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CALL TO ORDER

[Time: 00:00:03]

Mayor Lane: GOOD AFTERNOON. NICE TO HAVE YOU HERE. I WOULD LIKE TO CALL TO ORDER THE AUGUST 19, 2013 CITY COUNCIL MEETING. I WILL START WITH A ROLL CALL.

ROLL CALL

[Time: 00:00:08]

City Clerk Carolyn Jagger: MAYOR JIM LANE.

Mayor Lane: PRESENT.

Carolyn Jagger: VICE MAYOR SUZANNE KLAPP.

Vice Mayor Klapp: HERE.

Carolyn Jagger: COUNCILMEMBERS VIRGINIA KORTE.

Councilmember Korte: HERE.

Carolyn Jagger: BOB LITTLEFIELD.

Councilman LITTLEFIELD: HERE.

Carolyn Jagger: Linda MILHAVEN.

Councilwoman Milhaven: HERE.

Carolyn Jagger: GUY PHILLIPS.

Councilmember Phillips: PRESENT.

Carolyn Jagger: AND DENNIS ROBBINS.

Councilman Robbins: HERE.

Carolyn Jagger: CITY MANAGER FRITZ BEHRING.

Fritz Behring: HERE.

Carolyn Jagger: CITY ATTORNEY BRUCE WASHBURN.

Bruce Washburn: HERE.

Carolyn Jagger: ACTING CITY TREASURER LEE GUILLORY.

Lee Guillory: PRESENT.

Carolyn Jagger: CITY AUDITOR SHARRON WALKER.

Sharon Walker: HERE.

Carolyn Jagger: AND THE CLERK IS PRESENT.

Mayor Lane: THANK YOU. WE DO HAVE CARDS IF YOU WOULD LIKE TO SPEAK ON ANY ITEM ON THE AGENDA OR FOR PUBLIC COMMENT. THE WHITE CARDS THE CITY CLERK IS HOLDING OVER HER HEAD HERE TO MY RIGHT AND IF YOU'D LIKE TO JUST WRITE SOME COMMENTS WE WILL READ ON ANY OF THE TOPICS ON THE YELLOW CARD AND WE WILL READ THOSE DURING THE COURSE OF THE MEETING. WE DO HAVE SCOTTSDALE POLICE OFFICERS DAVE PUBINS AND TOM CLEARY WITH US TODAY. IF YOU HAVE ANY NEED OF THEIR SERVICES PLEASE NOTE THEIR PRESENCE WITH US. THE AREAS BEHIND THE COUNCIL ARE RESERVED FOR COUNCIL AND STAFF MEMBERS ONLY. WE HAVE FACILITIES UNDER THE EXIT SIGN FOR YOUR CONVENIENCE.

PLEDGE OF ALLEGIANCE

[Time: 00:00:18]

Mayor Lane: WE HAVE THE PLEASURE OF HAVING THE DAUGHTERS OF THE AMERICAN REVOLUTION HERE TO LEAD US IN THE PLEDGE. I WILL ASK YOU TO COME FORWARD AND ANNOUNCE YOURSELVES AND IF WE COULD ALL STAND TO JOIN.

Daughters Of The American Revolution (D.A.R.): LADIES AND GENTLEMEN WILL YOU JOIN THE LADIES OF THE MAJOR WINFIELD SCOTT DAR CHAPTER IN THE PLEDGE OF ALLEGIANCE.

I PLEDGE OF 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 AND I WOULD LIKE TO RECOGNIZE COUNCILMAN LITTLEFIELD'S WIFE KATHY LITTLEFIELD IS A MEMBER OF THAT GROUP AND IS WITH US TODAY.

INVOCATION

[Time: 00:02:11]

Mayor Lane: WE HAD THE SAD NEWS, A PASTOR WAS SCHEDULED TO GIVE US AN INVOCATION AND HE RECEIVED BAD NEWS WITH REGARD TO A PERSONAL ILLNESS AND I WOULD LIKE TO, INSTEAD, SINCE HE CANNOT BE WITH US TODAY, TO TAKE JUST A MOMENT OF SILENCE TO SAY A PRAYER FOR ALL THE FOLKS THAT MAY HAVE RECEIVED SUCH A DIAGNOSIS AND BE SUFFERING WITH THE SAME KIND OF CONSEQUENCE SO, IF WE COULD. THANK YOU.

PUBLIC COMMENT

[Time: 00:03:06]

Mayor Lane: WE DON'T HAVE ANY TIDBITS OF INFORMATION TO REPORT FROM THE MAYOR'S OFFICE SO I WILL PASS ON THAT. CITY MANAGER, I DO HAVE AN INDICATION THERE IS NO REPORT.

City Manager Fritz Behring: NO REPORT TODAY.

Mayor Lane: AND WE HAVE NO OTHER PRESENTATIONS OR ANNOUNCEMENTS. WE HAVE TIME FOR PUBLIC COMMENT RESERVED FOR CITIZENS, WITH NO OFFICIAL COUNCIL ACTION TO BE TAKEN SPEAKERS ARE LIMITED TO 3 MIN. FOR A MAXIMUM OF FIVE SPEAKERS AND THERE WILL BE ANOTHER TIME AT THE END OF THE MEETING WERE PUBLIC, AND IF DESIRED. WE HAVE CARDS FOR PUBLIC COMMENT THIS AFTERNOON. AND WE WILL START WITH JOHN WASHINGTON AND WILL BE FOLLOWED BY VALERIE HOLMES.

[Time: 00:03:47]

John Washington: GOOD AFTERNOON AND GOOD EVENING AND WELCOME BACK. I HAVE SOME COMMENTS ABOUT CITIZEN BOARD AND COMMISSIONS AND I WAS A PASSIONATE MEMBER OF A FEW BOARDS AND HAVE BEEN ON A TASK FORCE THAT IT IS SOMETHING I TAKE SERIOUSLY. I AM CONCERNED ABOUT AN ONGOING ISSUE WITH BOARDS BEING CONSTRAINED BY STAFF MEMBERS WHO ARE ATTEMPTING TO CONSTRAIN A SCOPE OF DISCUSSIONS THAT OCCUR AND ONE OF THE WORST IS THE DEVELOPMENT REVIEW BOARD. THERE WAS A CASE YOU WERE GOING TO TALK ABOUT LATER ON ON TONIGHT'S AGENDA AND I'M NOT GOING TO SPEAK TO ANY DETAILS OF THAT CASE BUT I USE THAT AS AN EXAMPLE OF HOW I BELIEVE WE ARE GETTING AWAY FROM THE CHARTER OF THE BOARDS AND COMMISSIONS AND I WENT BACK AND READ THE ORDINANCE AND IF I COULD GET THE

ELMO THIS IS WHAT IT SAYS. I'M GOING TO SKIP WHAT I HIGHLIGHTED AND READ A PASSAGE THAT SAYS IT IS WELL KNOWN THAT SCOTTSDALE ENVIRONMENTAL AND ECONOMIC WELL-BEING DEPENDS ON THE CHARACTER AND NATURAL ATTRACTIVENESS WHICH CONTRIBUTES SUBSTANTIALLY TO ITS POTENTIAL AS A RECREATIONAL RESORT AREA AND TRADE CENTER AND BEFORE I GET INTO THE SPECIFICS I WANT TO KNOW THAT BECAUSE IT CAPTURES THE VALUE OF WHAT MAKES US SPECIAL AND THE SPECIFIC ITEMS I HIGHLIGHTED, THE PURPOSE OF THE DEVELOPMENT REVIEW BOARD IS TO REVIEW ALL OF THE PROPOSED DEVELOPMENT. NOT LIMITED TO SITE PLANNING, RELATIONSHIP OF THE DEVELOPMENT IS A ROUNDING ENVIRONMENT AND THIS COMES UP OVER AND OVER IN CASES WHERE THEY ARE CONSTRAINED TO SOME SPECIFIC ASPECT OF A DESIGN COLOR OR SHAPE OR SIZE OF THE BUILDING OR SCREWS THAT HOLD THE 1000 AND THEY ARE MISSING THE POINT. AND THE SECOND PASSAGE I HIGHLIGHTED, THIS IS A THEME THAT OUGHT TO BE THROUGHOUT ALL OF YOUR ACTIVITIES AND THE ACTIVITIES OF THE BOARDS AND COMMISSIONS WE ARE TRYING TO ENRICH THE LIVES OF THE CITIZENS BY PROMOTING HARMONIOUS SAFE COMPATIBLE ATTRACTIVE DEVELOPMENT. THAT IS THE PURPOSE OF PLANNING AND ZONING AND THAT IS THE PURPOSE OF CITY GOVERNMENT. I HOPE YOU'LL KEEP THAT IN MIND AS YOU CONSIDER THE ITEM ON THE AGENDA TONIGHT. I WON'T GET INTO THE SPECIFICS BUT I HOPE YOU LET COMMENTS GIVE YOU AN OPPORTUNITY TO REFLECT ON INTERACTIONS. THANK YOU.

Mayor Lane: THANK YOU. VALERIE HOLMES.

[Time: 00:07:09]

Valerie Holmes: GOOD EVENING COUNCIL MEMBERS. I AM HERE TO SPEAK ABOUT THE INVASION OF MCCORMICK RANCH BY FIVE BARS, LOUNGES AND NIGHTCLUBS. WE HAVE BEEN TAKING THE PETITION SIGNATURES AND HAVE NOT FOUND ONE PERSON IN FAVOR OF IT.

Mayor Lane: I AM SORRY, IF THIS IS IN REFERENCE TO THE SPECIFIC ITEM ON OUR AGENDA, IT CAN'T BE REFERRED TO IN PUBLIC COMMENT, YOU'D HAVE TO SPEAK TO IT WHEN IT COMES UP.

Valerie Holmes: I WOULD BE HAPPY TO. I DID NOT SEE IT ON THE AGENDA.

Mayor Lane: WE ARE NOT HEARING AND IT IS NOT ON THE AGENDA. THAT IS CORRECT. THE ONLY THING WE ARE VOTING ON TONIGHT IS WHETHER TO CONSIDER IT.

Valerie Holmes: I'M TALKING ABOUT THE QUALITY OF LIFE IN MCCORMICK RANCH. WE HAVE OLDER RESIDENTS, YOUNG FAMILIES, WE DON'T WANT PARKING, CROWDING AND WE HAVE A LOT OF CONCERNS ABOUT THE DECREASE IN THE VALUE OF THE PROPERTIES. WE HAVE INTERVIEWED SEVERAL REALTORS WHO SAY THE VALUE WILL GO DOWN IF WE HAVE A DIFFERENT QUALITY OF LIFE IN OUR COMMERCIAL AREA SO I WILL NOT TAKE UP MORE TIME I HAVE MANY SIGNATURES THAT SUPPORT THAT.

Mayor Lane: THANK YOU, MS. HOLMES. THAT COMPLETES PUBLIC COMMENT.

ADDED ITEMS

[Time: 00:08:39]

Mayor Lane: WE DO HAVE SUPPORTING MATERIALS FOR ITEM 29, WERE ADDED TO THE AGENDA LESS THAN 10 DAYS PRIOR TO THE MEETING AND I HAVE TO ASK FOR A MOTION TO ACCEPT THE AGENDA AS PRESENTED IN ORDER TO CONTINUE THE ADDED ITEMS TO THE SEPTEMBER 10 COUNCIL MEETING. DO I HAVE A MOTION?

Councilman Robbins: MAYOR, I MOVE THAT WE ACCEPT THOSE ITEMS.

Vice Mayor Klapp: SECOND.

Mayor Lane: MOTION HAS BEEN MOVED AND SECONDED TO ALLOW THE ITEMS ON THE AGENDA AS INDICATED. THIS IS AN INTERESTING SCENARIO. WE JUST HAVE NEW TERMINOLOGY. I THINK WE ARE READY TO VOTE AND SOME HAVE VOTED. ALL IN FAVOR OF ACCEPTING THE AGENDA AS IT IS PLEASE INDICATE YOUR VOTE. THE MOTION IS ACCEPTED. AS IT IS. THAT FORMAT IS A ZINGER. THAT ITEM HAS BEEN ACCEPTED AS INDICATED.

MINUTES

[Time: 00:09:54]

Mayor Lane: I WOULD LIKE FOR A MOTION TO APPROVE THE SPECIAL MEETING MINUTES OF JUNE 18, 2013, JULY 1ST, 2013, AND JULY 2ND, 2013; AND REGULAR MINUTES OF JUNE 18, 2013, JULY 1, 2013, JULY 2, 2013; AND EXECUTIVE SESSION MINUTES OF JUNE 18, 2013 UNLESS THERE ARE ANY OTHER COMMENTS TO IT, I'D ACCEPT A MOTION FOR THOSE.

Councilman Robbins: I MOVE WE ACCEPT THOSE MEETING MINUTES.

Vice Mayor Klapp: SECOND.

Mayor Lane: MOTION HAS BEEN MADE AND SECONDED. WE ARE NOW READY TO VOTE. THAT IS THE ONLY THING WE CAN DO. VERY GOOD. THE MINUTES HAVE BEEN APPROVED.

CONSENT AGENDA

[Time: 00:10:45]

Mayor Lane: WE WILL MOVE ON TO CONSENT ITEMS ONE THROUGH 34. AND I HAVE A REQUEST FROM COUNCILMAN LITTLEFIELD TO PULL ITEMS THREE, SIX, AND 29. SO THEY WILL BE PULLED AND MOVED TO THE REGULAR AGENDA. AND SO WE HAVE REMAINING ITEMS OF ONE THROUGH 34 ABSENT ITEM 3, SIX, AND 29 AND WE HAVE ONE REQUEST TO COMMENT BY MR. CAPPEL.

