills Character Area Plan. They did it to specifically protect this area. Okay. In 2000, then City Council approved the Dynamite Foothills area plan to protect this area. In that plan, it specifically says the minimum lot size of any cluster unit should be 26 thousand square feet. In this plan it's 13,500. The parameter walls should not be, you should, only for projects that are 320 acres. This is 273 acres. Outdoor lighting should not exceed 14 feet. They have 16 feet. Buildings should be single story. The Planning Commission had no stipulation for single story. Open visual corridors between homes of at least 50 feet. Well, this, the way that ESL is with an R18, you have a 13,500 square foot lot, that is less than a third of an acre and it has 8-foot side yards which means there is only 16 feet between the houses. Heck, even in the backyard, you only have a 23-foot deep backyard. There is not even 50 feet between the home and the back space to create that open corridor, that open feeling for it.

So my question to each of you is, why would you ignore the area plan meant to protect the rural character of north Scottsdale? This is a huge area that that plan specifically refers to. So why, what I want to hear at the end of this from each of you is why would you approve it when it doesn't meet so many of the items that are actually on the Dynamite Foothills area character plan? We and all Scottsdale citizens deserve an answer to that. If you vote for Fiesta Ranch you're voting against Scottsdale, the City you were voted to represent. For those that are here, there are so many of you that are here to oppose this. If you're here to oppose it, and I know you're not speaking, will you please stand up?

Mayor Lane: No, miss. Please.

Karen Nability: Just know that there are a bunch of people here that didn't want to come up here and speak because they might shake like I am right now. Thank you.

Mayor Lane: Thank you. Sharon, I believe it's Newbill, followed by Joseph Munno.

[Time: 00:59:11]

Sharon Newbill: Thank you, Sharon Newbill, 29909 North 152nd Place. Thank you for letting me speak. The proposed lot sizes are too small. The Dynamite Foothills Character Area Plan should continue to be the voice and plan for future development. I respectfully ask that you deny the change in zoning before you tonight. Thank you.

Mayor Lane: Thank you Ms. Newbill. Joseph Munno followed by Betty Janik.

[Time: 00:59:44]

Joseph Munno: Good evening, my name is Joseph Munno. East Cavedale. I just want to share a moment. I came from the City of Irvine out in California. I watched master plans be built every single day, master cities and they were great in the beginning until these cities were transformed with traffic and residents and crime and other things that it weren't really part of the aesthetics when I bought my property 20 years earlier. Move out to north Scottsdale, find a place that's out in the desert, and I'll tell you what, you probably can't find 250 homes probably in the ten-block span of that area and we're going to drop them in two blocks here at 136 and 141. Lyle, you may have some great visions and do some great properties and you have a great team here putting together a great sales package and great demonstration. Quite honestly this does infringe upon the American dream. To scrap together and put together a mortgage in this day and age and be able to buy your American dream, your property, have your peace and quiet, your privacy, how the wildlife come right out to your backdoor and then all of a sudden have 250 homes and about 500 cars driving through your neighborhood all of a sudden is a radical transformation of our neighborhood, our community.

I don't know if any of the City Councilmembers may have visited the area or if you're familiar, what it's like to remember what it's like to buy a home and what you do in your due diligence, to find your home, to put together your family and to find a place where you want to make the mortgage and live there. This is a radical transformation of our community and our neighborhood. I do ask that you to think about what it was like when you bought the property for your family and the things you had to consider when you made that choice because just about everybody here tonight did the same thing when we bought property in this community and now it's about to be radically transformed. You may as well just drop the Walmart in because that's what the traffic is going to be once this thing goes up. Thank you for your time and consideration. Obviously I oppose the transformation of our neighborhood and hope that you would see why. Thank you. Have a good evening.

Mayor Lane: Thank you, Mr. Munno. Betty Janik followed by Allison Eckholm.

[Time: 01:02:04]

Betty Janik: Good evening Mayor and City Council. My name is Betty Janik. I live at 18490 North 97<sup>th</sup> Way, and I'm a representative of COGS as I speak this evening and recall that COGS has well over one thousand contacts in Scottsdale. This particular information was compiled by Howard Myers who has been a hero for Scottsdale for decades. Tonight you make a decision on Fiesta Ranch. This case involves 273 acres surrounded beyond the City's normal eastern boundary. So it is surrounded by



unsubdivided properties. All of these properties are an acre or larger and on the eastern boundary, they're large ranches of eight and more acres remaining. The property was rezoned in 2001 by the Scottsdale City Council and I'm going to interject, what has changed in the 19 years? Why is it now okay to change the zoning that you promised everybody would remain intact? Okay. City Council decided the perimeter lot should be 5 acres back in '01 as a buffer to surrounding properties. Most of the rest of it was zoned R1-70. This was done after thought, negotiation and outreach and it also considered the history of the parcel. What went on back then should not be ignored and dismissed because a lot of valuable input went into this decision.

This is not only increasing the density back to the one DU per acre, it wants to rezone about 45% of the property to R1-18 which is less than half an acre which is in no way compatible with the rural neighborhood's General Plan which several speakers have already mentioned. We continue to forget about that General Plan. It is a vision of us, the citizens, and what happens, it gets voted down repeatedly. Okay. Further, there is no development plan where the areas rezoned R-43 and R-18 so at any time if the property is flipped, we can see even more density with more than 309 homes. That clearly violates the General Plan and impacts all the surrounding properties. Other issues include the cost of putting sewer pumping stations in. Traffic impacts on Dynamite Road. Drainage issues because of all of the washes that are in this area and ultimately we the taxpayers are going to have to pay for the rezoning because it is not a break-even deal. Development especially this far out doesn't pay for itself. Now what I also want to add is John Berry gave a beautiful presentation. The best way to develop the desert is to have a planned community. I disagree 100%. The best way to do it is to leave it as is, as the City promised to leave it. It may be a wonderful plan but it's not a plan that the citizens want. Thank you.

Mayor Lane: Thank you. Allison Eckholm, followed by Robert Bauman.

[Time: 01:05:21]

Allison Eckholm: Good evening Mr. Mayor and members of the City Council. Thank you for having us. I live at 14005 East Cavedale drive. Like Robert said, if you had the map up there, I would be right under it. So my husband has lived on the property that we're currently at since 1999. And he was very active during the last round of all of these changes that everyone has been referring to. He was very vocal and now I'm here tonight. There are a couple of things that I want to bring up. When my husband and I first met, he was living on our property and he was one of the first people to ever live in the Rio Verde area. His nearest neighbor was over a mile away. He watched all this development come up around us. It has been hard to watch but at least people have been living the lifestyle we have, the horses, small ranches. People move out there because they want to experience the desert. They want their kids to grow up knowing what it's like to have the desert. We made the choice to continue living in that area, as many of these people do, knowing that, I don't know how many of you realize how far out it is and how long it takes to get everywhere from there. So it is a conscious decision that we make every single day, like every day when I commute, I make a decision that it's worth it to me to commute that far for that long to work, because when I get home, I am in the desert and I am surrounded by beauty and I am surrounded by all of the things that I want my children to have and I want me to have in my life. And we have made decisions with our money and our mortgage and refinancing with our cars, with all of the decisions that we have made in our lives, about where we live, have been made based on having the area around us intact. And I know I speak for all of us here when that's a major life decision we have made that involves family and money and a lot of really important

life decisions.