Bob Cappel: MEMBERS OF THE COUNCIL, I AM BOB CAPPEL, 33600 N. 79TH WAY, A CURRENT RESIDENT OF GREATER PINNACLE PEAK ASSOCIATION AND 10 YEARS BEFORE THE US ENVIRONMENTAL PROTECTION AGENCY WAS FORMED AND 50 YEARS AGO THIS YEAR, A SMALL GROUP OF HOMEOWNERS CALLED GREATER PINNACLE PEAK HOMEOWNERS ASSOCIATION BEGAN AN ENVIRONMENTAL EFFORT TO HELP PROTECT THIS BEAUTIFUL AREA IN WHAT WE CALL THE UPPER SONORAN DESERT AND THEY WERE ABLE TO GET COMMITMENTS FROM THE LOCAL COUNTY AND

STATE GOVERNMENTS TO PROTECT SPECIFIC SCENIC DRIVES; THE ONE ON SCOTTSDALE ROAD FROM HAPPY VALLEY TO CAREFREE HIGHWAY AND ONE ALONG CAVE CREEK ROAD FROM HAPPY VALLEY AND UNFORTUNATELY THAT PART WAS NOT PROTECTED AS MUCH AS THE SCOTTSDALE DRIVE. AND AS PART OF THE BOND 2000 ITEM 25 WHICH IS A REVITALIZATION OF THE SCENIC DRIVE WAS APPROVED BY THE RESIDENTS AND I WOULD LIKE TO PERSONALLY THANK ALL OF THE PREVIOUS ADMINISTRATIONS, MAYORS AND CITY COUNCIL MEMBERS AND THE CITY STAFF PARTICULARLY FOR THEIR SUPPORT OF THE SCENIC DRIVE AND HELPING PROTECT IT OVER THE YEARS. WE ARE PROUD OF THAT FACT AND THE STAFF HAS DONE A GREAT JOB IN PUTTING TOGETHER AND WORKING WITH US TO PUT TOGETHER A PROGRAM FOR REVITALIZING THIS PART OF SCOTTSDALE ROAD SO I WANT TO THANK EVERYBODY. THANK YOU.

Mayor Lane: THANK YOU MR. CAPPEL. THAT COMPLETES THE TESTIMONY UNLESS THERE ARE OTHER COMMENTS, THEN WE HAVE THREE ITEMS THAT HAVE BEEN PULLED AND I WILL ACCEPT A MOTION TO ACCEPT THE CONSENT ITEMS 1-34 LESS ITEMS THREE, SIX, AND 29.

Councilmember Korte: SO MOVED.

Mayor Lane: MOVED AND SECONDED. WE ARE NOW READY TO VOTE. ALL IN FAVOR PLEASE REGISTER YOUR VOTE. UNANIMOUS ACCEPTANCE OF CONSENT ITEMS.

REGULAR AGENDA

[Time: 00:14:02]

ITEM 3 – SPANISH FLY LIQUOR LICENSE 46-LL-2013

[Time: 00:14:08]

Mayor Lane: SO WE WILL START THE REGULAR AGENDA ITEM WITH THREE, SIX, AND 29 AND START WITH ITEM 3, WHICH IS THE SPANISH FLY LIQUOR LICENSE 26-LL-2013 REQUEST TO CONSIDER FORWARDING A RECOMMENDATION TO THE ARIZONA DEPARTMENT OF LIQUOR LICENSES AND CONTROL FOR PERSON AND LOCATION TRANSFER OF A SERIES 6 STATE BAR LICENSE, STATE LIQUOR LICENSE FOR AN EXISTING LOCATION WITH A NEW OWNER. MR. CURTIS?

Current Planning Director Tim Curtis: THANK YOU. ITEM NUMBER THREE IS A REQUEST FOR A RECOMMENDATION BY THE COUNCIL, THE NEW OWNER FOR THE SPANISH FLY LIQUOR LICENSE AND EXISTING LOCATION, NEW OWNER SERIES 6, THE CRITERIA BY WHICH THE LICENSES ARE EVALUATED IS CONVENIENCE OF THE LOCATION AS WELL AS RELIABILITY OF THE APPLICANT. THIS APPLICATION HAS GONE THROUGH THE CITY REVIEW INCLUDING THE POLICE DEPARTMENT REVIEW AND HAS RECOMMENDATION FOR THE CITY COUNCIL TO MAKE RECOMMENDATION FOR APPROVAL.

Mayor Lane: THANK YOU. ONE QUICK QUESTION. HAS THIS GONE THROUGH THE NORMAL PROCESS FOR REVIEW AND CONSIDERATION FOR THE NEW OWNER APPLICATION?

Tim Curtis: YES, IT HAS.

Mayor Lane: COUNCILMAN LITTLEFIELD?

Councilman Littlefield: ON THE CONSENT AGENDA WE HAD 34 ITEMS, AND 21 ARE BAR-RELATED. IF ANYBODY THINKS WE'RE BEING TOO MEAN ON BARS, IT IS NOT HAPPENING. BUT TO THIS SPECIFIC ONE ITEM, NUMBER THREE WHICH IS ONE OF THE 21, THE SPANISH FLY HAS BEEN A PROBLEM BAR SINCE THEY WERE BUILT AND IF ANYTHING WE SHOULD BE LOOKING AT WHAT WE COULD DO TO MAKE THEM LESS OF A PROBLEM RATHER THAN TURNING AROUND AND RECOMMENDING THEY GET THEIR LIQUOR LICENSE. THE STATE LIQUOR BOARD DOES NOT PAY ATTENTION TO US BUT WE HAVE A DUTY TO PROTECT OUR CITIZENS AND AS PART OF THAT AND PART OF DEALING WITH THE PROBLEMS IN THE BAR DISTRICT, WHICH HAVE BEEN MADE PUBLIC PLENTY OF TIMES OVER THE LAST, SO FAR THIS YEAR, RATHER THAN MINDLESSLY APPROVING A LIQUOR LICENSE RECOMMENDATION ON THE CONSENT AGENDA. I'M GOING TO MAKE A MOTION THAT WE FORWARD A RECOMMENDATION THAT THEY NOT APPROVE THIS LICENSE TRANSFER.

Mayor Lane: MOTION FAILS FOR LACK OF A SECOND.

Councilmember Phillips: I'LL SECOND IT. I DID NOT KNOW YOU WERE WAITING FOR A SECOND.

Mayor Lane: WE HAVE A SECOND. WOULD THE SECOND LIKE TO SPEAK TOWARD IT?

Councilmember Phillips: I THINK THE POINT COUNCILMAN LITTLEFIELD SAID THE MINDLESS APPROVAL. EVERY TIME WE HAVE A CITY COUNCIL MEETING WE GO THROUGH 10 THROUGH 30 LIQUOR LICENSES, WE MINDLESSLY APPROVE THEM. WE DON'T CHECK INTO THE AND WE'LL SEE WHAT KIND OF LAWS THAT MAY HAVE VIOLATED AND ONCE IN A WHILE WE SHOULD BE DOING THAT SO I AGREE WITH COUNCILMAN LITTLEFIELD.

Mayor Lane: THANK YOU. UNLESS THERE IS FURTHER COMMENT, THERE IS NO TESTIMONY SO WE ARE READY TO VOTE ON A MOTION TO REQUEST OR RECOMMEND DENIAL TO THE LIQUOR BOARD. ALL IN FAVOR PLEASE INDICATE BY AYE, NAY IF OPPOSED. MOTION DOES FAIL 5-2 WITH COUNCILMEN LITTLEFIELD AND PHILLIPS FOR IT.

Councilman Robbins: MAYOR?

Mayor Lane: DID YOU VOTE?

Councilman Robbins: I VOTED NO.

Mayor Lane: HIT IT A LITTLE HARDER. WE HAVE A FAULTY SYSTEM. WE ARE GOOD ON THAT. OKAY. YES COUNCILMAN ROBBINS.

Councilman Robbins: I WILL MAKE A MOTION THAT WE APPROVE ITEM NUMBER THREE AND I GUESS TO THE POINT OF MINDLESSLY APPROVING THESE. THE STAFF REPORT TALKS ABOUT THE FACT THAT CITY STAFF HAS LOOKED INTO THIS AS THEY DO EVERY LIQUOR LICENSE THAT COMES THROUGH AND THE POLICE DEPARTMENT LOOKED AT THIS AS THEY DO EVERY LIQUOR LICENSE AND THE POLICE DEPARTMENT RECOMMENDED NO OPPOSITION AND THE PLANNING DEPARTMENT SAID THERE IS NO

CHANGE TO THE EXISTING USE, SO THIS IS JUST THEATER SO I RECOMMEND WE APPROVE THIS AS AN EXISTING BUSINESS THAT'S LEGAL IN SCOTTSDALE.

Councilwoman Milhaven: SECOND.

Mayor Lane: WOULD THE SECOND LIKE TO SPEAK TOWARDS IT?

Councilwoman Milhaven: I AM CURIOUS AS TO WHY THERE ARE NEW LICENSES FOR NEW LOCATIONS, AND WHY THIS PARTICULAR OR THESE FEW WERE PICKED ON. BUT THAT IS A RHETORICAL QUESTION, THANK YOU.

Mayor Lane: AND COUNCILMAN LITTLEFIELD.

[Time: 00:19:29]

Councilman Littlefield: I WOULD LIKE TO RESPOND TO WHAT COUNCILMAN ROBBINS SAID ABOUT HOW STAFF SAYS IT IS OKAY AND FINE. OVER THE LAST 13 YEARS WE HAVE HAD ALL THESE BARS WHERE THE STAFF SAID IT WAS OKAY AND WE STILL HAVE PROBLEMS. SO IF WE ARE DOING OUR JOB, WE THE COUNCIL, WHO IS SUPPOSED TO TAKE THE INTEREST OF THE CITIZENS, SHOULD BE TAKING A CLOSER LOOK RATHER THAN SAYING THE STAFF SAYS OKAY, LET'S DO IT. IN THE NEXT ONE IS A CLASSIC CASE OF THAT. SO THE IDEA THAT 20, 30 LIQUOR LICENSES COME BY AND WE JUST APPROVE THEM WITHOUT EVEN CONSIDERING, THAT IS HOW WE GOT INTO THE SITUATION WE ARE IN NOW WHERE WE ARE HAVING TO CONSIDER A NEW BAR ORDINANCE TO DEAL WITH THE PROBLEMS DOWN THERE. IF THE SYSTEM WAS WORKING WE WOULD NOT HAVE TO BE DOING THAT, SO CLEARLY IT IS NOT WORKING AND THE REASON WHY IS WE UP HERE ARE NOT ESTABLISHING ENOUGH OVERSIGHT ON OUR OWN. SO THE IDEA THAT THE STAFF SAID IT'S FINE, IT'S FINE, CLEARLY DOESN'T WORK.

Mayor Lane: THANK YOU COUNCILMAN. THIS IS A RECOMMENDATION QUESTION TO THE STATE LIQUOR BOARD AND IT STANDS ON THAT ALONE BUT NEVERTHELESS, ONE THING I WOULD LIKE TO SAY WITH REGARD TO OUR PROCESS. OUR PROCESS IS A MATTER OF LAW AND DOCUMENTATION OF INSTANCES OR ISSUES AND JUST A BLANKET STATEMENT THAT WE HAVE A PROBLEM AND ITS BEEN A PERENNIAL PROBLEM. IF IT HASN'T BEEN DOCUMENTED OR ESTABLISHED UNDER ORDINANCES OR POLICIES, IT IS NOT A PROBLEM THAT IS WHY WE GO THROUGH AN ISSUE AND STAFF HAS BEEN VERY GOOD ABOUT KEEPING TRACK OF THESE THINGS. IT HAS BEEN A POINT OF INTEREST OVER THE LAST YEAR OR SO AND SOMETHING TO BE CONSIDERED TO TAKE THIS PARTICULAR ONE AND DENY OR RECOMMEND A DENIAL OF A TRANSFER TO ANOTHER OWNER JUST IS OUTSIDE OF THE REALM OF WHAT WE WOULD SEE IN OUR ORDINANCES. SO WITH THE MOTION ON THE TABLE WE ARE READY TO VOTE. ALL OF THOSE IN FAVOR PLEASE INDICATE BY AYE AND THOSE OPPOSED WITH A NAY. AYE. MOTION PASSES FIVE TO TWO WITH COUNCILMAN LITTLEFIELD AND COUNCILMAN PHILLIPS OPPOSING.

ITEM 6 – THE DERBY LIQUOR LICENSE (49-LL-2013)

[Time: 21:52]

Mayor Lane: MOVING ON TO THE NEXT ITEM THAT WAS ON CONSENT AND NOW IS ON REGULAR IS ITEM SIX AND THAT IS THE DERBY LIQUOR LICENSE 49-LL-2013 AND THIS IS A REQUEST TO CONSIDER FORWARDING A REQUEST THAT HERE IS A LIQUOR LICENSE AND CONTROL FOR PERSON AND LOCATION TRANSFER OF A SERIES 6 STATE LIQUOR LICENSE FOR A NEW LOCATION AND OWNER. THAT IS ITEM 6 AND MR. CURTIS AND YOU COULD GIVE US SOME INDICATION OF WHAT PROCESSES WE HAVE EMPLOYED.

Tim Curtis: THANK YOU. AGAIN, THIS IS A REQUEST FOR RECOMMENDATION BY THE COUNSEL FOR A NEW SERIES SIX LIQUOR LICENSE AT A NEW LOCATION. THIS IS A LOCATION THAT RECEIVED A CONDITIONAL USE PERMIT EARLIER THIS YEAR FOR A BAR AND SO THE LICENSE AND TERMS OF THE ZONING ENTITLEMENTS AS A BAR AND THIS IS THE EFFECTUATION OF THE LIQUOR LICENSE ASSOCIATED WITH THE BAR. THE RECOMMENDATIONS TO THE STATE DEAL WITH THE RELIABILITY OF THE APPLICANT AS WELL AS THE CONVENIENCE OF THE LOCATION FOR APPROPRIATENESS IN THE COMMUNITY. THIS HAS GONE THROUGH ALL THE PUBLIC REVIEW POSTING AS WELL AS THE STAFF REVIEW INCLUDING NO OPPOSITION FROM THE POLICE DEPARTMENT, SO YOU HAVE OUR RECOMMENDATION THERE.

Mayor Lane: THANK YOU MR. CURTIS. COUNCILMAN LITTLEFIELD.

Councilman Littlefield: ONCE AGAIN, THIS PARTICULAR LOCATION HAPPENS TO BE IN THE MIDDLE OF BAR ROW WHERE THERE IS A HIGH CONCENTRATION OF BARS ALREADY. WHY DON'T WE HAVE A DISCUSSION IF IT REALLY MAKES SENSE TO PUT MORE BARS IN THAT AREA INSTEAD OF JUST APPROVING IT? I HAVE TO DISAGREE. THE MAYOR HIMSELF HAS MADE QUITE A THING THIS YEAR ABOUT THE NEED FOR MAKING A BAR DISTRICT SAFER AND INFACHT HE HAS TAKEN IT UPON HIMSELF TO GO OUT AND COME UP WITH A NEW ORDINANCE FOR THAT SO AGAIN, CLEARLY THERE IS A PROBLEM, EVERYBODY ADMITS THERE IS A PROBLEM SO, THE SYSTEM THAT WE HAVE IS NOT WORKING. THE IDEA THAT WE APPROVE THESE THINGS AND STAFF SAYS IT IS OKAY AND WE LET IT GO, THAT IS NOT WORKING. PLACES WHERE PEOPLE HAVE BEEN STABBED GOT SOME APPROVAL AT SOME POINT. I AM SAYING WE OUGHT TO HAVE THESE DISCUSSIONS. DO WE ALREADY HAVE ENOUGH BARS DOWN THERE? DOES IT MAKE SENSE TO PUT MORE BARS IN A PLACE WHERE WE HAVE THE HIGHEST CONCENTRATION IN MARICOPA COUNTY? WE OUGHT TO AT LEAST HAVE THAT DISCUSSION UP HERE. WE ARE THE PEOPLE WHO WERE ELECTED TO TAKE CARE OF YOUR INTERESTS AND IF WE JUST SIT UP HERE AND VOTE YES, YES, YES, WE ARE NOT DOING OUR JOB SO I AM GOING TO MAKE A MOTION WE SEND A RECOMMENDATION TO THE LIQUOR BOARD TO DENY THIS LIQUOR LICENSE.

Councilmember Phillips: I WILL SECOND.

Mayor Lane: MOTION HAS BEEN MADE AND SECONDED. WOULD THE SECOND LIKE TO SPEAK TO IT?

Councilmember Phillips: NO THANKS.

[Time: 25:06]

Councilman Robbins: I WANT TO MAKE AN ALTERNATIVE MOTION THAT WE APPROVE ITEM NUMBER 6. 49 LL-2013.

Mayor Lane: THAT IS A FACT SO WE WILL HAVE TO VOTE ON THE FIRST ORDER OF BUSINESS FIRST. SO AT THE MOMENT WE WILL DISREGARD ANY ALTERNATIVE MOTION AND WAIT FOR A DIFFERENT MOTION ONCE THIS ONE IS VOTED ON. I WOULD HAVE TO SAY IN RESPONSE TO NOT ONLY COUNCILMAN LITTLEFIELD BUT ALSO THE TESTIMONY GIVEN BY OUR STAFF IS THIS IS AN ISSUE, AND MAYBE IT IS A MATTER OF THEATER, BUT IT HAS ALREADY BEEN VOTED BEFORE AND A CONDITIONAL USE PERMIT HAS BEEN ACCEPTED. SO THIS IS THE SECONDARY VOTE TO AFFIRM A RECOMMENDATION, BUT NEVERTHELESS WE ARE HERE TO VOTE ON COUNCILMAN LITTLEFIELD'S INITIAL MOTION AND THAT IS TO SEND A RECOMMENDATION OF DENIAL TO THE LIQUOR BOARD. SO WE ARE READY TO VOTE. ALL IN FAVOR OF HIS MOTION PLEASE INDICATE BY AYE AND NAY IF YOU OPPOSE. THE MOTION FAILS 5 TO 2 WITH COUNCILMAN LITTLEFIELD AND PHILLIPS DISSENTING. I AM SORRY, AFFIRMING.

THAT MOVES US ON TO ITEM 29. I'M SORRY. I ACCEPT THE SECOND MOTION NOW TO ACCEPT IT.

Councilman Robbins: MAY I MAKE MY MOTION AGAIN THAT THE COUNCIL ACCEPT ITEM 6. 49-LL-2013.

[Time: 26:50]

Mayor Lane: MOTION MADE AND SECONDED WOULD YOU LIKE TO SPEAK TOWARD IT? NO FURTHER COMMENT, WE ARE READY TO VOTE. ALL THOSE IN FAVOR, PLEASE INDICATE TO THE SECOND MOTION. PLEASE INDICATE BY AYE AND THOSE OPPOSED WITH A NAY. OKAY, THIS MOTION PASSES 4 TO 3 WITH VICE MAYOR KLAPP OPPOSING.

Vice Mayor Klapp: MISTAKE.

Mayor Lane: OK, MISTAKE. THIS CURRENT MOTION PASSES 5 TO 2 WITH COUNCILMAN LITTLEFIELD AND COUNCILMAN PHILLIPS OPPOSING. THAT DOES COMPLETE ITEM 6.

ITEM 29 – SKYSONG GROUND LEASE AMENDMENT

[Time: 27:31]

Mayor Lane: WE WILL MOVE ONTO ITEM 29 WHICH IS THE SKYSONG GROUND LEASE AMENDMENT TO ADOPT RESOLUTION 9503 TO AUTHORIZE CONTRACT NUMBER 2004-119-COS-A4 THE FOURTH AMENDMENT TO THE GROUND LEASE WITH ASU FOUNDATION FOR THE SKYSONG PROPERTY. THE LOCATION IS ON THE SOUTHEAST CORNER OF MCDOWELL AND SCOTTSDALE ROAD AND WE HAVE DEREK EARLE WHO WILL SPEAK TOWARD THAT.

City Engineer Derek Earle: GOOD EVENING, I HAVE A BRIEF PRESENTATION IF YOU NEEDED SOME MORE INFORMATION CONCERNING THIS LEASE. IN MID-JULY THE CITY STAFF WAS APPROACHED BY THE ASU FOUNDATION AND SKYSONG WITH A REQUEST TO CONSIDER AN AMENDMENT TO THE GROUND LEASE FOR THE SKYSONG PROJECT. THE ORIGINAL LEASE WITH THE ASU FOUNDATION ANTICIPATED MULTIPLE SUBLEASES THAT WOULD BE SIGNED WITH SUBTENANTS AS THE PROJECT PROGRESSED FORWARD. WE USE THAT TERM A LOT – SUBLEASES/SUBTENANTS. THE PROPOSED AMENDMENT BEING CONSIDERED IS INTENDED TO SMOOTH OUT THE LANGUAGE OF THE ORIGINAL

LEASE, ESPECIALLY IN A SITUATION WHERE THE TENANT, ASU FOUNDATION, OR THE SUBTENANTS, THE SKYSONG DEVELOPER, MIGHT HAVE DIFFICULTY IN SOME WAY UNDER THE LEASE. THE MOST LIKELY SCENARIO WHERE THEY WOULD HAVE DIFFICULTY IN THE LEASE WOULD BE IN A BANKRUPTCY SCENARIO BUT THEY COULD ALSO BE IN DEFAULT OF THE LEASE IN OTHER WAYS. THE PROPOSED CHANGE IN THE AGREEMENT WILL FACILITATE THE ABILITY OF SKYSONG TO PLACE FINANCING ON THE PROJECT BY CLARIFYING THE LEASE LANGUAGE.

TWO KEY ELEMENTS OF THE AGREEMENT: FIRST THE AMENDMENT AS PRESENTED TO COUNCIL TONIGHT ALLOWS FOR THE CONTINUATION OF SUBLEASES FOR THE PROJECT IN THE UNLIKELY EVENT OF THE DEFAULT OF THE PARTIES TO THE GROUND LEASE, FOR EXAMPLE BANKRUPTCY DECLARATION. THE SECOND CLARIFICATION OF THE LEASE IS THAT THE AMENDMENT ALSO ALLOWS THE CONTINUATION OF AN AGREEMENT FOR SPACES IN THE EXISTING RESIDENTIAL PARKING GARAGE THAT BENEFIT THE OFFICE BUILDINGS UNDER THE SAME DEFAULT SCENARIO. THIS AMENDMENT IS NON-MONETARY, THERE IS NO EXCHANGE OF MONEY AS A RESULT THIS. THE BENEFITS TO THE PARTIES AS FAR AS ASU FOUNDATION AND SKYSONG, CLARIFICATION OF HOW THE SUB-LEASES WILL CONTINUE IN THE EVENTS OF THE UNLIKELY CIRCUMSTANCE WITH THE DEFAULT OF THE TWO KEY PLAYERS. THIS WILL FACILITATE THE ABILITY OF SKYSONG TO OBTAIN FINANCING FOR THE PROJECT. ALSO IT BENEFITS THEM BY PROTECTING THE PARKING ARRANGEMENT FOR THE OFFICE BUILDINGS BY ALLOWING THE PARKING AGREEMENT TO CONTINUE IN THE EVENT OF THE DEFAULT OF THE PARTIES. THE BENEFITS TO THE CITY: ONE WOULD BE THE ABILITY FOR THE PROJECT TO CONTINUE TO OPERATE PROFESSIONAL MANAGEMENT OF THE LENDER WITHOUT DISRUPTION OF THE PROJECT OR OCCUPANTS. ANOTHER BENEFIT WOULD BE THE CLARIFICATION OF THE PARKING LANGUAGE THAT WILL ENSURE THE PARKING THAT IS INTENDED TO BENEFIT THE OFFICE BUILDINGS WOULD NOT BE DISRUPTED IN THE DEFAULT SITUATION. THIS DOES HELP PROTECT THE CITY'S INVESTMENT IN THOSE PARKING SPACES WHICH WE INVESTED IN TO BENEFIT THE COMPLEX. THERE ARE MEMBERS OF THE ASU FOUNDATION AND SKYSONG HERE THIS EVENING IF YOU HAVE ANY QUESTIONS AND STAFF WILL BE AVAILABLE TO ANSWER ANY QUESTIONS AS WELL. THANK YOU.

[Time: 30:56]

Mayor Lane: THANK YOU. I SUPPOSE ONE QUESTION THAT IS OUT THERE, HAS THIS AMENDMENT IN ANY WAY SHAPE OR FORM CHANGED THE EQUATION AS TO HOW THE CITY WOULD FARE UNDER THIS CLARIFYING LANGUAGE? HOW IT WOULD CHANGE THE EQUATION WITH REGARD TO ANY KIND OF CIRCUMSTANCES WHERE YOU HAD A DOUBLE DEFAULT OF BOTH THE ASU FOUNDATION AS WELL AS THEIR SUBTENANT? AND MAYBE I MIGHT ASK, MR. WASHBURN, IF YOU HAVE SOME THOUGHT AS TO HOW THAT MIGHT CHANGE THE EQUATION IF INFACIT THIS WAS CHALLENGED AT A TIME OF SUCH A, PROBABLY AN UNLIKELY EVENT.

City Attorney Bruce Washburn: THANK YOU, MAYOR. LET ME START BY SAYING THE POSSIBLE SCENARIO OF DOUBLE DEFAULT FOR ASUF AND THE SUBTENDER IN DEFAULT AND THEIR LEASES ARE REJECTED IN BOTH BANKRUPTCIES WOULD BE SUCH A RARE OCCURANCE, IT WOULD BE VERY HARD TO FORESEE WHAT THE CIRCUMSTANCES WOULD BE THAT WOULD LEAD TO THAT AND BECAUSE ITS DIFFICULT TO FORESEE WHAT THE CIRCUMSTANCES WOULD BE, IT IS VERY DIFFICULT TO SEE WHAT THE OVERALL SITUATION WOULD BE AT THAT TIME, SO THERE IS UNCERTAINTY ABOUT WHAT WOULD BE IN THE CITY'S BEST INTEREST IN ANY SITUATION LIKE THAT WHERE YOU REALLY CAN'T FORESEE ALL THE POSSIBILITIES. WHAT WE DO KNOW IS THAT, UNDER THE EXISTING LEASE, THERE IS A POSSIBILITY

FOR UNCERTAINTY OF WHAT WOULD OCCUR, WHAT THE RIGHTS OF THE PARTIES WOULD BE, AND THAT IS A REASON WHY IT IS DIFFICULT TO SAY EXACTLY WHAT BENEFITS OR DISADVANTAGES TO THE CITY WOULD BE UNDER THAT CIRCUMSTANCE. WHAT WE DO KNOW IS THE CLARIFYING LANGUAGE AS PROPOSED IN THE AMENDMENTS WE WOULD BE ELIMINATING THOSE UNCERTAINTIES AND CLARIFYING WHAT THE RIGHTS OF THE PARTIES WOULD BE AND AVOIDING NEGATIVE CONSEQUENCES THAT COME FROM UNCERTAINTY IN SITUATIONS WHERE THE PARTIES DON'T KNOW WHAT THE RIGHTS ARE AND THE COSTS AND DELAY THAT IS INVOLVED IN THAT. I AM SORRY IT IS NOT THE clearest answer to your question, but there is not a clear answer, but there is a clear answer to what kinds of things that can be avoided by adopting the amendment.

[Time: 33:35]

Mayor Lane: WE DO HAVE ONE INDIVIDUAL WHO WOULD LIKE TO SPEAK IN PUBLIC TESTIMONY. MR. WASHINGTON.