So to suddenly have this come out where it's going to be a completely different type of density and we're going to have all this traffic and all these people, it's completely different. I'm running out of time. I want to briefly mention, Lyle Anderson keeps making the point the washes are going to be preserved and it's going to be all this space preserved. I would like to make the point that nobody can build in a wash. Saying that you're preserving a wash area is not preserving desert. No one can live there. It's not buildable anyway. They shouldn't get a pat on the back for preserving something you can't build in. If this land was left the way it was supposed to be that is currently zoned, not only will those washes not get built in, because you can't, the rest of the area will be appropriately zoned and appropriately preserved. And that's the difference between a planned community and preserving the zoning we have present.

Mayor Lane: Thank you. Next is Robert Bauman.

[Time: 01:08:40]

Robert Bauman: Good evening. Robert Bauman. 13637 East Whitethorn Drive. I'm a 31-year resident of Arizona. Love it here. Never have any intentions of wanting to move away from here. One of the most beautiful areas of our state and around the city I think is Rio Verde Foothills. If any you have been out there, I don't care what time of the day it is, it is spectacular. I love Four Peaks, I love all the mountain ranges around us. And like the lady said, it's worth the drive, and it's a drive. We pay the price. We dirty our cars on dirt roads. We make all sorts of sacrifices because the views are spectacular. We love it there. I am a CFO for an investment company. I've worked hard in my life to try to live in a place that I really desire and want to be in. I have worked on programs with an organization where John Berry actually presented to us at the Scottsdale Air Park Thunderbird Academy for development we're doing there. And I like John. John is a nice guy but he was presented to us as the zoning guru. If you want to get something through, you hire John Berry. I know he is sharp, he's an intelligent guy. But hopefully he is not buying these zoning changes based on who he is and what his name is. So our concern is that when you look for a property, you carefully review every single aspect of your neighborhood and what's around you. In my previous job, and I still have a current license as a certified residential appraiser. So what did I do when we looked at our house in our area? I checked all the zoning. I looked at all the maps. I made sure when I moved into this area, nobody was going to be building all around me a two-story house crammed in on a little tiny space because I love my views and I paid handsomely for them. I would like your consideration. It would be fun to talk to John afterwards, and say maybe if we as neighbors had hired him in instead of Lyle, what kind of arguments could we have to fight the developers so we could preserve the country that we love so much? Thank you.

Mayor Lane: Thank you Mr. Bauman. Next I believe is Jacqui Fox followed by Francine Alhadeff.

[Time: 01:11:18]

Jacqueline Fox: Hi, I'm Jacqueline Fox, I live on 13637 East Whitethorn. I'm right off 136th Street which is pretty close to where the development is taking place. And I do appreciate Mr. Anderson's attention to the aesthetics or the beauty of the desert, but like so many of us have just got up and talked about, we so strongly feel that that is going to be compromised. To me, a pleasing aesthetic is one

where the measurable properties are in relative proportion and it cannot be done that way when you have lot sizes that get that small. Attention to detail and the devil is in the details on this. It's not that we don't like him as a builder. He has built some wonderful things. What we are opposing so strongly is the change that will take place that hampers and destroys what we have worked so hard for, the lot size consistency. Killing our area just because you will not decrease lot sizes and building heights and lights is a crime that cannot be reversed. Destruction of the beautiful views and the wildlife spaces should not be taken lightly. There is too much to lose, just like when we lost one of the few Pony Express historic sites, Riata Pass. Please reconsider and adjust your plans. Thank you.

Mayor Lane: Thank you, Ms. Fox. Next is Francine Alhadeff. Pardon me on that, correct me please.

[Time: 01:13:04]

Francine Alhadeff: Hi. Thank you for letting me speak today. I oppose this development as well. I live with these folks right here off of Cavedale and 139th Place. We moved out there about five years ago and one of the reasons why we moved out there is because we have two small children and they get to run and play and ride their bikes without getting run over and all those different things. One of the main things that nobody ever really mentioned is Rio Verde. I mean Rio Verde, there is one way in and there is one way out. You know, and I can't imagine there being 300 more cars or more on that road in the morning. You got retirees out there. You got me who is a stay at home mom that drives her kid to school every day and you got people who work like my husband and drive into work. And so that road is, we put in roundabouts, it slows traffic. And I would say about two to three times a week, people play chicken because I abide by the rules and I do 15 miles an hour. I have an 8-year-old and a 6-year-old in the back and I don't play chicken and go behind. I'm really scared to think there is going to be more people on that road that are going to do that. Not only is the road getting in and out a concern. Also schooling. You know, Cave Creek district. We took our kids out of that district this year because my daughter's class was going to have 38, you know, kids in her class for one teacher. And they're overwhelmed with the amount of people, amount of students that they have right now and I don't think that you guys are going to be building any new schools to accommodate us out in Rio Verde, as well as, has anybody done any, you guys, with your research, have you guys done any traffic impact of how that's going to, you know, affect the people that are currently living there today and how we're going to get in and out of there. So I definitely oppose this. I won't reiterate everything that everybody else said because I believe in everything they said as well so please, please, reconsider. Think of us that are out there that are living there already. If it has to do with money, we are willing to pay a little more in property tax to cover the cost, right guys, to cover the cost. Thank you very much.

Mayor Lane: Thank you. That does complete the public testimony on Item 23 and I want to thank everybody for participating in the input. Mr. Berry, if you want to take that time, extra minute and a half that you referred to and any responses that you feel the need to answer.

[Time: 01:16:03]

John Berry: Mayor, members of the Council, since my time is limited, let me jump right in. One of the comments you have seen in the e-mail this evening, there is no public community benefit for this proposal. When was the last time somebody said there is not a public benefit to increasing the amount of preserved desert in our community by one third over the already strict requirements of ESLO? In terms of washes not being developable, interestingly, this is Scottsdale and this is our

property. This is 138th Street. This is the flood plain. You can see these homes in the county have actually developed in the wash.

The City Council report, there is some commentary that this proposal is not playing by the rules. Mayors, members of the Council, your professional Planning staff notes it is consistent with the General Plan and the Character Area Plan. I showed this previously in my presentation but I just want to remind you that the Character Area Plan encourages development proposals which have more preserved open space. Some this evening encouraged you to treat the Character Area Plan as if it is a bible for how development has to occur on this piece of property. The Character Area Plan dictates what happens on this property. Let's read what is actually in the Dynamite Foothills Character Area Plan as to how you are supposed to treat this. Character plans are not zoning or master plans for specific parcels. Character plans are not a means to control or regulate specific properties or proposals.

A little history lesson. When this Character Area Plan was adopted and being considered, this was the General Plan on the property. It included 561 units. Commercial, apartments, townhomes and golf when the Character Area Plan was being considered. The voters, two years later in 2002 adopted the General Plan that's in place today with a land use plan map that is up to one unit to the acre. We are .83. And to those neighbors that averred to you, that they did comprehensive professional research to understand exactly what was happening in the area, they dug into the ordinances, they dug into the City and did everything they needed to do to fully understand what could happen in that area. For 18 years, this has been the land use map that says up to one home per acre on this piece of property. Our overall density is less than that at .83 with more preserved desert than required.

There has also been comments that somehow R1-18 is inappropriate. Let's understand the reality of that in the real world and in development. This is the property that is outlined in purple that is Desert Highlands. When Lyle developed it and when it was approved, I want you to note all of the areas in green are R1-18 zoning. In fact, there is even R1-10 zoning you will note in blue. And in the light blue are 7 thousand square foot lots. R1-7. What about Desert Mountain? Another Lyle Anderson product. Desert Mountain. Also has R1-18 in green in this location. All of that yellow in Desert Mountain are 10 thousand square foot lots. In the brown, 7 thousand square foot lots and in the blue, 4 thousand square foot lots. I defy folks with a straight face to say that Desert Highlands and Desert Mountain are not the highest quality developments sensitively done in the Sonoran desert.