John Washington: WITH ALL DUE RESPECT TO THE CITY ATTORNEY AND MR. EARLE I THINK THAT IS ONE OF THE WORST JUSTIFICATIONS I HAVE HEARD FOR MODIFYING A CONTRACT IN THIS FASHION. I WANT TO DIGRESS FOR JUST A SECOND AND SAY IT GOES TO POINT IN THE DISCUSSION AS WELL, I THINK IT IS REMARKABLE WHAT SOMEONE WRAPS THEMSELVES IN THE TRAPPINGS OF CIVIL DIALOGUE TO DISMISS SINCERE DISSENT AS THEATER. I FIND THAT INSULTING AND HIGHLY INAPPROPRIATE AND HIGHLY UNCIVIL. HAVING SAID THAT, THE CITY COUNCIL SHOULD PUT THEMSELVES IN A POSITION TO CHALLENGE THESE DECISIONS AND MAKE SURE THE TAXPAYERS GET THE BEST POSSIBLE VALUE FOR THE MONEY WE SPENT DOWN THERE. FOLKS DON'T REALIZE THE CITY PAID DOUBLE THE APPRAISED VALUE FOR THAT LAND AND GAVE IT AWAY FOR 100 YEARS. ASU FOUNDATION IS NOT ARIZONA STATE UNIVERSITY. IT IS AN INVESTMENT AND DEVELOPMENT CONCERN AND ITS JOB IS TO MAKE MONEY. WE HAVE SUBSIDIZED TO THE DETRIMENT OF PRIVATE PROPERTY OWNERS WITH PUBLICLY SUBSIDIZED OFFICE SPACE AT ASU, THAT'S ALL IT IS IS A BIG OFFICE BUILDING. AND FOR THE FOURTH TIME WE ARE GOING TO ERODE THE PROTECTIONS OF THE AGREEMENT THAT WE HAVE WITH THE ASU FOUNDATION. WE ARE GOING TO ERODE THE PROTECTIONS OF THIS CONTRACT AND THIS REPRESENTS A SIGNIFICANT TRANSFER OF RISK FROM ASU FOUNDATION AND THE DEVELOPERS TO THE TAXPAYERS OF THE CITY OF SCOTTSDALE. I THINK THIS DESERVES A CLOSER LOOK. IF I WERE ON A COUNCIL I WOULD VOTE AGAINST IT AS A MATTER OF PRINCIPLE WIHTOUT DISCUSSION. WE SHOULD NOT BE ERODING TAXPAYER PROTECTIONS IN THESE TYPES OF DEALS WITH PRIVATE BUSINESSES. ASU FOUNDATION IS A PRIVATE BUSINESS AND WE ARE SUBSIDIZING AN OFFICE PARK. DON'T THROW AWAY THE PROTECTIONS THAT WERE BUILT INTO THE ORIGINAL CONTRACT. THANK YOU.

Mayor Lane: THANK YOU MR. WASHINGTON. THAT CONCLUDES THE PUBLIC COMMENT. COUNCILMAN LITTLEFIELD.

[Time: 36:19]

Councilman Littlefield: THE REASON I PULLED THIS ITEM. IT IS WELL-KNOWN THAT THE MAYOR AND I VOTED AGAINST THE ORIGINAL LEASE BECAUSE WE FELT IT WAS ONE-SIDED AND GAVE ALL THE GOODIES TO THE ASU FOUNDATION AT THE EXPENSE OF THE TAXPAYERS. SINCE THEN WE HAVE HAD THREE LEASE AMENDMENTS AND EACH ONE HAS MADE THIS INCREDIBLY ONE-SIDED DEAL MORE

ONE-SIDED. EVERY TIME WE DO ONE OF THESE AMENDMENTS, WE GIVE AWAY FROM THE TAX PAYERS AND MORE TO ASU FOUNDATION. THIS PARTICULAR AMENDMENT IS THE LEAST ANNOYING BUT IT IS STILL THE SAME THING WE ARE DOING SOMETHING FOR THE GOOD OF THE ASU FOUNDATION AT THE EXPENSE OF THE CITIZENS OF SCOTTSDALE. AND MR. EARLE SAID THERE IS NO MONEY BEING TRANSFERRED AND I SAY THANK GOD FOR THAT AND WASHINGTON HIT THE NAIL ON THE HEAD AND WHAT IS BEING TRANSFERRED IS RISK. MAYBE THIS IS SO UNLIKELY IT WILL NEVER HAPPEN BUT IF IT IS NOT THAT UNLIKELY WHY DID THE ASU FOUNDATION COME TO THE CITY AND ASK FOR THIS? IF IT'S NO BIG DEAL, WHY ARE WE EVEN HAVING THIS DISCUSSION? SO CLEARLY THEY CARE OR THEIR LENDER CARES. THE BENEFITS FOR THE CITY ARE ACTUALLY BENEFITS FOR THE DEVELOPER. SO ONCE AGAIN, THIS IS THE LEAST OBJECTIONABLE OF ALL THE AMENDMENTS. WE'RE GOING TO TAKE SOMETHING THAT IS ALREADY INCREDIBLY LOPSIDED DEAL AND WE'RE GOING TO MAKE IT MORE LOPSIDED. IN FACT, I'M GOING TO MAKE A MOTION THAT WE NOT APPROVE THIS.

Councilman Phillips: SECOND.

Mayor Lane: MOTION MADE AND SECONDED. WOULD THE SECOND LIKE TO SPEAK ON IT?

Councilman Phillips: I FEEL THAT COUNCILMAN LITTLEFIELD AND MR. WASHINGTON'S CONCERNS I HAVE THE SAME KIND OF CONCERNS. I FELT LIKE THIS GROUND LEASE AMENDMENT SHOULD HAVE BEEN ON THE REGULAR AGENDA AND NOT ON THE CONSENT AGENDA JUST FOR US TO APPROVE SO I WOULD VOTE NO AND JUST FOR THAT REASON ALONE.

Mayor Lane: THANK YOU COUNCILMAN. COUNCILWOMAN MILHAVEN. OKAY. NO FURTHER COMMENTS AND NO FURTHER COMMENT ON THIS MOTION. WE ARE READY TO VOTE. ALL IN FAVOR PLEASE INDICATE. MOTION FAILS 5 TO 2 WITH COUNCILMAN LITTLEFIELD AND PHILLIPS AFFIRMING. THAT MOTION FAILS. WE ARE READY FOR AN ALTERNATIVE OR ACTUALLY A SECOND MOTION. I AM SORRY, COUNCILWOMAN MILHAVEN.

Councilwoman Milhaven: I KNOW A LITTLE BIT ABOUT RISK IN COMMERCIAL LENDING AND THIS STATEMENT THAT WAS MADE COULD NOT BE LESS TRUE. IT DOES NOT ERODE THE CITY'S PROTECTION OR TRANSFER RISK. IT IMPROVES THE CITY'S POSITION. IT IS COMMON PRACTICE FOR A LENDER TO TAKE A LEASE ASSIGNMENT IN THE EVENT OF A DEFAULT AND FOR THEM TO SAY THEY WANT ADDITIONAL THAT IS NOT TRANSFERRING RISK, IT'S NOT ERODING PROTECTIONS AND IN THE UNLIKELY EVENT THERE WAS A DEFAULT, I WOULD RATHER HAVE PROFESSIONALS TAKE OVER THEN HAVE GOVERNMENT TRYING TO MANAGE. SO IF YOU LIKE THE LEASE OR NOT, I AM GLAD TO HAVE SKYSONG IN OUR COMMUNITY AND THIS IS PRUDENT AND IT PROTECTS OUR INTERESTS AND CREATES NO ADDITIONAL OBLIGATIONS. SO I WOULD MAKE A MOTION THAT WE ADOPT RESOLUTION 9503 AUTHORIZING CONTRACT 2004-119-COS-A4.

Councilmember Korte: SECOND

[Time: 40:27]

MAYOR LANE: MOTION HAS BEEN MADE AND SECONDED. I WOULD LIKE TO SAY PART OF THE COMMENT THAT WAS MADE EARLIER, I CERTAINLY WAS ON THE LOSING SIDE OF THE ORIGINAL CONTRACT ON SKYSONG SITE FOR A NUMBER OF REASONS. BUT THE FACT REMAINS, IRRESPECTIVE

OF THAT POSITION I HAVE COME TO THE ONLY CORRECT CONCLUSION THAT ONCE WE ARE COMMITTED TO THAT PROJECT, A MAJORITY VOTED FOR THAT PROJECT AND WE HAVE AN OBLIGATION TO WORK OUR WAY THROUGH CLARIFYING THOSE PROVISIONS OF THE CONTRACT THAT ARE BENEFICIAL FOR GIVING SOME CERTAINTY TO BOTH SIDES FOR HOW THINGS WOULD BE CONDUCTED IN CASE THERE WAS AN UNLIKELY EVENT OF A DOUBLE DEFAULT SITUATION. AND AS WAS MENTIONED AS WELL, IT IS WELL SAID AND SUPPORTED, IN ANY CASE WITH HER BACKGROUND HER POINTS WERE WELL MADE FROM A FINANCING INSTITUTION STANDPOINT AND THAT IS EXACTLY WHAT WE HAVE. WE HAVE A SITUATION WHERE THERE IS A NEED TO CLARIFY THE LANGUAGE AND IT DOES SERVE BOTH PURPOSES. TO HAVE A CONFUSING PROVISION WHICH IS PART OF THE OBSTACLES WE HAD ORIGINALLY TO CLARIFY THOSE AND MAKE SURE IT DOES FUNCTION WELL AND DOESN'T ENRICH THE LEGAL COMMUNITY WITH ADDITIONAL FEES AND PROCESS WHICH IF WE LOST IN THAT DETERMINATION WE WOULD BE RESPONSIBLE AS WELL, SO AT THIS POINT IN TIME IT IS BETTER TO FIND NO ADDITIONAL RISK OTHER THAN THE PROSPECT OF NOT HAVING TO PAY ADDITIONAL ATTORNEY'S FEES TO FIGURE IT OUT LATER ON. WE ARE IN GOOD STANDING, THERE IS NO MONEY TRANSFERS AND THIS CERTAINLY IS THE LEAST OF THE ISSUES THAT HAVE EVER MADE AN ADJUSTMENT AND IT HAS BEEN A MATTER OF WORKING WITH OUR PARTNERS TO MAKE SURE WE HAVE A PROJECT THAT CAN BE THE BEST. SO WITH THAT, COUNCILMAN LITTLEFIELD.

Councilman Littlefield: IF THIS WAS A GOOD DEAL FOR THE CITY WHY DID ASU FOUNDATION ASK US FOR IT? IT DEFIES LOGIC - WE DID NOT ASK FOR THIS AND INFACIT THE LEGAL DEPARTMENT SPENT QUITE A BIT OF TIME AGONIZING OVER THIS AND WHEN THIS HIT I ASKED ABOUT HIS AND WE SPENT QUITE A BIT OF TIME AGONIZING OVER IT. AND IN THE END, I AM SURE THIS WILL BE APPROVED BASED ON THE WAY THE VOTE HAS BEEN GOING. FIRST OF ALL WE DID NOT ASK FOR IT, THEY DID, THAT IS BECAUSE IT IS GOOD FOR THEM AND NOT FOR US. THE SECOND THING I WOULD SAY IS SOMETHING THAT IS WRONG DOESN'T GET TO BE RIGHT BY BEING INEVITABLE SO I WOULD JUST MAKE THAT POINT.

[Time: 43:55]

MAYOR LANE: THANK YOU COUNCILMAN. TO THE EARLIER QUESTION, THE FINANCIAL INSTITUTION IS DOING FINANCING ON THE PROPERTY REQUIRED AND THAT IS SOMETHING THAT WE ARE IN A POSITION TO BE ABLE TO FACILITATE THE CLARITY OF THE LANGUAGE TO MAKE IT WORKABLE AND SO I AM NOT SURE WHAT LEVEL OF DISCLOSURE WE ARE TALKING ABOUT. THAT IS WHERE IT COMES FROM IN ORDER TO FACILITATE CONTINUING PROGRESS. THAT WAS SOMETHING WE FELT WAS WITHIN OUR ABILITY TO FACILITATE WITHOUT ADDITIONAL COST TO THE CITY. I THINK WE HAVE A MOTION AND A SECOND. SO WITHOUT FURTHER COMMENT WE ARE READY FOR THE VOTE ON THAT AND THIS WILL BE COUNCILWOMAN MILHAVEN'S MOTION. MOTION PASSES 5 TO 2 WITH COUNCILMAN LITTLEFIELD AND COUNCILMAN PHILLIPS OPPOSING. OKAY THAT COMPLETES THE ITEMS THAT WERE MOVED FROM CONSENT TO THE REGULAR AGENDA.

ITEM 35 – THE RESIDENCES AT THE BORGATA NON-MAJOR GENERAL PLAN AMENDMENT AND REZONING (7-GP-2012 AND 18-ZN-2012)

[Time: 00:45:15]

Mayor Lane: AND NOW WE MOVE ONTO OUR NEXT ITEM WHICH IS 35 AND THAT IS THE RESIDENCES AT THE BORGATA NON-MAJOR GENERAL PLAN AMENDMENT AND REZONING 7-GP-2012 AND 18-ZN-2012. WE HAVE KIM CHAFIN TO SPEAK TOWARDS THIS.

Senior Planner Kim Chafin: GOOD EVENING MAYOR LANE AND MEMBERS OF THE CITY COUNCIL. I AM KIM CHAFIN SENIOR PLANNER WITH THE PLANNING DEPARTMENT. TONIGHT WE ARE LOOKING AT THE RESIDENCES AT THE BORGATA. HERE I AM SHOWING YOU AN AERIAL OF THE SITE LOCATED ON THE WEST SIDE OF SCOTTSDALE ROAD SOUTH OF LINCOLN ROAD AND NORTH OF MCDONALD ROAD. IT IS WITHIN OUR RESORT CORRIDOR. THE SURROUNDING PROPERTIES ARE: LINCOLN VILLAGE, TO THE NORTH, WHICH IS A COMMERCIAL SHOPPING CENTER. HILTON VILLAGE ACROSS SCOTTSDALE ROAD, THE COTTONWOODS RESORT IS IN PARADISE VALLEY AND ALAMOS CONDOS TO THE SOUTH.

THE PROPOSAL IS TO RETAIN THESE TWO RESTAURANT BUILDINGS AND TO DEMOLISH THE REST OF IT AND THIS AREA WOULD REMAIN ZONED PRESENTLY C-2 AND THE AREA SHOWN IN YELLOW WOULD BE ZONED TO PUD. THOSE BUILDINGS BACK HERE WOULD BE DEMOLISHED AND THEY WOULD HAVE FOUR-STORY RESIDENCES CONSTRUCTED ON THEM. 218 MULTI-FAMILY RESIDENCES TOTAL. AND THE PROCESS FOR THIS, FIRST IT GOES THROUGH A DRB REVIEW OF THE PUD APPLICATION THAT HAS BEEN DONE AND THE PLANNING COMMISSION REVIEWS IT AND THEY MADE A RECOMMENDATION TO THE COUNCIL ON THE PUD CRITERIA AND ON THE DEVELOPMENT PLAN WITH AMENDED DEVELOPMENT STANDARDS. AND WE ARE ON TO STEP THREE WHICH IS A CITY COUNCIL REVIEW ON THE DEVELOPMENT PLAN FOR THE PUD REZONING AND ALSO NON-MAJOR GENERAL PLAN AMENDMENT. IF THE ZONING IS APPROVED THE NEXT STEP WOULD BE FOR THE APPLICANT TO SUBMIT AN APPLICATION TO THE DEVELOPMENT REVIEW BOARD FOR THE FINAL REVIEW OF THE ELEVATION AND FINER POINTS.

AND AS I INDICATED, HERE IS SCOTTSDALE ROAD AND THESE TWO RESTAURANT BUILDINGS STAY INTACT AND THERE ARE TWO EXISTING VEHICULAR ENTRANCES OFF OF SCOTTSDALE ROAD AND ROSE LANE FOR THE RESTAURANTS. BACK HERE THERE WOULD BE MORE PARKING ADDED FOR THE RESTAURANTS. THE REZONED AREA BACK HERE WOULD HAVE VEHICULAR ACCESS POINTS OFF OF ROSE LANE AND THAT WOULD LEAD TO AN ELEVEN SPACE SURFACE PARKING LOT FOR VISITORS AS WELL AS SUBTERRANEAN PARKING FOR THE RESIDENCES. THERE IS ACROSS ACCESS DRIVE EASEMENT PROPOSED THAT WOULD CONNECT FROM ROSE LANE THROUGH TO LINCOLN VILLAGE. THAT FUTURE CONNECTION WOULD BE INCOMPLETE UNTIL SUCH TIME THAT LINCOLN VILLAGE COMPLETES THOSE AFFECTED PARKING SPACES INTO DRIVE AISLES. THE C-2 CYCLE RETAINS EXISTING PEDESTRIAN ACCESS AND ADDITIONAL PEDESTRIAN CONNECTIONS WILL BE PROVIDED FOR THE COMMERCIAL SIDE LINCOLN VILLAGE IN THE NEW RESIDENCES. THE REZONED SITE WILL HAVE MULTIPLE PEDESTRIAN CONNECTIONS TO ENCOURAGE PASSAGE THROUGH THEIR SITE FROM THE RESIDENCES DOWN HERE AND THEY CAN GET BACK AND FORTH OVER HERE TO LINCOLN VILLAGE. ALL THE PEDESTRIAN CONNECTIONS WILL BE A MINIMUM SIX-FOOT SIDEWALK AND HERE IS THE LANDSCAPE PLAN THE AREA BEING REZONED FEATURES FOUR TIMES MORE COMMON OPEN SPACE THAT IS REQUIRED AND INCLUDES A CENTRAL COURTYARD WITH A POOL, SPA, FOUNTAIN, FIRE PIT, BARBEQUE, SHARED PLAZA SPACE WITH SEATING AREAS. THIS WILL BE PUBLICLY ACCESSIBLE AND ANYONE THAT WANTS TO WALK THROUGH AND ENJOY THOSE AMENITIES. SEATING AND LANDSCAPING.

THESE ARE THE TWO PROPOSED AMENDED DEVELOPMENT STANDARDS AND IT WAS TO REDUCE THE BUILDINGS SETBACK FROM 25 FEET TO 20 FEET AND ELIMINATE THE REQUIREMENT FOR THE AVERAGE

MAXIMUM BUILDING SETBACK OF 30 FEET AND TO MEASURE THE INCLINED STEP BACK 24 FEET ABOVE GRADE RATHER THAN 24 FEET AT GRADE. THE DRB REVIEWED THAT AND ONE OF THE THINGS TO NOTE ABOUT THAT WAS THE PLACE WHERE THAT OCCURS IS ONLY WHERE THE ENCROACHMENT OCCURS IS RIGHT HERE WHERE IT IS CLOSEST TO THE CONDOS ACROSS THE STREET. AND EVEN THOUGH AMENDED STANDARDS WERE PROPOSED, WE NOTED THAT COTTONWOODS RESORT HAD CONCERNS ABOUT HOW FAR THE SETBACKS WOULD BE AND THE DEVELOPMENT PLAN CALLED OUT WE ARE ONLY DOING THIS AREA THERE IS A STIPULATION THAT THE DRB IMPOSED STATING THOSE ENCROACHMENTS WILL BE LIMITED TO THIS AREA SO THEY WOULDN'T BE ABLE TO BE APPLIED THROUGHOUT THE PROJECT. HERE ARE SOME PHOTOS OF WHAT IT WOULD LOOK LIKE THE PERSPECTIVE OF VIEW ON ROSE LANE AND ANOTHER ONE LOOKING A DIFFERENT WAY ON ROSE LANE. HERE IS THE PROPOSED RESIDENCES. THERE IS A SETBACK ANALYSIS WE DID THERE IS ELEVATIONS AND THERE IS A SITE PLAN SHOWING THE PROPERTY WILL MEET THE PUD STANDARDS AND THE REMAINING C-2 PARCEL WILL ALSO MEET THE C-2 DEVELOPMENT STANDARDS AND WE'RE RECOMMENDING APPROVAL AND IF YOU HAVE ANY QUESTIONS I AM HAPPY TO ANSWER THEM.

Mayor Lane: THANK YOU. WE DO HAVE PUBLIC TESTIMONY ON THIS SO I WILL HOLD OFF UNTIL COUNSELOR BERRY SPEAKS.

[Time: 00:51:20]

John Berry, applicant representative: MAYOR, MEMBERS OF THE COUNCIL FOR YOUR RECORD JOHN BERRY 6750 E. CAMELBACK ROAD IN SCOTTSDALE AND WELCOME BACK FROM A LONG HOT SUMMER. MAYOR AND MEMBERS OF THE COUNCIL THIS IS RELATIVELY A SIMPLE CASE IT IS A DOWN ZONING FROM COMMERCIAL TO RESIDENTIAL FROM A MORE INTENSE LAND USE LIKE COMMERCIAL TO A LESS INTENSE LAND USE LIKE RESIDENTIAL. IF THIS PROPOSAL IS APPROVED MY CLIENTS, AV HOMES, WILL INVEST \$60 MILLION IN OUR COMMUNITY TO REDEVELOP AND REVITALIZE WHAT HAS BEEN A LONG STRUGGLING RETAIL CENTER. A LITTLE BIT OF HISTORY MIGHT BE HELPFUL ON THIS APPLICATION IS THERE A NAME THAT IS MORE SYNONYMOUS WITH UNDERSTANDING HOW TO DO SUCCESSFUL RETAIL FOR THE UNIQUE DEMOGRAPHIC OF TOURISTS AND RESIDENTS IN THE CITY OF SCOTTSDALE THAN WESTCOR? IS THERE SOMEBODY OVER THE PAST SEVERAL DECADES KNOWS SCOTTSDALE BETTER THAN WESTCOR IN TERMS OF RETAIL? YOU WOULD BE HARD-PRESSED TO FIND SOMEONE WHO DIDN'T KNOW SCOTTSDALE BETTER. WESTCOR BUILT THIS CENTER AND THEY OWNED IT FOR DECADES. THAT COMPANY COULD NEVER MAKE THE BORGATA WORK AS RETAIL. IN FACT, IN 2005 THEY SOLD THEY SOUGHT PERMISSION FROM THE CITY THAT WAS GRANTED TO TEAR DOWN THE WALL THAT PARALLELED SCOTTSDALE ROAD AND PUT IN TWO NEW RESTAURANT PADS THAT ARE STAYING AND OPEN IT UP AND PUT PARKING IN FRONT OF PEOPLE COULD SEE WHAT WAS HAPPENING BEHIND THAT WALL. IT REMINDS ME OF PRESIDENT REAGAN TELLING TO TEAR DOWN THAT WALL. IT DIDN'T DO ANY GOOD WE DIDN'T HAVE THE SAME SUCCESS STORY THAT WE DID IN EASTERN EUROPE AND IN SPITE OF THAT INVESTMENT THE BORGATA CONTINUED TO STRUGGLE. THEY THEN SOLD IT RECENTLY TO RED DEVELOPMENT AND THEY ARE A SCOTTSDALE-BASED DEVELOPMENT COMPANY THEY HAVE THE MOST RECENT RETAIL SUCCESS IS CITY PLACE IN DOWNTOWN PHOENIX THEY CANNOT MAKE IT WORK AND THEY SOLD IT TO AV HOMES. AV HOMES IS THE ONE WHO IS MOVING THIS CASE FORWARD.

THE CASE THAT IS BEING PRESENTED TO YOU, THE SITE PLAN IS GREAT THEY HAVE GREAT CONNECTIVITY TO THE EXISTING RETAIL THAT IS THERE. IT HAS 218 CONDOMINIUMS FOR SALE. AND

THE STAFF POINTED OUT IT HAS APPROXIMATELY 4 TIMES THE AMOUNT OF OPEN SPACE THAT IS REQUIRED UNDER THE ZONING ORDINANCE. ALMOST 2 ½ ACRES OF THE 4 ½ ACRE SITE IS OPEN SPACE. AS PART OF THIS DOWN ZONING FOR THE MORE INTENSE COMMERCIAL CATEGORY TO THE LESS INTENSE RESIDENTIAL CATEGORY WHAT HAPPENS TO TRAFFIC? ON CASES YOU HEAR ABOUT INCREASES IN TRAFFIC AND BY GOING FROM RETAIL TO RESIDENTIAL WE REDUCE THE IMPACTS ON TRAFFIC BY 59% IN TERMS OF AVERAGE DAILY TRAFFIC AS A RESULT OF THIS REDEVELOPMENT. WHAT ABOUT THE TENANTS? WHATEVER WERE LEFT, WHAT HAPPENED TO THEM? THEY WENT TO OTHER EXISTING RETAIL ALMOST EXCLUSIVELY IN THE CITY OF SCOTTSDALE SOME OF THEM DIRECTLY TO THE NORTH SOME ACROSS THE STREET SOME WENT TO HILTON VILLAGE AND PREDOMINATELY THEY STAYED IN SCOTTSDALE SO THOSE TAX DOLLARS WERE NOT LOST AND NOT ONLY WERE THEY NOT LOST BUT RETAILERS IN PROXIMITY TO THESE 218 NEW HIGH-INCOME ROOFTOPS, THOSE RETAILERS IN THE AREA NOW HAVE MORE CUSTOMERS TO SERVICE THEIR BUSINESS. WE HAVE STRONG SUPPORT FROM THOSE AREA BUSINESSES LET ME GIVE YOU THOSE NUMBERS AND WE HAVE THOSE SUBMITTED IN THE PUBLIC RECORD PREVIOUSLY. WE HAVE 57 AREA BUSINESSES HAVE SIGNED LETTERS OF SUPPORT EVERYBODY FROM THE OWNER OF THE SHOPPING CENTER DIRECTLY TO THE NORTH WHERE TRADER JOE'S AND A DRY CLEANERS AND YOU HAVE A LETTER OF SUPPORT FROM THE RED DEVELOPMENT ACROSS THE STREET. THEY SOLD IT SO OF COURSE THEY WOULD SUPPORT. YOU KNOW WHAT THOSE OTHER TENANTS HAVE GONE OUT OF THE BORGATA AND HAVE GONE INTO VACANT SPACES ACROSS AND THEY ARE REINVESTING HILTON VILLAGE TO UPGRADE THE CENTER AND A RESULT OF THIS. WE HAVE 104 LETTERS AND 53 PETITION SIGNATURES AND THIS IS THE INTERESTING PROOF IS IN THE PUDDING. I HAVE HEARD ALLEGATIONS THAT MY CLIENT AV HOMES HAVE TREATED THE TENANTS POORLY. IN THE PACKET YOU HAVE SIX LETTERS OF SUPPORT FROM PREVIOUS TENANTS WHO SAID AV HOMES TREATED US MORE THAN FAIRLY. GAVE US GENEROUS LIVING ALLOWANCES, WORKED WITH US TO RELOCATE US OUT OF A STRUGGLING AND FAILING SHOPPING CENTER INTO VIBRANT EXISTING RETAIL LIKE HILTON VILLAGE OR THE CORNER OF SCOTTSDALE ROAD AND LINCOLN.

MAYOR, MEMBERS OF THE COUNCIL, IN CONCLUSION, WE WOULD ASK THAT YOU CONCUR WITH YOUR PROFESSIONAL PLANNING STAFF THAT SUPPORTS THIS APPLICATION AND IN THEIR REPORT THEY TALK ABOUT THE 2007 SOUTHERN SCOTTSDALE STRATEGIC RETAIL ANALYSIS THAT A PRIOR CITY COUNCIL COMMISSIONED. THE PURPOSE OF THE STUDY, WHAT ARE WE GOING TO DO TO ENSURE THAT SOUTHERN SCOTTSDALE RETAIL REMAINS VITAL AND IMPORTANT TAX BASE GENERATOR FOR US AND DECADES TO COME? THEY SAID THE MOST IMPORTANT RECOMMENDATION NOT A RECOMMENDATION NOT ONE OF 100 RECOMMENDATIONS THE MOST IMPORTANT RECOMMENDATION IS TO REZONE OBSOLETE USES INCLUDING SMALLER, OLDER, CURRENTLY UNSUCCESSFUL SHOPPING CENTERS FOR RELATIVELY HIGH DENSITY RESIDENTIAL USES. WHAT DOES THAT ACHIEVE? USUALLY WIDER BASE OF EMPLOYMENT AND MOST IMPORTANTLY AS EVIDENCED BY THE REALITY OF WHAT HAS HAPPENED EXISTING TENANT DIDN'T GO OUT OF BUSINESS. THEY DID NOT FLEE TO PHOENIX. THEY STAYED IN SCOTTSDALE. MORE PATRONS TO SOUTHERN SCOTTSDALE TO RETAIL AND RESTAURANT USES WHERE YOU GET A WIN-WIN OF MORE BUSINESS FOR THE EXISTING BUSINESSES AND MORE PEOPLE TO COME IN AND TO SPEND MONEY TO GENERATE TAXES TO SUPPORT OUR QUALITY OF LIFE, TO SUPPORT OUR TRANSPORTATION IMPROVEMENTS AND TO SUPPORT OUR PRESERVE ACQUISITION EFFORTS. I WOULD ALSO NOTE AND ASKED FOR YOU TO SUPPORT BOARDS AND COMMISSIONS THE DEVELOPMENT REVIEW BOARD UNANIMOUSLY SUPPORTED THE AMENDED DEVELOPMENT STANDARDS AND THIS APPLICATION. THE PLANNING COMMISSION UNANIMOUSLY SUPPORTED THIS APPLICATION AS WELL AND IN SPITE OF SOME OF THE PUBLICITY EFFORTS BY CERTAIN INDIVIDUALS TO CREATE CONTROVERSY REGARDING THIS. THERE

WERE NO SPEAKERS AT THE DEVELOPMENT REVIEW BOARD AND THE PLANNING COMMISSION HEARING. MAYOR AND MEMBERS OF THE COUNCIL WE WOULD WITH ALL DUE RESPECT, WE REQUEST THAT YOU APPROVE THIS CASE AND I'M HAPPY TO ANSWER QUESTIONS THANK YOU.