[Time: 01:20:23]

What about transportation? One of the benefits of master planned communities, is you have development paid for by the developer. That includes new roads. We'll be required to widen Rio Verde to put in center two-way left turn lanes, we'll be required to put in left-turn and right-turn decel lanes and why is that? So cars can continue to go through, that are going east/west without having to stop or slow down when people make a right or left turn which is what they have to do today. It actually enhances safety. Here is a shocking fact. Between 120th and 128th Street, this is what's happened to traffic on Rio Verde and these are the City's traffic counts. 2006, 12, 500 cars on average a day on Rio Verde. In 2018, 12 years later, traffic has gone down. Let's talk about rush hour which is where the maximum amount of new traffic is going to occur. It's during the rush hours, it's in the morning when people are going into Scottsdale. It's in the evening when they are coming from Scottsdale back out to the area. What is the traffic impact? Our traffic studies shows, approved by

the transportation staff at the City, that during that rush hour in the morning and evening, there is one new car about every minute.

Mayor Lane: I'm going to ask you, please. Cannot lose order here and that's exactly what we're talking about. There's been the opportunity to speak toward it. We will have questions about whatever is said here from the Council. It is not to be coming from the audience in a crowd formation, so I'd ask you please to control.

[Time: 01:22:17]

John Berry: Members of the Council, thank you. As I was saying, the maximum impact is during rush hour. It's approximately one new vehicle during those rush hours every minute. That sounds like a lot. Let me give you an idea of the magnitude of that. During that rush hour, one per minute, I want you to understand. One Mississippi. Two Mississippi. Three Mississippi. Four Mississippi, on to 60 Mississippi. During that time, on average, one new car during rush hour in the morning and in the evening. In terms of infrastructure, this is a requirement set forth in the City Council report responsibility for construction of infrastructure. The developer shall be responsible for all improvements associated with the development. Improvements shall include but not be limited to, throws in everything including the kitchen sink and its drains. Goes on to say that the granting of zoning does not and shall not commit the City to provide any of these improvements. In terms of sewerless stations and other infrastructure discussed in some of your e-mails, it's my understanding that the City's impact fees for water, sewer and hook-up fees, take that into account in terms of ongoing maintenance and that type of infrastructure.

Mayor, and members of the Council, tonight is not the first time we have heard these comments and as we are wont to do, and Lyle wants to do, we listened along the way. We reduced the number of homes from the General Plan allowed up to one unit to the acre to .83 units to the acre. We even reduced the density between Planning Commission and City Council. We increased the preserved desert by a third. We increased the perimeter open space buffers to our neighbors in the county. We decreased the amount of R1-18 area and increased the amount of R1-43 area. We converted 46 acres of residential zoning to open space zoning where no homes can be built. We increased the Rio Verde Drive buffer by 100%. The City requires 100-foot scenic corridor along here. By the way, most people experience this development driving by it. And as you drive by this development, what you will see is not the required 100 foot natural desert buffer, we have agreed to a 200 foot natural desert buffer off of Rio Verde and behind that buffer, one-acre homes. Also in the e-mails and Planning Commission hearing there is request from the county neighbors to add an east/west public street connection which is in the stipulations and we are required to do. Thank you very much.

[Time: 01:25:12]

Mayor Lane: All right. It is now time for the Council to pose some questions. And John I wanted to ask one, that created somewhat of an uproar here with the audience. I know that everyone on this Council, every member of this Council has seen the information from the traffic study and how that was derived. And of course it is coming from the staff as well. Yet we have heard consistently there was no traffic study. That information was posted and available throughout this process. Is that correct?

John Berry: Mayor Lane, Council, you cannot do a small or large project in the City of Scottsdale

without doing some type of transportation or traffic analysis. The one that we have prepared under the guidelines and the guidance of the City of Scottsdale Transportation Department was thorough and extensive.

Mayor Lane: I'm going to ask staff to comment on that. Is that something that through staff's review has been available throughout the process? Are we waiting on someone? And Dan, if you could, please describe the circumstances on how we accomplish this.

[Time: 01:26:45]

Public Works Director Dan Worth: Mayor and Council, we do have a traffic impact and mitigation analysis that the consultant for the developer pays a consultant to produce. Takes a look at the traffic that would be allowed with the existing zoning, compares it against the traffic that would be allowed with the proposed zoning. The numbers that you heard are fairly accurate as far as the increase over what is allowed now with the existing zoning. And this is, the study itself is done to an established standard. There is a set of instructions that the consultant has to follow to do this. And as reviewed thoroughly by the transportation staff and they reviewed the modeling that was used to estimate the number of trips that are generated a.m./p.m. peak hours, as you have heard and the studies complies with all of our standards.

Mayor Lane: Are the base numbers they would use in any kind of study from our own review of traffic in the city? Remembering that a lot of this is in the county, too. I know we do have some, obviously some interplay with particularly Rio Verde Drive as far as the level of activity.

Dan Worth: Of course the area is currently undeveloped so there is no existing traffic being generated by the site. Normally they would look at existing traffic that is being generated by a development, and look at what could be developed or could be generated by what the zoning allows and then they're going to compare it against what the proposal is. In this case, there is no existing traffic being generated by that site. They are just comparing it against what the zoning allows.

Mayor Lane: But when we talk about Rio Verde Drive, we do have baseline numbers without the development.

Dan Worth: Correct, and when we look at Rio Verde Drive, you heard some of the improvements that we're stipulating, that the developer makes the addition of a center left-turn lane and deceleration lanes at the intersections 136, 138th and 141st. Those are all to mitigate the increase traffic on Rio Verde Drive and continue to have the same level of service on that road.

Mayor Lane: Well that won't necessarily change the volume it'll just change potentially the convenience of the turn outs left or right, but the volume that the City has established, given the amount of work that has been done and actually been proposed on that road for the future, I know we have done our own studies, not about what a development would be, but where we are right now. And even what might be projected in the community on the basis of future development even in the county, because the county's grown a great deal and most of what we have heard from folks tonight is people who are in the county. We do have numbers and they are not contrary to what this study presumably they presented as a baseline.

Dan Worth: Mayor, that's correct.

Mayor Lane: Fair to say. Okay. I'm sorry, sir. We don't do that. John, I have a request for Councilwoman Whitehead. She would like to ask a question.

[Time: 01:30:12]

Councilwoman Whitehead: I don't have any questions right now for John Berry but I do have some remarks. Every one of us is up here to represent the interest of the citizens of Scottsdale and certainly respect those residents that are neighbors. So I don't believe anybody should have to read a 600-page report in order to guarantee that this Council upholds zoning, upholds the General Plan. So I think that's a burden I don't believe you should bear. I have heard from Rio Verde neighbors who, as the Mayor pointed out, are not residents of Scottsdale. But I have also heard from far too many people. Yesterday I was trying to cut/paste/send as fast as the e-mails were coming in. I couldn't keep up. I received not one, I received e-mails from every zip code in Scottsdale, Scottsdale residents, and not one supported this project.

I wrote an op ed. I write a lot of op eds and I don't usually read them but I'm going to read this one and then I'm gonna have comments. So we are here tonight to consider a substantial up zoning request in Scottsdale's remote and rural area near Rio Verde. The eastern portion of the Dynamite/Rio Verde corridor is home to large ranches, big washes that flood and little water the rest of the year. Homeowners east of the City border rely on limited ground water or pay to truck water to their homes. The area's also critical wildlife habitat connecting the north and south part of the McDowell Sonoran Preserve, the Tonto National Forest and the Verde River. The Fiesta Ranch proposal chops a beautiful country parcel into 227 suburban homes almost doubling the current zoning that would allow 116 homes.