Mayor Lane: THANK YOU MR. BERRY. WE WILL HAVE YOU BACK FOR QUESTIONS AND THE RESPONSE TO ANY COMMENTS THAT REQUIRE A RESPONSE FROM PUBLIC TESTIMONY. WILL GO AHEAD AND MOVE TO PUBLIC TESTIMONY AND WHAT I WOULD ASK, WE HAVE 22 CARDS AT THREE MINUTES EACH. AND MOST OF US CAN DO THE MATH SO A LITTLE OVER AN HOUR OF TIME. AND I WOULD SAY WE WANT TO GET THE MESSAGE AND WE WANT TO GET THE OPPORTUNITY TO SPEAK AND PLEASE CONSIDER THAT WHEN YOU GIVE YOUR TESTIMONY. AND THE OTHER THING IS, AND WE DO HAVE YOUR ADDRESS PRESUMABLY YOUR RESIDENCE ON-FILE. BUT IF YOU WOULD PLEASE IDENTIFY YOURSELF AND GIVE YOUR CITY OF RESIDENCE. AND WE WILL START WITH RON FANZO.

[Time: 01:00:11]

Ron Fanzo: THE FIRST THING I NEED TO TELL YOU IS I'M GOING AGAINST THE FIRST RULE BY KEEPING THE TIME SURE BUT I'M REPRESENTING 30 OR 35 PEOPLE THAT I HAVE CONTACTED OVER THE LAST 11 MONTHS AND I WOULD LIKE TO ASK FOR SOME LEEWAY FOR THAT I MIGHT BE ABLE TO SPEAK FOR 5 MINUTES.

Mayor Lane: I'M SORRY RON YOU DON'T HAVE ANY ADDITIONAL TIME AT THIS POINT SO YOU HAVE TO KEEP IT 3 MIN. INCIDENTALLY, WHAT IS YOUR ADDRESS?

Ron Fanzo: 7401 N. SCOTTSDALE RD.

Mayor Lane: OKAY THANK YOU.

Ron Fanzo: I WILL LIKE TO ASK YOU TO THINK BACK TO THE SECTION OF THE DEVELOPERS PROPOSAL TITLED ECONOMIC VITALITY IN THE FIRST SENTENCE UNDER THAT SECTION STARTS OUT, THIS DEVELOPMENT REQUESTS WILL RESULT IN A \$50 MILLION INVESTMENT THAT WE JUST HEARD THAT HAS BEEN UP TO \$60 MILLION BUT I HAVE TO TELL YOU THE FIRST TIME I READ THIS AND STOPPED ME BECAUSE THAT NUMBER IMPRESS ME AND I DON'T KNOW WHY IT WAS NOT IN I DIDN'T EXPECT AND I THOUGHT HOW DOES ANYBODY GET THEIR HANDS ON \$60 MILLION THESE DAYS AND IS DEVELOPER MUST BE VERY WEALTHY OR SUCCESSFUL OR PROFITABLE AND THEN I WONDERED HOW WEALTHY AND SUCCESSFUL THAT MIGHT BE. I WENT LOOKING AROUND FOR FINANCIAL INFORMATION ON AV HOMES AND SINCE THEY ARE PUBLICLY TRADED CORPORATION THIS INFORMATION IS AVAILABLE. I FOUND THEIR 2012 ANNUAL REPORT ALONG WITH A PREVIOUS YEARS REPORTS ON THE NASDAQ WEBSITE AND MUCH TO MY SURPRISE I LEARNED FOR 2012 THEY HAD REPORTED A LOSS OF \$90 MILLION AND 2011 THEY REPORTED A LOSS OF \$135 AND 2010 THE REPORTED A LOSS OF \$40 MILLION. YOU ACTUALLY HAVE TO GO BACK TO 2007 BEFORE YOU FIND A YEAR BUT THEY WERE THEY REPORT A PROFIT. SO I THOUGHT HOW DOES THIS WORK OUT AS A COMPANY REPORTING MILLIONS OF DOLLARS IN LOSSES YEAR AFTER YEAR PROMISE US A \$60 MILLION INVESTMENT? AND IT DAWNED ON ME THEY ARE NOT TALKING ABOUT INVESTING THEIR MONEY THEY'RE TALKING ABOUT INVESTING OTHER PEOPLE'S MONEY. THIS SITUATION WOULD PRESENT ANOTHER SET OF PROBLEMS. IF YOU CAN IMAGINE OWNING A SMALL BUSINESS AND YOU GO INTO A BANK LOOKING FOR A LOAN AND YOU SHOW THEM SIX OR SEVEN CONSECUTIVE YEARS OF LOSS IS PROBABLY GOING TO BE A SHORT

MEETING YOU'RE PROBABLY GOING TO LEAVE EMPTY HANDED. AND THE WHOLE QUESTION OF WHERE THIS MONEY WAS COMING FROM INTRIGUED ME SO I STARTED RESEARCHING WHAT AV HOMES MIGHT BE DOING A TO POSITION THEMSELVES TO GET THIS MONEY. WE THEY WORKING THE MEDIA, WERE THEY SENDING OUT NEWS RELEASES ON HOW THEY'RE GOING TO REDEVELOP THE BORGATA OR WHAT A GREAT MONEYMAKING PROJECT IT WAS GOING TO BE? BUT I CANNOT FIND ANYTHING LIKE THAT AND MY RESEARCH WAS SHOWING THAT I COULDN'T FIND ANYTHING AT ALL ABOUT AV HOMES AND THE BORGATA. IN FACT IN THEIR ENTIRE 82 PAGE REPORT THEY SUMMARIZE THE ENTIRE BORGATA PROJECT IN ONE SINGLE SENTENCE. THE BORGATA IS A RETAIL CENTER IN SCOTTSDALE ARIZONA WHICH FOLLOWING REZONING WE INTEND TO REDEVELOP AS AN ACTIVE ADULT CONDOMINIUM COMMUNITY. THERE HAS NEVER BEEN A NEWS RELEASE ISSUED BY AV HOMES ON THIS. I'M GOING TO SKIP DOWN A FEW PARAGRAPHS AND I WILL GO OVER TIME.

Mayor Lane: IF YOU COULD WRAP IT UP, I WOULD APPRECIATE IT.

Ron Fanzo: DEFINITELY. IF YOU ARE A SOCIALLY RESPONSIBLE INVESTOR YOU WANT TO INVEST MONEY LIKE ANY OTHER INVESTOR AND SEE A RETURN ON YOUR MONEY AND YOU WANT TO SEE THAT THAT MONEY IS DOING SOME GOOD YOU ARE SOCIALLY RESPONSIBLE INVESTOR AND WHAT WE FOUND OUT IS THAT AV HOMES WAS NOT TELLING ANYBODY ANYTHING ABOUT WHAT THEY WERE DOING SO WAS TOLD BY PEOPLE WHO KNOW A LOT MORE ABOUT THIS THAN I DO THIS COULD BE SOMETHING THAT AMOUNTS TO WITHHOLDING KEY INFORMATION FROM INVESTORS AND I WAS TOLD THIS IS NOT SOMETHING THE SECURITIES AND EXCHANGE COMMISSION IN WASHINGTON APPROVES OF. SO I DECIDED TO TEST THIS AND SEE IF THAT WAS TRUE AND I SENT A LETTER TO THE SEC EXPLAINING WHAT WAS HAPPENING AND I WASN'T SURE I WAS GOING TO HEAR FROM THEM BUT ABOUT A MONTH LATER I GOT A PHONE CALL AND ONLY OTHER END WERE TWO ATTORNEYS WITH THE SEC'S DIVISION OF ENFORCEMENT AND

Mayor Lane: YOU'RE GOING TO HAVE TO WRAP IT UP. YOU NEED TO GIVE YOUR OPINION ON THE PROJECT.

Ron Fanzo: THEY HAD OPENED AN INVESTIGATION ON THIS AND THEY SENT ME A LETTER PROVING THAT WHICH IS HERE. AND I WAS RELUCTANT TO BRING THIS UP BUT I DIDN'T THINK IT WAS APPROPRIATE FOR COUNCIL TO VOTE ON THIS WITHOUT KNOWING

Mayor Lane: WHY DON'T YOU GO AHEAD AND ASKED THE CITY CLERK OFFICE TO COPY THAT LETTER AND THANK YOU VERY MUCH FOR YOUR TESTIMONY.

Ron Fanzo: ABSOLUTELY.

Mayor Lane: PRESCOTT SMITH FOLLOWED BY MICHAEL RUBINOFF.

[Time: 01:06:32]

Prescott Smith: 6371 E. WELDON AVE. I AM HERE TO READ A COUPLE OF LETTERS INTO THE RECORD PLEASE. THE FIRST ONE SAYS DEAR MAYOR LANE AND CITY COUNCIL MEMBERS I AM WRITING TO URGE YOU TO SUPPORT THE NEWLY PROPOSED RESIDENCES AT BORGATA PROJECT IN SCOTTSDALE. I BELIEVE THIS LUXURY CONDOMINIUM DEVELOPMENT WILL MEET A NEED IN THE AREA FOR THE TYPE

OF RESIDENTIAL COMMUNITY. IT WILL ALSO BRING NEW PEOPLE TO THE AREA THAT WILL HELP SUPPORT THE BUSINESSES IN THE COMMUNITY. AS A CURRENT EMPLOYEE OF AN ADJACENT BUSINESS I BELIEVE THIS ANTICIPATED DEVELOPMENT WILL HAVE A HUGE ECONOMIC IMPACT TO THE BUSINESSES IN THE AREA. PLEASE DON'T LET THIS EXCITING OPPORTUNITY SLIP BY. PLEASE VOTE IN APPROVAL OF THIS PROJECT. SINCERELY, ANNA BORSHCH EUROPEAN CLEANERS.

Mayor Lane: COULD YOU GIVE THE ADDRESS ON HER RESIDENCE.

Prescott Smith: 6208 SCOTTSDALE ROAD UNIT # 1014

Mayor Lane: OKAY, SO A BUSINESS OWNER AT THAT LOCATION.

Prescott Smith: YES. THE SECOND ONE. DEAR MAYOR LANE AND COUNCIL MEMBERS, I'M WRITING IN REGARDS TO THE PROPOSED RESIDENCES OF THE BORGATA AT SCOTTSDALE. I AM A CURRENT TENANT IN THE BORGATA RETAIL CENTER AND I WOULD LIKE TO EXPRESS THAT AV HOMES HAS BEEN FAIR AND HELPFUL DURING OUR RELOCATION PROCESS. EARLIER THIS YEAR AV HOMES ASSISTED US BY ALLOWING COX COMMUNICATIONS TO ROOT CABLING TO OUR BUILDING SO WE COULD CONNECT ELECTRONICALLY TO OUR OTHER LOCATIONS. THEY HAVE GIVEN US SEVERAL LEASE EXTENSIONS TO ASSIST WITH OUR TENANT IMPROVEMENTS AT OUR NEW LOCATION. AV HOMES HAS WORKED WITH US AND ADDRESSED ALL OF OUR QUESTIONS, CONCERNS, AND REQUESTS. SINCERELY ROBERT NUTTAL DOLCE SPA AND SALON.

Mayor Lane: IF YOU COULD GIVE THE ADDRESS.

Prescott Smith: I DON'T HAVE IT. THEY ARE A CURRENT TENANT IN THE BORGATA THANK YOU.

Mayor Lane: NEXT IS MICHAEL RUBINOFF AND JUST A REMINDER, IDENTIFY YOURSELF AND YOUR ADDRESS PLEASE.

[Time: 01:08:31]

Michael Rubinoff: YES I AM MICHAEL RUBINOFF, 2647 N. MILLER RD UNIT 6 IN SCOTTSDALE. GOOD EVENING. AS SOMEBODY WHO ACTUALLY REMEMBERS LIVING IN SCOTTSDALE BACK IN 1951. ANYONE ELSE HERE IN 51, ACTUALLY NOT 51 61? IT IS ENCOURAGING TO SAY THERE WOULD BE SOME REDEVELOPMENT IN WHAT HAS BEEN A TRADITIONAL HEART OF THE CITY. AS SOMEONE WHO HAS BEEN LONG PATRONIZING THAT AREA IT HAS BEEN DEPRESSING TO SEE THAT THE BORGATA HAS FALLEN ON TERRIBLE TIMES AND ALSO SOMEBODY WHO'S FAMILIAR WITH CONDOMINIUMS AND THE DEVELOPMENTS THAT WE PROBABLY NEED. I THINK THIS IS A GOOD PLAN BECAUSE IT WILL REDUCE TRAFFIC THAT COMMERCIAL PROPERTY ATTRACTS BY VIRTUE OF RESIDENCES. IT CREATES THE TAXBASE AND TAKE THIS EMPTY SHELL WHICH HAS PROVEN TO BE UNVIABLE FOR THIRTY YEARS AND TURN IT INTO SOMETHING THAT WILL HELP THE SOUTHERN SCOTTSDALE AREA AND ALSO I THINK JUST ENCOURAGE THE CITY WITH A GREATER TAX REVENUE BASE THAN THE BASICALLY FAILED SHOPPING CENTER THAT HAS BEEN DETAILED SO WELL BY EARLIER SPEAKERS. I THANK YOU FOR YOUR TIME AND URGE YOUR SUPPORT FOR THIS PROJECT. THANK YOU.

Mayor Lane: THANK YOU. NEXT IS HOWARD PYNN FOLLOWED BY JOE GALLI.

[Time: 01:10:08]

Howard Pynn: MAYOR AND COUNCIL. MY NAME IS HOWARD PYNN. I RESIDE AT 6885 N. 79TH PL. I HAVE BEEN A RESIDENT SINCE FEBRUARY 1, 1975 IN SCOTTSDALE AND STARTED DEVELOPING REAL ESTATE IN 1978. WHEN I SAW THE BORGATA BEING ERECTED I DID NOT KNOW THE OWNERS. I ENDED UP GETTING TO MEET ONE OF THEM IN A SCOTCH CLUB THAT I AM IN. AND I SAW THE ORIGINAL PENCIL DRAWINGS OF THE CASTLE IN ITALY THAT INSPIRED THE ARCHITECTURE AND WHEN IT WAS BUILT I THOUGHT IT WAS THE BEST DESIGNED BUILDING IN SCOTTSDALE. ENJOYED RESTAURANTS THERE ALONG THE WAY AND HIGH-END SHOPS. THERE HAS BEEN A HISTORY THAT HASN'T BEEN THE MOST POSITIVE THING FOR VARIOUS REASONS BUT CERTAINLY ATTEMPTS HAVE BEEN MADE AND I WAS DISHEARTENED TO 2005 WHEN THE WHOLE FRONT OF THE BUILDING CAME DOWN IT WAS A WALL BUT A BEAUTIFUL WALL IN MANY WAYS. I WAS NOT PLEASED WHEN I SAW THE RESTAURANTS GO IN BUT I ALSO KNEW THERE WERE COMMERCIAL REASONS FOR THAT AN ECONOMY THAT HAD NOT SUPPORTED FOR ONE REASON OR THE OTHER. I BELIEVE THIS PARTICULAR DEVELOPMENT IF ALLOWED TO GO FORWARD WOULD DEFINITELY IMPROVE THE AREA. THERE ARE TWO SOLID RESTAURANTS THERE NOW. BOTH GOOD AND I SEE DECENT FEATURES FOR THEM DEPENDING ON THE ECONOMY. AND IT IS SAD TO SEE THE BORGATA WHICH HAS BEEN A GREAT LANDMARK FOR THE CITY OF SCOTTSDALE GO DOWN. BUT IN THE SAME POINT IN TIME SOME POSITIVE NEW BLOOD THAT HAS NOTHING AS FAR AS I'M CONCERNED HAS POSITIVES FOR THE CITY WHETHER IT IS THE TAX BASE OR THE RETAIL THAT WILL CONTINUE TO THRIVE AND TIE IN RESIDENCES SO I AM IN SUPPORT OF ITEM 35. VERY STRONGLY THANK YOU.

Mayor Lane: THANK YOU. NEXT IS JOE GALLI FOLLOWED BY ARNOLD ROY.

[Time: 01:12:36]

Joe Galli: THANK YOU. JOE GALLI EXECUTIVE DIRECTOR NORTH SCOTTSDALE CHAMBER OF COMMERCE I AM HERE ON BEHALF OF THE BOARD OF DIRECTORS TONIGHT. I AM AT 14301 N 87TH STREET. I WANT TO THANK YOU FOR ENTERTAINING THESE AMENDMENTS TONIGHT. I'M HERE ON BEHALF OF THE BOARD OF DIRECTORS AND WE ARE IN FAVOR OF THE AMENDMENTS BEFORE YOU. WE HEARD FROM THE APPLICANT'S ATTORNEY TODAY SOME GREAT THINGS ABOUT THE PROJECT AND I DON'T WANT TO REPEAT EVERYTHING HE SAID BUT WHAT STANDS OUT ARE A COUPLE OF THINGS. IT IS A HUGE FINANCIAL INVESTMENT INTO THE COMMUNITY AND A MUCH-NEEDED AREA THAT NEEDS THAT INVESTMENT. IT IS A DOWN ZONE TO IT IS A LESS INTENSE. THAT MAKES GOOD SENSE GOOD PLANNING SENSE AND OBVIOUSLY STAFF AND OTHERS HAVE VETTED THIS ACCORDINGLY AND THAT IS WHY IT IS BEFORE YOU TONIGHT BECAUSE IT MAKES GOOD SENSE FOR WHERE IT IS. THEY ARE FOR SALE CONDOS, AND WHAT HE DIDN'T MENTION THOUGH WAS UNDERGROUND PARKING. UNDERGROUND PARKING, WE ARE GRATEFUL FOR THE DEVELOPER TO UNDERTAKE THAT EFFORT. TONIGHT THE GENERAL PLAN TASK FORCE IS MEETING ACROSS THE STREET AND YOU APPOINTED ME TO THAT I'M GOING TO HEAD OVER THERE AFTER MY REMARKS THAT I WANT TO LET YOU KNOW THROUGH THE EARLY MEETING ON THE GENERAL PLAN ON THE TASK FORCE WE HAVE BEEN DISCUSSING OPEN SPACE. THIS PROJECT, I CAN'T DO THE MATH ALMOST 3 TIMES REQUIRED OPEN SPACE 94,500 REQUIRED OPEN SPACE 94,570S MURPHY'S OVER 2 ACRES FOR PROJECT ONLY REQUIRED TO HAVE 20,000 FT.² SO THAT IS AN ADDED BONUS. WE ARE APPRECIATIVE FOR THE DEVELOPER DOING THAT AS WELL. WHAT I ALSO LIKED HEARING ABOUT WAS A 59% TRAFFIC

REDUCTION COMING FROM NORTH SCOTTSDALE TO GET DOWN TO THE MEETING ANYTIME YOU HAVE A TRAFFIC REDUCTION AND I GOT A CALL FROM ADOT TELLING ME THEY WERE GOING TO WORK ON THE 101. THEY WANT TO TALK WITH OUR MEMBERS ABOUT THAT. TRAFFIC REDUCTION AS AN ADDED BONUS AND I WILL CLOSE BY SAYING I'M DISAPPOINTED IN THE WAY THE PUBLIC COMMENTS STARTED OUT THIS EVENING WITH A PERSONAL ATTACK ON THE DEVELOPER OF THE DEVELOPER IS IT PROUD MEMBER OF THE NORTH SCOTTSDALE CHAMBER OF COMMERCE THEY ARE AN ACTIVE PARTICIPANT IN OUR COMMUNITY THIS IS A WONDERFUL PROJECT. I AM EXCITED ON BEHALF OF THE BUSINESS MEMBERS SOME OF WHOM RESIDE IN THE BORGATA ONLY ARE LUCKY TO HAVE BUSINESS NUMBERS IN THE HEART OF OUR TOWN AND THEY ARE SUPPORTIVE OF THIS. ON BEHALF OF THE NORTH SCOTTSDALE CHAMBER BOARD OF DIRECTORS OR URGE YOUR SUPPORT FOR THE AMENDMENTS THIS EVENING AND I AM HAPPY TO TAKE ANY QUESTIONS.

Mayor Lane: NEXT WILL BE ARNOLD ROY. FOLLOWED BY THOMAS PAIGE.
[Time: 01:15:32]

Arnold Roy: ARNOLD ROY 12621 N. FRANK LLOYD WRIGHT BLVD. I HAVE BEEN A RESIDENT SINCE 1952 AND I WAS A FOUNDING MEMBER OF THE SCOTTSDALE HISTORIC PRESERVATION COMMISSION. I SERVED ON THE SCOTTSDALE MCDOWELL SONORAN CONSERVANCY AND FOR THE PAST 30 YEARS I HAVE BEEN A PRESERVATION ARCHITECT AT TALIESIN WEST. I WOULD LIKE TO TALK A LITTLE BIT ABOUT THE BORGATA AND UNFORTUNATELY LOOKING BACK ON IT YOU WOULD HAVE TO SAY THAT POSSIBLY EVERYTHING STARTED OFF ON THE WRONG FOOT. YOU HAVE A GOOD DEVELOPER THAT COULD NOT MAKE TO WORK. MULTIPLE OWNERS HAVE COME IN AND SPENT UNTOLD DOLLARS TRYING TO BREATHE LIFE INTO IT AND IT SIMPLY HAS NOT WORKED. NOW THERE IS A PROPOSAL FOR REZONING AND I AM VERY EXCITED ABOUT WHAT I SAW TONIGHT I VERY STRONGLY URGE YOU TO VOTE FOR THE REZONING. THANK YOU.

Mayor Lane: THANK YOU MR. ROY. NEXT WILL BE THOMAS PAIGE FOLLOWED BY PAUL ALESSIO.

[Time: 01:17:04]

Thomas Paige: MY NAME IS TOM PAIGE, 8914 N. 82ND ST. AND I AM OPPOSED TO THE PROJECT TO THE DEMOLITION AND IF YOU'LL INDULGE ME COME FROM NEW ENGLAND AND IF YOU ARE FAMILIAR WITH ENGLAND WE DON'T TEAR DOWN BULLDOZE OR ABUSE THE WRECKING BALL. WE HAVE A COUPLE OF ICONS SOMEONE USED THE TERM ICON AS FAR AS THE BORGATA IS CONCERNED. FENWAY PARK IF YOU HAVE EVER BEEN TO BOSTON IS TRULY AN ICON. IT IS THE FALLING DOWN OLD WOODEN STADIUM AND SMELLS BUT IF ANYONE EVER THOUGHT OF TEARING IT DOWN THEY WOULD PROBABLY BE LYNCHED AND THERE WOULD BE AN INSURRECTION. AND ANOTHER ONE THAT WAS BUILT IN 1912 ALSO A MEETING PLACE AND A MARKETPLACE WAS BUILT 50 YEARS BEFORE OUR COUNTRY BECAME A COUNTRY. WE REALLY DON'T DO IT SO IF YOU CAN UNDERSTAND I AM COMING FROM AN AREA WHERE YOU DON'T TEAR IT DOWN. MANY TEXTILE AND LEATHER MILLS HAVE GONE BY THE WAYSIDE HOWEVER, THE MILLS STILL STAND. THEY WERE BUILT WELL AND NOW THEY ARE IN MANY CASES COMMERCIAL ENTERPRISES SO RATHER THAN KNOCK THEM DOWN THEY WERE RECONSTITUTED AND I CAN'T SEE WHY THE BORGATA BUILDINGS CAN'T PERHAPS BE RECONSTITUTED AND USED FOR RESIDENCES PERHAPS ALSO COMMERCIAL AND MAYBE WHATEVER ELSE. BUT KEEPING THE BUILDING REUSING THE STRUCTURE APPEALS TO ME. I REMEMBER A GREAT MOVIE FIELD OF DREAMS AND A GREAT REFRAIN IN THAT MOVIE WAS, YOU BUILD IT AND HE WILL COME. AND IT WAS

SHOELESS JOE JACKSON THAT EMERGED OUT OF THE CORNFIELD AND I AM BEGINNING TO THINK THAT WE HAVE THE OTHER MANTRA, WE BUILD IT AND THEY WILL COME, FOR BETTER OR WORSE AND I HAVE QUESTIONS ABOUT THAT. I THINK I LOOKED AT LINCOLN AND SCOTTSDALE ROAD AND I LOOK AT THAT BIG BOX I GREW UP IN AN APARTMENT IN THE NORTHEAST AND I KNOW LIVING IN A BOX IS LIKE. I LOOK AT THAT BOX AND I THINK 260 OR 70 UNITS RIGHT UP AGAINST THE STREET AND I THINK GOSH I THINK WE LOST IT ON THIS ONE. AND IF WE THINK OF FENWAY AS METAPHORS FOR NEW ENGLAND LET US OF THE STRUCTURE AT LINCOLN AND SCOTTSDALE ROAD IS NOT A HARBINGER OR A METAPHOR FOR SCOTTSDALE. WE HAVE A WONDERFUL TITLE FOR OUR COMMUNITY, SCOTTSDALE. IF WE CONTINUE TO DO BOXES, WE COULD BE KNOWN AS BOXDALE AND I WOULD HATE TO SEE THAT HAPPEN. ALSO I GUESS I AM WRAPPING IT UP BUT I WOULD LIKE TO ASK AND THANK YOU FOR LISTENING TO ME. I WOULD LIKE TO ASK YOU IF IT IS POSSIBLE TO POSTPONE OR TABLE OR WHATEVER THE AMENDMENT SO THERE MIGHT BE MORE RESEARCHED DONE INTO, A GENTLEMAN SPOKE ABOUT THE FINANCIAL FOUNDATION OF ONE OF THE COMPANIES, IT MIGHT NOT HURT TO DO A LITTLE MORE STUDYING AND THEN ALSO FOR ALL OF YOU SITTING UP THERE TO JUST THINK WOULD YOU LIKE TO SEE SCOTTSDALE LIKE IN THE FUTURE.

Mayor Lane: THANK YOU MR. PAIGE.

Thomas Paige: AM I RUNNING OUT OF TIME?

Mayor Lane: YOU ARE WELL OVER TIME. WRAP IT UP.

Thomas Paige: I THINK IF YOU IF YOU RAN A POLL IN SCOTTSDALE YOU WOULD FIND QUITE A FEW PEOPLE AND A MAJORITY PROBABLY OPPOSED TO USING THE DEMOLITION BALL. THANK YOU FOR LISTENING.

Mayor Lane: THANK YOU MR. PAIGE. NEXT WOULD BE PAUL ALESSIO.

[Time: 01:21:13]

Paul Alessio: MAYOR LANE, MEMBERS OF THE COUNCIL. GOOD EVENING MY NAME IS PAUL ALESSIO. 7527 E TAILSPIN LANE. I HAVE BEEN IN THE AREA SINCE 1983. ENJOYED MANY MEALS OVER AT THE BORGATA. THAT'S WHY I AM HERE TODAY IN FULL SUPPORT OF THE NEWLY PROPOSED RESIDENCES AT BORGATA. AS A LONG TIME SCOTTSDALE RESIDENT WHO HAS OPERATED MULTIPLE BUSINESSES IN SCOTTSDALE, ONE IN THAT SPECIFIC AREA, I AM VERY EXCITED TO SEE NEW LIFE PROPOSED FOR THAT AREA. THE ADDITION OF NEW RESIDENCES IN THAT AREA WOULD SUPPORT RETAIL AND OFFICE DEVELOPMENTS BY PROVIDING THE AREA OF SCOTTSDALE WITH MUCH NEEDED REVITALIZATION. AS SCOTTSDALE AND THE ARIZONA ECONOMY HAVE BEEN IMPACTED OVER THE PAST YEARS, IT WOULD SEEM OBVIOUS THAT WE WOULD WELCOME DEVELOPMENTS LIKE THIS WITH OPEN ARMS, AS THESE DEVELOPMENTS WOULD SUPPORT OUR COMMUNITY AND ENHANCE OUR ECONOMY. FOR THIS REASON I URGE YOU TO VOTE IN APPROVAL OF THIS FABULOUS PROJECT. THANK YOU.