I believe this development will have tragic consequences on Scottsdale's quality of life, wildlife and the Preserve. The development will bring hundreds of new cars to the area that is a critical wildlife crossing, and in fact, designated as a wildlife crossing. Adding to the density may place insurmountable pressure on the City to build a road through the Preserve, and a road alignment does exist and that has been talked about. And we just had Prop 420 where our citizens said loud and clear, keep your hands off the Preserve. Scottsdale residents' pocketbooks, all of them will take a hit, too. Developing density in this far flung area will exacerbate perpetual maintenance costs that the City is already struggling to cover, servicing remote areas with police, fire and sanitation services, costs municipalities far more than the central locations and our residents get to pay the bill.

Infrastructure maintenance is another safety and cost concern. Last year in 2019, an audit found that the City Public Works department was not sufficiently keeping up with routine maintenance, which led to the costly failure of two bridges, which we paid the tab on. Fiesta Ranch will increase infrastructure without providing funding to maintain it. Based on my interpretation of the General Plan, Fiesta Ranch is a major amendment and should require a super majority. Five votes for approval, if it is such a beautiful development, I am sure that the developer could earn five votes.

[Time: 01:34:14]

I also worry that what we're approving is a change in zoning. So this opens the door for far more

homes than those being proposed today. All being built on this fragile land. So for these reasons, as much as I respect other developments, it does not give me the right to change the zoning and use, and benefit Fiesta Ranch over all of those residents of Scottsdale. Now I'm going to get into my comments. First of all, there are many levels of protection when somebody buys a home that you might review, and decide if your home will retain the value. The first level is zoning. Again, this is a parcel that is zoned for 116 homes. The applicant is requesting almost double, 227 homes. On the issue of excellence, we demand excellence and Mr. Berry often brings it to us. That does not earn anybody the right to double the zoning and expect it to be approved. Zoning changes should be considered only when an applicant demonstrates a quantifiable and equal public benefit, community support, we lack that, and a justifiable need. None of that is true in this case.

Why would anybody want to invest in Scottsdale if they know and we prove that the zoning we have in place is not worth the paper it's printed on? So on the General Plan, it's not really rocket science, and yes, it's not a zoning document. That's why we have zoning. But the General Plan states criteria for a major amendment. And again, a major amendment just means that it takes five votes instead of four to pass the project and major amendments are only considered in December.

So the General Plan states, for water and wastewater infrastructure criteria, if a proposal changes the planned-use category and results in the premature increase in the size of a master planned water transmission or sewer collection facility, it will qualify as a major amendment. So the proposal states, the proposal that we are hearing tonight, that the existing sewer system is inadequate to support the proposed development. That seems clear cut to me. The General Plan states, on the area of changed criteria, a change in the land use designations that includes the following gross acreages, Planned Zone E-3, 15 acres or more. So it's a general major amendment if the parcel exceeds 15 acres. What we have here is 46.2 acres. That seems clear cut.

[Time: -1:37:37]

The General Plan states rural neighborhood land category to any other category requires a major amendment. And this category includes areas of relatively large lot single family neighborhoods, densities in rural neighborhoods, are usually one house per acre. Furthermore, if you go down to additional documents to the Dynamite Foothills Character Area Implementation Program Guidelines, on Page 6, you find that the idea of bundling homes, instead of having one house per acre, you get to group them up, that even has limitations that are much higher than what is being proposed today.

In order to retain the scale and character of low density uses, the minimum lot size of any clustered units should be 26 thousand square feet. This is the minimum lot size with an R1-35 ESL zoning. So again, this is far larger than what is being proposed today. You know, the idea of .8, that there is only going to be one house per .8, acres, I don't know if I am saying that, right. We are including a lot of washes here. We are including a lot of land that is not developable. Did somebody build on a wash? As they say, I am sure your mom said it, two wrongs don't make a right. Washes are not developable. You cannot include washes when you are calculating how much open space there is or how many houses per acre and have it really reflect the accurate truth.

Again, I am very concerned that what we have here is not a development plan. It's a concept. I have not heard that there is any protection that this, that if this Council approves the zoning, that we can't end up with somebody coming in, either this developer or a future developer if he sells the land,



requesting up to 309 homes on this fragile land. So we have zoning and we have the City code, the General Plan, the Character Area Plan and their implementation plans for the specific purpose of preventing City Councilmembers from arbitrarily deciding that this is good enough and this developer has earned the right for this massive change to every document I have just mentioned. I believe that if there are ambiguities, that we the City Council must err on the conservative side of protecting our constituents and our neighbors. Again, I just want to repeat that if there are upsides to this proposal, and it comes before us in December as a major amendment to the General Plan, I'm sure it will earn five votes. I'm going to wait and listen for the rest of the Council people to speak and then add more.

Mayor Lane: Thank you, Councilwoman. Councilwoman Milhaven.

[Time: 01:41:10]

Councilwoman Milhaven: Thank you, Mayor. Well, that was quite a bit, thank you, and thank you all for your comments. Let me start on the topic of whether this is a major or minor General Plan amendment. I am not a planning professional and I am not an attorney. However, the City pays for folks to be planning professionals and for attorneys to advise us. And so while my colleague Councilwoman Whitehead might believe that this should be a major General Plan amendment, I think I have a responsibility to listen to the professional staff, and the folks who advise the City to keep us out of trouble. The City Attorney's office clearly agrees, they said in the Council Report, that this is not a major General Plan amendment despite the fact Councilwoman Solange Whitehead and her friends might like it to be. That's first. I don't think there is anything arbitrary or ambiguous about that. The rules are pretty clear.

I certainly understand the neighbors, most of whom I can see by looking at the map are, live in the county, are concerned about infringing on their property rights and what was allowed. The 2001 General Plan said up to one home per acre is allowed. For this property owner to be making this request, it's entirely in line with the plan that the citizens approved in 2001. It's a reasonable request that is within the guidelines. In terms of, because it is a rural neighborhood designation, and 277 homes, I'm sorry, what is it 273 homes on 277 acres is more than an acre per home, is a rural neighborhood.

Now, some folks are arguing about the parcel size. Well, if you, when you create natural open space, that is more sensitive to the areas by making smaller individual parcels, you can make the open space more meaningful, be more consistent with the desert around it and it is still averaging more than an acre per home site. So that is certainly consistent with the General Plan and consistent with the rural character of the area. Folks talk about infrastructure, I would like to repeat the fact that this developer is widening the road, installing sewer lines and water lines, so they are improving the infrastructure that will support this project as well as then the property owners pay property tax and they pay water and sewer fees like the rest of us and that pays for maintaining that in the future. I take great exception to the folks who say that the development does not pay for itself. It certainly does and it's very clearly spelt out in the Council report.

[Time: 01:43:55]

The other is the Preserve. There would be no reason for anybody to travel in that direction. Right. Where this is situated, the traffic is going to be on Dynamite. To say that someday somebody might

build a road through the Preserve because it's somewhere remotely located near it is absolutely absurd on its face and frankly I think is just fear-mongering. I don't see any premise for that. So I think this project is entirely consistent with what is in the immediate area, it's consistent with the General Plan. Infrastructure and maintenance is paid for by the developments. I am sure my colleagues have something more to say but I'm going to jump on and I'm going to make a motion to adopt Ordinance 4434 approving a zoning district map amendment. I'm going to move we adopt Resolution 11683 to declare "Fiesta Ranch Planned Community District Development Plan" as a public record and adopt Resolution 11691 authorizing execution of contract 2020-015-COS, the termination and release of development agreement contract 2004-033-COS.

Mayor Lane: I'll second that. I don't have a comment at this point in time but I do want to hear from the rest of the Council but I will second that motion. Councilmember Korte?

[Time: 01:45:20]

Councilmember Korte: Thank you, Mayor. I support this project. Let me tell you why. The reputation of this developer Lyle Anderson is stellar. He walks his talk. We can talk about the successes of Desert Highlands and Desert Mountain, both containing majority of R1-18 zoning. But beyond his projects, his love of our Sonoran Desert is clear. He was the first developer to value the mature Palo Verdes and Iron Woods and all of the saguaros and cacti and chollas. And he created and developed the criteria to successfully transplant and preserve and save those iconic species. He conceived the open space envelopes around dwelling units. And that was his idea. And as Mr. Berry said, other developers thought he was crazy. But look at what it has done to our Scottsdale and future zoning of our City.

But now to speak to this project. It's 273 acres. If zoned, it will build 227 lots or 0.83 dwelling units per acre with setbacks of 100 feet along Rio Verde, which is twice the amount that is by ordinance for our City with 50 feet setbacks on both the south and east sides of the property. And if we left this property and we didn't approve this zoning, with the current General Plan designation, the developer could build 273 dwelling units. And this development calls for 227. To me, this proposal reduces the number of homes by 46. It increases the open space by 80 acres, and that's where the value of our community is, is the increase in preserving our open space in the desert within this area. Thank you.

Mayor Lane: Thank you, Councilmember. Councilwoman Whitehead.

Councilwoman Whitehead: Did everybody have a chance to speak?

Mayor Lane: If no one else, that's what I am waiting for as well. Vice Mayor Littlefield.

[Time: 01:48:04]

Vice Mayor Littlefield: Thank you, Mayor. I appreciate that. My first comment is to all of you. Thank you for coming tonight. I owe you, some of you at least, an apology. I received so many e-mails from all of you, I could not keep up and I could not answer them. And this is the first time I have not been able to do that. And I apologize for that. I do try to at least recognize and let you know that I have read your e-mails. I did read them. I just didn't have time to respond. So I apologize.

Also, John, to you, if I ever need a rezoning, you are the lawyer I am going to. You are smooth. You are awesome and you do a very, very great job at what you do. Thank you for that. And thank you for the presentation. It was very good. I'd also like to add this is not about Mr. Anderson. He is an excellent developer. I have seen his projects. I know what he can do. But this is about who do we represent up here on this dais? Who put us in these chairs? It was not the developer. It was you, the people of Scottsdale. Every single e-mail that I received, and there were hundreds of them, did not want this development in the north. Some of them were from Rio Verde, the neighbors up to the north of us and over on the other side, but a lot of them were Scottsdale residents. And they were not just northern residents. This project came down through all of central Scottsdale and into southern Scottsdale. People from southern Scottsdale even showed up tonight to speak to say, hey, don't do this.

It's important to get your priorities straight. Who do you represent when you're sitting up here? I represent my constituents. I am your voice on Council and you said no. I would like to say some other things, too. To approve a change of zoning, this is a change of zoning, this is part of the Dynamite Character Area Plan and it's described as low density with large lots, usually 3 acres or more. This request is in violation of that. Why do we have the plans in the first place if we're not going to adhere to them? If we violate these plans, every time someone comes up and asks us to, there is no point in having a General Plan because we don't obey it.

Also, I agree with all of the points that Betty Janik made tonight. Those are kind of what I had in my notes. I'm not going to repeat them all because they are very succinct and I think everybody heard them. I believe some of the major things here is for us to approve a change, in a General Plan, in a development plan, there needs to be a public benefit to make that change. Because our General Plan was approved by our citizens. And that's the plan we currently use, whether it's 2001, or 2011 or 2020. That's the plan that's in effect. It is in effect. And it was approved by citizens. So there has to be a public benefit to our citizens for us to change it. There is no perceived public benefit here and we have heard that tonight.

[Time: -1:51:51]

The citizens who must bear the result of this density increase, and it is a density increase, feel that this will have a negative impact for the entire City, their areas and for the entire city. And into our neighboring cities. Development does not pay for itself. We know this because it has been proven over and over and over again. When we have high development, our costs go up to the City for maintenance and for continuing the services that are now required. The cost of the service in this density would exceed the income caused by the density, causing citizens throughout the city to make up the difference whether it's in fees or taxes, whatever. They will have to make up that difference. I will give you an example of that. Transportation needs will increase. Another example, and this is probably the most reasonable one that people can really grasp quickly. You're going to have to put some pump stations in to pump the water into this thing. A lot of people in Rio Verde and in these areas actually truck their water to their homes. So we have to put pump stations in, in all of the underground utilities and stuff to use those pumps.

And that system, if it's paid by the developer, who said he would do so, will still have to be maintained by the City, and it will have to be paid in fees, not only by the people who buy these 200 or 300 homes,

but through all of the citizens that live in Scottsdale because it's an enterprise system, our water and sewer. It has to meet its own needs and we are the ones that pay that fee. If they don't perceive a benefit from having this in the first place, they are not going to want to increase their fees to help pay for it. This is common sense.

Ongoing costs for the required infrastructure will be borne by all of Scottsdale citizens, and they don't want it to begin with. They don't want to pay for it. So, you know, there is no perceived benefit. It's going to increase our costs in the long run, and we have no assurance into the future that this isn't going to be approved and then resold. If it's resold, not only 227 houses, it's 309 houses that can be built there. Increasing again, the density without coming back to us.

And finally, as I said before, it comes down to who we represent. I represent you, the citizens. I have heard in no small terms, you don't want it. Okay. I won't vote for it because if you don't represent citizens up here there is really not much point in being here. And, you know, I feel sorry. I know Mr. Anderson is an excellent developer. I know he is a good guy, but this isn't about a particular developer. It's not about a particular lawyer. It's not about a particular e-mail. It's about the overall comprehensive results that I have seen in talking to people. They call me at home. This is important to them and that's why it's important to me. I will not be supporting this tonight. Thank you.

Mayor Lane: Thank you Vice Mayor. Councilman Phillips?

[Time: 01:55:50]

Councilman Phillips: Thank you, Mayor. Well, I could make the argument that everybody in Scottsdale, especially North Scottsdale is living in a rezoned area. Mr. Lyle Anderson is probably the guy that did it. We all live in Scottsdale and once we live here we want to preserve what is left. We've preserved 34 thousand acres of the City. One third of our City can never be built. Sad fact is, if you want to look at it that way, what is left, it can be built. We only have 3 thousand acres left. It's either private property or state land. This land will be developed. So what we want to do is we want to make sure it will be developed in the best possible use. I believe this rezoning makes the better possible use of this property than what is already in the 2001 zoning and I think that's what Mr. Lyle Anderson is trying to achieve here.

We have people here from the county. You call it Rio Verde. It's Dynamite to me. I have driven Dynamite for 20 years way down to Rio Verde. I have a business. I have serviced a lot of people there. If you want to look at what is happening on Dynamite, it's not what's happening because of Scottsdale, but it's what's happening because of the county. Go down to 186th Avenue and look at Trilogy. You're going to have a thousand people living there. R7 zoning. This is what you've got to worry about. You've gonna worry about a tract of land that is already privately owned and he's trying to rezone it to make a better use out of this land. County land, there is no zoning. They can do whatever they want. Like they said, you can build fences, you can go through washes. Houses already in the washes, they get flooded every time it rains. We have no control over that.

Back when Drinkwater annexed this land, I wasn't there, so I don't know what his thinking was, but I wish he would have annexed all of it. Now we are having a lot of problems with a lot of this county land, a lot of the water, a lot of the flooding and it becomes Scottsdale's problems. We have no say in the matter. Mr. Anderson was here when Drinkwater annexed that land, he worked with them to

annex this property for Scottsdale and he was the one that actually developed with the City, ESLO. So you can't tell somebody who developed it any more, he knows more about it than anybody. I can't even begin to try to measure what he has done for this City with Desert Mountain and all of the other beautiful tracts that we all live in that have higher densities that we all love and enjoy. I mean that's the way it is. I always hear the next tract that comes along, we can't do it, we don't want it, no more building, you know. This is private property. We have saved 34 thousand acres.

I just don't know what else to say. I can tell you right now the vote is going to be 4 to 3 if I vote no. If I vote no, it's because it's an election year and I'm running for reelection. If I vote yes, all of the people are going to say Guy is not one of us, he is not with us. Don't vote for Guy. I could vote no. But in my heart, I would be a coward. I think this is good, I think the rezoning makes the best use of this property, and I have to vote with my heart. I can't be a coward and vote no just so I can get reelected. If that is the way it's going to be, so be it, I don't see anything wrong with this property. You don't even need my vote. It's going to be 4 to 3 anyway. Mr. Anderson, this is just a good project. It's a good rezoning. Not a project. It's a good rezoning of this property and I just can't say no for personal reasons. I will be voting yes on it.

Mayor Lane: Thank you, Councilman. Councilwoman Klapp.

[Time: 01:59:56]

Councilwoman Klapp: I can't add much to that. As far as what Guy just said about the project is the way that I feel about it as well. It's a good project. It is consistent with the General Plan. It provides a beautiful plan for the area. And as was mentioned, it will be developed anyway, so let's put a good development in with a great developer into that area, and there has been a lot of things said already that I don't just want to, again, reiterate. Comments that were made by Councilwoman Milhaven, whether this should be a major General Plan amendment. It does not qualify for that. It's a great project in my personal opinion. When I first saw it, probably months ago, to when I heard about it more recently, there weren't very many comments about this project until over the weekend. When we were flooded with e-mails. So I understand the feelings of the people that are here. I read the e-mails but we are elected here to also represent the entire City, the whole 250 thousand residents that live here and expect for us to consider good economic development in Scottsdale that will help keep our taxes low, which this will help do because these people that will move here will be paying taxes, and I do not believe the argument that this development will not pay for itself. I believe it will, based on everything I know about it and the amount of work, the infrastructure that the developer has to put into the project. I think it's a good project and I'm voting for it.

Mayor Lane: Thank you, Councilwoman. Councilwoman Whitehead.

[Time: 02:01:50]

Councilwoman Whitehead: I want to say this is the second time that Councilwoman Milhaven has, sort of in a demeaning fashion, said that the 250 thousand residents of Scottsdale are my friends. So they are. I take full credit for being friends with our residents. I'll give you a tip. If you vote in their best interest, they will be your friends, too. There has been all the justifications I have heard since I spoke, is that we want excellent development and that Kyle is, that Lyle is an excellent developer. You're darn right we want excellent development and we deserve excellent development and we should demand it

and not approve anything but. We should not be held hostage to say if you want good development, you have to double the zoning. The zoning's clear cut. As far as I'm concerned, the General Plan is too. I absolutely want staff, and I want a list from staff, and perhaps you have it, of every deviation from the zoning, the General Plan, the Dynamite Foothills Character Area Plan, and any subservient documents, any deviation that this proposal makes.

Because I am being asked to vote on something that will forever change one of the last rural pieces of land we have in this town. And I'm doing it blind. I am hearing that it will pay for itself. I challenge my Councilmembers to give me the numbers right here and right now because I can tell you, I am on the Audit Subcommittee and two bridges nearly fell down for lack of maintenance and when I asked our Public Works director if new development only further digs us into that hole, he said new development adds more infrastructure and clearly we don't have the money to pay for it.

So I would say, anybody who wants to make, who wants to propose that this development pays for itself, should provide the data that backs that up. Because we will live with this forever. I also want to say there is absolutely no harm, not a single resident will be hurt if we delay this decision, if we continue this project in order to double-check all the issues that I have brought up. All of the suggestions that were made on this dais. So I would like to make an alternate motion that we continue, I wrote it down, just a minute. That we continue this item, Fiesta Ranch rezoning in order to resolve the question of the major amendment question, because I just read three things, it's black and white, that it seems to me that would qualify this project as a major amendment, and I'm not a planner, but I can read. And I would like to have all the other questions that I asked, such as a list of all of the deviations from the documents that pertain to this project in hand before I vote. That's my counter motion.

Vice Mayor Littlefield: Second.

Mayor Lane: Motion's been made and seconded. The second like to speak towards it?

Vice Mayor Littlefield: No, I think that's a reasonable solution at this time.

[Time: 02:05:32]

Mayor Lane: Any other comments from Council? Then we have a motion of the second on the time. I'm ready to end the vote. All those in favor of the motion to continue indicate by aye. Those oppose, indicate nay. Motion fails. 5 to 2. And so the original motion is still on the table. And I would like to speak a little bit toward that myself.

Again, I listened to a lot of things and it seems very contradictory to when we talked about oh, we have this interpretation of the General Plan and frankly even what's happened on state land in this case, the surrounding land, the county land, but privately-held county land. When we annexed most of north Scottsdale in 1983, it was around the time that Lyle put into motion something that we were trying to do with regard to how the City of Scottsdale would like to see what desert we didn't put into the preserve, how compatible a development could be, if we considered open space, building envelopes, view sheds. All in the manner of things that are incorporated into this program.

It doesn't always come right down to just simply staying with the existing zoning. It's inventive. It's

innovative and positive. For the couple of last years, we have worked with folks in the county with problems not being able to deal with some things that are unplanned when you're on county land. The county doesn't lend itself a lot of planning and sort of review and look and feel of how a community comes together. I have been in this office for nearly 12 years now and prior to that on Council. Prior to that, I have lived here in the town for over 46 years and I know there is an awful lot of things that the citizens of Scottsdale look for today that they might not have looked at, when this area around here were farms. The areas of north Scottsdale were ranches. All things do change. It is not all bad when things change. There is a market to deal with. There is our legal responsibility to property owners that we deal with. The General Plan is just that. It's a General Plan. But we have a rather sophisticated methodology as to how, if there is a major or a minor change in the General Plan, it has to be further substantiated beyond anything, a zoning hearing or any of that statutorily will require. It's part of a growing smarter statute that the state of Arizona implemented many years ago. But in any case, it's a General Plan.

Character areas are studies. They are voluntary. I think Mr. Berry, part of his presentation, talked about encouraging, we encourage where we don't have the right to demand. So we've had a very encouraging community that has respected property rights and respected everybody who is in the area when things do change. We work hard at that. It's a solid process. Most of the people across the region and the state would look at us and say, I don't know how your property owners or the people who live and work here even deal with it. It is a little complicated. And if Councilwoman Whitehead can't muster away through 600 pages, I suppose that is part of the problem when you try to regulate and fine tune, but also trying to elicit cooperation from property owners where you may not be able to dictate.

So it's a big process. We spent a lot of time on this. This Council has spent a lot of time on this, in reviewing the documents, whether we hit every single page of the 600 pages may not be correct. But we do depend and have to depend upon professionals who work here. That's why we hire, fire, evaluate and compensate them on the basis of the job they do for this Council, for you, all of our citizens. And I am speaking generally now because I know I'm talking to a number of people in the county. But one thing that county residents need to remember is that they live a different lifestyle than most of the citizens in Scottsdale are looking for.

[Time: 02:10:18]

When we annexed in 1983, most of what constitutes north Scottsdale, one of the biggest problems we had is developers had bladed things and we had dust fields and they tried to re-vegetate in some form or fashion. We have true vegetation requirements, drainage issues. People live in the flood plains, they do still here in south Scottsdale. We're working every day to try to get them out of it because the federal government now controls flood insurance I should say and we're trying to get them away from that. Not just the matter of damage and potential loss of life, even though I think a lot of people, because we have been in a long standing drought, haven't really ever experienced what can happen here in the desert. Anyway, those are the things that the City of Scottsdale does and does well. So for every member of this Council that is voting for the project, I'm just going to tell you, it's well within the guidelines what the thinking has been for a long time here in Scottsdale. It's not thinking that is held by some of the folks that maybe in the county because they live a different life. They want that extent of freedom to blade or fence perimeter to perimeter or do whatever they would like to do.

And I respect that. I do respect that. But even though this piece of property sort of juts out into that territory doesn't mean that Scottsdale is going to do something that is going to be detrimental in the long run on any basis. And the idea that development doesn't pay for itself. Well, who is the fool that would be doing that? If you developed a tax structure that didn't tax people requisite to what their needs are going to be for service or infrastructure, we are out of our minds but we are probably as well suited on that basis as any. The concern about issues, and we have contingency funds and make sure we take care of those things. There are other reasons why that got some of the bridges and the issues had developed over the last three years, happened.

The fact that you have got property right now that's on the tax rolls, somebody is paying some minimal amount of tax because it's vacant land. Well, some people might not think it's minimal because there is nothing on it, but nevertheless, it's low, to develop property. And that developed property is taxed for property taxes and whatever else it brings to the marketplace as far as the residents are concerned, but it takes care, it does pay for that infrastructure.

And another thing the City of Scottsdale does and I almost hate to say this out loud but on the basis of a very cooperative community, because we have such a desirable community on the basis of all of the things we have done here in Scottsdale, that the developers are willing to do over and above what they are actually required to do for their property, or even on a tax basis. So that's the nature sometimes of development agreements. Some things come out later on, too. Nevertheless, this is a good project developed by a man that has been working in development and has actually brought to the table great procedures and processes that have benefitted all of the citizens of Scottsdale.

[Time: 02:13:45]

And I mean that honestly. But, that's one thing. The other is, you know, how does it intrude on the people around it? We always consider that. I don't see that. Traffic, you know, there is always going to be increase in traffic any time you develop any vacant land. We look at the situation right now with Rio Verde and wonder what the county is going to do with Rio Verde Road which has become a drag strip. Up until two years ago, little changed on it right now. A good portion of the county residents in that area were drinking out of our fire hydrants for 13 years and we just had to do something further with it. Before we turned it off, we decided we needed to develop a system to be able to sustain them. That's another story all together.

But the City of Scottsdale has been a good neighbor for the county. And the county residents. Anyway, all that being said, I'm in favor of this project. I'm in favor of the rezoning and I think that it will spell well for the community in the long run. There is one other small element and that's there is always politics in everything and that's a lot of what we're looking at right now. So in any case, with that, Councilman Whitehead, we have a motion, a second, and you know, the multiple times. Somebody could call for the question. Somebody could call for the question. I will leave that to the Council if they want to .

Councilmember Korte: Call for the question.

Mayor Lane: Okay. So anyhow, we have got the motion on the table. We have had comments and some repeated by everyone here. I want to thank everybody for their testimony. I really do. It's important for us to know what you're thinking and where you're at no matter where you might live that



you are impacted on what we might do or not do. In any case, we're ready to vote,. All of those in favor indicate by aye, and register your vote nay if you are opposed. The motion passes 5 to 2 with Councilwoman Whitehead opposing and Vice Mayor Littlefield opposing. Thank you very much, everyone.

I'm sorry. We do have, no, but it's for petition. They are not associated with this. So we're good. I'm sorry. I'm sorry. We're still in session. I'm very sorry. Thank you.

**PUBLIC COMMENT**

[Time: 02:17:12]

Mayor Lane: Okay. The next order of business would be our Public Comment and I am going to combine that with a request to speak on a petition, Bob Cappel.

[Time: 02:17:42]

Robert Cappel: Thank you. Good evening, Mayor Lane. Vice Mayor Littlefield. I am here tonight as the president of the board of directors of the Winfield Owners Community Association and the 500 residences to request the City of Scottsdale to consider applying to the Arizona Corporation Commission to be granted....

Mayor Lane: Bob, could you just make sure you're speaking into the microphone a little bit? It's just a little soft.

Robert Cappel: Is this better?

Mayor Lane: Much better.

Robert Cappel: I am here tonight to request the City of Scottsdale to consider applying to the Arizona Corporation Commission to be granted intervention for the Liberty Utilities Black Mountain Sewer Corporation application to increase the rates from the current \$79.20 a month to \$104.94 a month. Liberty Utilities Black Mountain Sewer Corporation provides sewer lines to approximately 2210 customers in the City of Scottsdale and the town of Carefree. Over 1,100 of these or more than 50% of these residential customers are the residents of the City of Scottsdale. Because the City of Scottsdale provides treatment of all of the wastewater of these residences and provides that wastewater treatment, Scottsdale's intervention can not only supports its residents but also provide critical information to the Corporation Commission to make a fair determination on their rate increase application. Some of the critical information that Scottsdale could provide would include actual average monthly charge for a thousand of gallons of wastewater treatment from the City.

Scottsdale's estimated value of their sewer line assets located in Scottsdale and Carefree is these lines are over 20 years old. Scottsdale could provide estimates for the monthly maintenance costs for these sewer lines, and finally what Scottsdale's monthly charge would be if Scottsdale were actually charging these residents to treat their wastewater, which would be about \$22.50 a month. So the public notice on this rate of application is included with this petition, the deadline to file a request to be granted intervention as February 14th, 2020. The hearing is scheduled to begin on May 11th 2020. Also

included is a brief information sheet on what these Scottsdale residents have experienced since the development of the communities which began in the late 1990s. So thank you for your consideration of this petition request.

**CITIZEN PETITIONS**

[Time: -2:21:00]

Mayor Lane: Thank you Mr. Cappel. Yes, thank you. Well, what we have before us, we have listened to it, I understand certainly as you read through it, what we would have to decide here on the Council is whether to take action, whether to direct the City Manager to take action and report back to us and/or to take it on as an effort or take no action. I don't know that it's appropriate on a petition since this is not an agenda item. Those are really our choices and I don't know that we have any opportunity to make a question or any kind of questions on commentary on it. Yes, I'm sorry, Sherry.

City Attorney Sherry Scott: Yes, you're correct, Mayor. Your three options are listed on the agenda.

Mayor Lane: Very good. I'm sorry. We can't discuss it any further, Bob. Sorry about that. Well, remembering that we cannot really discuss the issue at this point in time, we can decide whether, just so everyone is aware of that, we can really just determine whether or not we want to move it forward to have the City Manager review it and get back to us, or otherwise take action. It's a little awkward but never the less that's the process. Councilman, Philips, with that in mind.

Councilman Phillips: With that, I would like to direct the City Manager to investigate the matter, prepare a written response to Council with a copy to the petitioner.

Mayor Lane: Motion has been made by Councilman Philips and seconded by Council Klapp. That is enough to be done on that item. So if in fact.... Well you know, that's what I was just about to say, we are ready to take a vote. Okay. All of those affirmative indicate by aye and register your vote. Nay if you are opposed. Unanimous to move that forward to the City Manager for review and to report back to us.

Can we have another petition spoken toward earlier on from Ms. Zhang, is that correct, if everyone listened to that testimony and remembers that there was a problem with a ticket that was posted and frankly in a condition that might have been indicated as illegal and the testimony she gave to us. We have a copy of the petition in front of us, unless somebody wants additional time to review that, I'll take a motion to consider. Either no action and/or moved to the City Manager to report back to us on it. Councilman, Milhaven.

Councilwoman Milhaven: I would make the motion to ask the City Manager to respond in writing to Council.

Councilman Phillips: Second.

Mayor Lane: Motion's been made and seconded. I think we're then ready to vote. All those in favor please indicate by aye. Those opposed, with a nay. Motion is forwarded on to the City

Manager for review and report back.

**MAYOR AND COUNCIL ITEMS**

[Time: 02:24:34]

Mayor Lane: Seeing I have no other Mayor and Council items, yes, go ahead. I'm sorry. I didn't see it.

Councilman Phillips: I have a Mayor and Council item.

Mayor Lane: Yes.

Councilman Phillips: I received I guess you call them postcards from the City. New project proposed, new mural request, for a 320 square foot mural measuring forty foot long by eight foot tall displaying cacti and Arizona birds against a purple background located on the east wall of an existing building. I've been on DRB twice, and both times I have asked Mr. Venker who is no longer with us, to work on some kind of ordinance and guidelines for murals in Scottsdale with the DRB. That's never happened. What I would like to ask the Council to do is to direct staff to work with our DRB, to come up with requirements and guidelines for murals in Scottsdale.

Vice Mayor Littlefield: I'll second that.

Mayor Lane: The motion's been made and seconded. Unless there is further comment....

City Attorney Sherry Scott: Your honor?

Mayor Lane: Yes.

Sherry Scott: I just want to clarify before you vote on the motion, your Council rules indicate that you should move the item, vote to have the item agendaized for a future meeting. I just want to make sure what the motion was. It was a little unclear to me

Mayor Lane: Oh, absolutely. That's correct. So the motion, if it's, Councilman, would be to agendaize.

Councilman Phillips: So Mayor and Council item, our only choice is to agendaize?

[Time: 02:26:16]

Sherry Scott: Yes, because if anybody wants to speak to that before you vote on it, then they have a right to come and listen to the proceedings before you vote on that item. So your Council rules at 6.11 indicate that items added in this matter require a majority vote of the Council as to whether the items shall be agendaized for a future meeting, and items added and approved in this matter shall be placed on the next available Regular Council meeting agenda unless another date is established by the Council. So in other words, it's a two-step process the way I read the rules.

Councilman Phillips: Well, I don't really think we need to agendize a discussion on this. So I'm looking for staff to work with DRB to do it and I haven't been able to get through to staff to do that. So if City Manager understands what I am looking for, maybe that is going to be good enough. I can't see Council having a discussion on it. Maybe after DRB comes back with the guidelines yes, but not at this point.

Sherry Scott: That works as long as you don't take a motion.

Mayor Lane: Let me ask a question that I think is consistent with Councilman Philips' concern. When we sometimes want to have something, any one of us would like to have something on the agenda, there is a process where we can either, through a survey from the clerk's office, and/or we vote here. We are sitting here right now, whether or not we would essentially be able to accomplish that at the same time.

[Time: 02:27:55]

Sherry Scott: Mayor, I think the issue that I am addressing is an open meeting law issue. You're on the agenda for Council items. Your rules allow you, for Council to propose an item to be put on a future agenda. For you to take a motion on an item that's not agendized fully to give the public the opportunity to listen to your debate is technically concerning to me under the Open Meeting Law and as you know, under your Ethics Code, I'm required to zealously hold the Council to the Open Meeting Laws. I hate to be your technical hall monitor here but unfortunately that's what my position requires.

Mayor Lane: That's why we pay you the big bucks, reign us in. No, absolutely, Sherry. I do understand and agree. The inconsistency I suppose is I think about a petition coming before us. If somehow or other we had known this and we had gone out to somebody in the public and said hey, submit a petition on this we could have voted on it immediately to direct the City Manager, but I hear how your interpretation is and maybe it's different, but next time, maybe I want to do that, and I will pick somebody out and say, hey, can you bring this petition for me

Sherry Scott: Mayor, I have to, if I may, respond to that. Your agenda did limit you to your options that are placed on the agenda about what you can do and under Mayor and Council Items, it's simply Mayor and Council Items and the rules control how you can handle that.

Mayor Lane: Again, I have to defer to your ultimate wisdom in this matter.

Councilman Phillips: May I continue, please? I still have the floor.

Mayor Lane: Yes, I'm sorry.

[Time: 02:29:45]

Councilman Phillips: Thank you. So in DRB, I asked to direct staff and the DRB agreed to do it, and then your esteemed attorney colleague told me we can't do that because it wasn't agendized and now you're telling me that we can't do it on Council either. So how do we do it? Do I have to go over there and petition the Council and then have them come back up? How do you ask staff to do

something? I can't tell them what to do.

Sherry Scott: Mayor and Councilman Philips. I think we have heard you. I think we have heard you and if you want us to put it on an agenda for a future meeting where the Council takes a vote, we can do that as well.

Councilman Phillips: I'm trying to get staff to work with DRB to come up with guidelines. I'm not trying to bring it to a City Council meeting. After they come up to guidelines, they would bring it to a City Council meeting but I can't go to the City Manager and say this is what I want because I have to confer with the rest of the Council. You have to have at least four votes. You are basically saying there is no way to do that

Sherry Scott: No, what I'm suggesting is it's a two-step process under your rules.

Councilman Phillips: You're saying we have to agendize to Council, have this discussion to tell them to do that, and then vote for it and then they'll go do it and then they'll bring it back to Council?

Sherry Scott: Yes.

Councilman Phillips: That's a very silly way to do it but if that's the way it has got to be done, we will do it. Hopefully it's a short discussion.

Mayor Lane: Councilman Milhaven.

**MOTION – ITEM 23**

[Time: 02:31:22]

Councilwoman Milhaven: Let me try this on. I would like to make a motion for staff to bring forward a recommendation for guidelines for murals at a meeting, at a future meeting. That works?

Sherry Scott: That works. We will put it on an agenda. Yes. But Council should go ahead and take the second and the vote.

Councilwoman Milhaven: Does that work for you, Guy?

Councilman Phillips: Not necessarily. I am trying to get DRB to do this and not Council.

Councilwoman Milhaven: Have staff bring forward a recommendation for mural guidelines after review by DRB.

Councilman Phillips: You said that?

Councilwoman Milhaven: No. I'm adding that.

Councilman Phillips: That would be great.

Councilwoman Milhaven: Is that what you want?

Councilman Phillips: Yeah. I'll second that one.

Mayor Lane: All right. Motion has been made and again just for clarity.

Councilman Phillips: I guess we got the point across.

Mayor Lane: Asking the City Manager after DRB has looked at this, to bring it back to us.

Sherry Scott: That works.

Mayor Lane: Okay. I paraphrased it but you heard it straight. Okay.

**VOTE – ITEM 23**

Mayor Lane: So we have the motion. And second. All those in favor please indicate by aye. All those opposed, with a nay. Okay, unanimous. Thanks very much. Very much appreciate the guidance.

**ADJOURNMENT**

[Time: 02:32:43]

Mayor Lane: Okay. Now we are completed and I would ask for a motion to adjourn.

Councilwoman Klapp: Move to adjourn.

Councilwoman Whitehead: Second.

Mayor Lane: Motion made and seconded. All of those in favor of adjournment, please indicate by aye. Aye. We are adjourned. Thank you. Thanks, everybody.