Mayor Lane: THANK YOU MR. ALESSIO. NEXT WOULD BE LYNDA CILLE LAMB. FOLLOWED BY LAI FONG WONG.

[Time: 01:22:42]

Lyndacille Lamb: THANK YOU. MY NAME IS LYNDACILLE LAMB. I AM AT 10105 E VIA LINDA. MAYOR AND MEMBERS OF THE COUNCIL I WOULD LIKE TO SPEAK IN FAVOR OF THE PROJECT. SEVERAL YEARS AGO WHEN I BROUGHT MY COMPANY HERE MOST OF MY EXECUTIVES WANTED TO LIVE HERE IN SCOTTSDALE IN AN UPSCALE RESIDENCE WITHIN WALKING DISTANCE OF SHOPS AND RESTAURANTS. I FELT THAT THIS PROJECT WOULD BE VALUABLE TO SCOTTSDALE AND THE BUSINESS COMMUNITY. THANK YOU.

Mayor Lane: THANK YOU MS. LAMB. NEXT WOULD BE LAI FONG WONG. FOLLOWED BY RICHARD NIELSEN.

[Time: 01:23:26]

Lai Fong Wong: LAI FONG WONG. 8243 E MINNEZONA AVE. GOOD EVENING MAYOR AND COUNCILMEMBERS. I HAVE LIVED IN SCOTTSDALE FOR 18 YEARS AND I HAVE A BUSINESS. I AM IN FAVOR OF MORE RESIDENCES TO BUILD ECONOMIC.

Mayor Lane: THANK YOU MS WONG. RICHARD NIELSEN FOLLOWED BY MILTON MASSON.

[Time: 01:24:05]

Richard Nielsen: MY NAME IS RICHARD NIELSEN 8243 E. MINNEZONA AVE. YES LAI WONG AND I ARE MARRIED. AND I HELP HER IN HER BUSINESS A LITTLE BIT BUT I AM RETIRED MAINLY. MAYOR AND COUNCIL, I WANT TO THANK YOU AND PREVIOUS COUNCILS AND STAFF FOR BUILDING THIS FANTASTIC CITY. LAST WEEKEND I WENT TO MY HIGH SCHOOL REUNION AND THE TOPIC, ONE OF THE FIRST TOPICS IS WHERE DO YOU LIVE NOW? AND OF COURSE I WAS LOADED FOR BEAR BECAUSE I LIVE IN SCOTTSDALE AND I WOULD SAY SCOTTSDALE AND THE CONVERSATION WOULD STOP IT WOULD BE FROZEN FOR A MOMENT AND THEY WOULD SAY THAT IS A FINE PLACE WHERE YOU LIVE SO I AM HERE TO SPEAK IN FAVOR OF THE CONTINUED DEVELOPMENT OF SCOTTSDALE AND IN FAVOR OF THE BOARD OF REVUES REPORT ON ITEM NUMBER 35. I HAVE BEEN IN SWITZERLAND AND THE SWISS ALPS AND THEN I WENT TO DISNEYLAND AND SAW THE MATTERHORN AND I HAD BEEN IN ITALY AND IN THE VILLAGES OF ITALY AND I HAVE SEEN THE BORGATA. THE MATTERHORN IN DISNEYLAND IN THE BORGATA IN SCOTTSDALE ARE NICE LITTLE THINGS BUT THEY ARE NOT THE REAL THING AND I THINK THE NEW DEVELOPMENT IS GOING TO BE THE REAL THING THAT WILL BUILD OUR ECONOMY THAT WILL CREATE JOBS FOR OUR PEOPLE THAT WILL SUPPORT THE BUSINESSES THAT ARE NEARBY SO I THANK YOU FOR CONSIDERING WHAT I HAVE TO SAY ON THIS MATTER.

Mayor Lane: THANK YOU. NEXT IS MILTON MASSON FOLLOWED BY JOSEPH GLENN.

[Time: 01:26:03]

Milton Masson: THANK YOU MR. MAYOR MY NAME IS MILTON MASSON. I MOVED HERE IN 1968 I AM A LONGTIME RESIDENT OF SCOTTSDALE AND I'M SPEAKING TONIGHT ON BEHALF OF MY PARTNER JOHN ELLIS WHO IS THE FOUNDING PRESIDENT OF SOLID SOLAR USA WITH IT'S NATIONAL HEADQUARTERS RECENTLY IN SCOTTSDALE AND HE LIVES HERE ALSO. BOTH OF US ARE IN FAVOR OF THIS PROJECT HAVING BEEN IN THE DEVELOPMENT BUSINESS, ENGINEERING AND ARCHITECTURAL, I

CAN'T THINK OF A BETTER USE THAN THIS PROJECT AS IT IS PROPOSED AND SO I'M VERY MUCH IN FAVOR OF IT THANK YOU FOR THIS OPPORTUNITY.

Mayor Lane: THANK YOU. JOSEPH GLENN. FOLLOWED BY YVONNE WILSON.

[Time: 01:27:08]

Joseph Glenn: THANK YOU MAYOR AND COUNCIL I APPRECIATE THIS OPPORTUNITY TO SPEAK ON BEHALF OF THE BORGATA PROJECT. I THINK IT WOULD BE A SUPER ADDITION TO THE AREA I LIVE AT 7296 E. EL CAMINITO DR ABOUT 2 MILES NORTH OF THE MCCORMICK RANCH AREA SO WE LOOK FORWARD TO SEEING THE IMPROVEMENT IN THE BORGATA AND WE WILL CERTAINLY SUPPORTED AND THERE WERE GREAT RESTAURANTS THEY ARE AND IF YOU HAVEN'T EATEN AT ONE, YOU SHOULD TRY IT. THANK YOU VERY MUCH.

Mayor Lane: THANK YOU. YVONNE WILSON FOLLOWED BY CHRIS PLEITER.

[Time: 01:27:55]

Yvonne Wilson: MY NAME IS YVONNE WILSON AND MY ADDRESS IS 80558 E THOMAS ROAD UNIT C102. I HAVE BEEN A RESIDENT FOR 18 YEARS AND I HAVE WORKED IN SCOTTSDALE FOR 26 YEARS AT THE HANDLERBAR J AND I THINK THIS RESIDENCY AT THE BORGATA WOULD BE WONDERFUL IT WOULD GENERATE A LOT OF INCOME FOR THE ECONOMY AND WE CAN ALWAYS USE MORE PEOPLE. THANK YOU.

Mayor Lane: THANK YOU. CHRIS PLEITER FOLLOWED BY JACK PLEITER.

[Time: 01:28:47]

Chris Pleiter: THANK YOU. I AM CHRIS PLEITER AT 10863 E ONYX COURT. I AM HERE TO SUPPORT THE PROPOSED RESIDENCE OF BORGATA I FEEL THE REZONING IS A POSITIVE FOR SCOTTSDALE. THEIR CURRENT RETAIL LOCATION IS NOT DOING AS WELL AS THEY HAD INITIALLY HOPED AND AFTER YEARS OF TRYING TO INCREASE OCCUPANCY IS STILL CONTINUES TO BE LOW. I BELIEVE THE PROPOSED CONDOMINIUM COMMUNITY WILL BE AN ASSET TO SCOTTSDALE BUSINESSES IN THAT AREA. THANK YOU.

Mayor Lane: THANK YOU. JACK PLEITER FOLLOWED BY BRIDGET NIELSEN.

[Time: 01:29:30]

Jack Pleiter: MY ADDRESS IS 10863 E ONYX COURT. I ALSO AM IN FAVOR OF THIS. THE BORGATA HAS HAD ITS STRUGGLE FOR OCCUPANCY DURING THE ECONOMIC DOWNTURN AND REPURPOSING THIS PROPERTY WOULD BE A GREAT VENTURE FOR SCOTTSDALE AND I AM VERY MUCH IN FAVOR OF IT. THANK YOU.

Mayor Lane: THANK YOU, NICE TO SEE YOU. BRIDGET NIELSEN FOLLOWED BY WHITNEY BOULWARE.

[Time: 01:30:08]

Bridget Nielsen: THANK YOU MAYOR. I HAVE A LETTER I WOULD LIKE TO READ FROM PAMELA KIRBY THE PRESIDENT OF SCOTTSDALE UNIFIED SCHOOL DISTRICT GOVERNING BOARD YOU MAY HAVE THIS COPY. DEAR MAYOR LANE AND COUNCIL, I AM PRIVILEGED TO SERVE THE PUBLIC AS PRESIDENT OF THE SCOTTSDALE UNIFIED SCHOOL DISTRICT GOVERNING BOARD. YOU ARE FAMILIAR WITH THE BUDGET CHALLENGES SCOTTSDALE UNIFIED SCHOOL DISTRICT IS FACING FOR THE 2013/2014 SCHOOL YEAR. RECENTLY AV HOMES A SCOTTSDALE BASED COMPANY STEPPED UP TO THE PLATE TO SUPPORT ONE OF OUR SCHOOLS MOHAVE MIDDLE SCHOOL. AV HOMES RECOGNIZES THE OPPORTUNITY OF FORGING A MULTI GENERATIONAL PARTNERSHIP BETWEEN THE BAND AND STRINGS PROGRAM AT MOHAVE AND WHAT WILL HOPEFULLY BE A VIBRANT FUTURE ACTIVE ADULT COMMUNITY. AV HOMES CAME BEFORE THE GOVERNING BOARD IN MAY 2013 WITH A MEANINGFUL FINANCIAL COMMITMENT TO AID THE MOHAVE MUSIC PROGRAMS AT SOME OF THEIR MOST CHALLENGING TIMES. THE IMPORTANCE OF THIS GOES FAR BEYOND A TIMELY DONATION TO THIS SCHOOL AND CONVEYS CONFIDENCE IN SCHOOLS LOCATED IN THE SOUTHERN PART OF THE COMMUNITY AND ALLOWS SUSD CHAMPIONS TO USE IT AS AN EXAMPLE TO CHALLENGE OTHER COMPANIES AND CORPORATIONS TO DEMONSTRATE CITIZENSHIP. WE NEEDED IT. SINCERELY PAM KIRBY. THANK YOU.

Mayor Lane: THANK YOU. NEXT WOULD BE WHITNEY BOULWARE FOLLOWED BY LORI EVANS.

[Time: 01:31:56]

Whitney Boulware: I RESIDE AT 5901 E WILSHIRE DRIVE. I BELIEVE THAT THE RESIDENCE AT BORGATA THAT IS BEING PROPOSED BY AV HOMES IS JUST WHAT THE AREA NEEDS. SCOTTSDALE NEEDS PROJECTS LIKE THIS FOLLOWING THE ECONOMIES STRUGGLES WE HAVE HAD THESE LAST FEW YEARS. AV HOMES IS A REPUTABLE BUILDER THAT TRULY CARES ABOUT THE INTEGRITY OF EXISTING COMMUNITIES AND I'M ASKING YOU TO SUPPORT THIS PROJECT I HOPE YOU'LL SEE THIS CAN FACILITATE HEALTHY GROWTH THAT WILL CONTRIBUTE TO THE REVITALIZATION OF OUR CITY.

Mayor Lane: THANK YOU. LORI EVANS FOLLOWED BY KAROLINA DONIS.

[Time: 01:32:46]

Lori Evans: THANK YOU. I AM LORI EVANS AND I RESIDE AT 5824 E EDGEMONT AVE. I AM IN SUPPORT OF THE RESIDENCE AT BORGATA. I FELL THIS PROJECT WILL GIVE THIS AGING LAND ASSET THE REVITALIZATION THAT IT NEEDS. IT WILL BRING IN NEW PEOPLE WHO FREQUENT LOCAL BUSINESSES AND HELP THE ECONOMY THIS IS A FORGOTTEN AREA THAT HAS MUCH TO OFFER THE ASU CULTURAL CENTER IS IN WALKING DISTANCE AND OFFERS A GREAT CULTURAL VENUE FOR THIS AREA. THERE ARE RESTAURANTS AND RETAIL SHOPS ALL VERY CLOSE AS WELL. ADDING CONDOS IN THE AREA IS GOOD FOR SCOTTSDALE AND EFFORTS TO REVITALIZE THE AGING AREAS SUCH AS THIS. THANK YOU.

Mayor Lane: THANK YOU. KAROLINA DONIS FOLLOWED BY ALEXANDRA DUEMER.

[Time: 01:33:46]

Karolina Donis: THANK YOU MAYOR AND CITY COUNCIL MEMBERS BY NAME IS KAROLINA DONIS AND I LIVE THAT 5839 E. WILSHIRE DR. I AM HERE TO EXPRESS MY SUPPORT OF THE REZONING OF THE BORGATA. IT HAS BEEN STRUGGLING FOR A WHILE AND I KNOW THEY HAVE NOT BEEN FULL CAPACITY FOR SEVERAL YEARS. I SUPPORT AV HOMES AND THEIR PLANS TO DEVELOP THIS AREA INTO A LUXURY RESIDENTIAL COMMUNITY. THIS NEW DEVELOPMENT WILL BRING NEW PEOPLE INTO THE AREA AND IT HELP SUPPORT LOCAL BUSINESSES AND RESTAURANTS MOST ARE WITHIN WALKING DISTANCE WHICH PROMOTES A PEDESTRIAN ORIENTED LIFESTYLE. I URGED YOU COUNCIL TO SUPPORT THIS AND MAKE GOOD USE OF THE PROPERTY THANK YOU.

Mayor Lane: THANK YOU VERY MUCH. ALEXANDRA DUEMER FOLLOWED BY MONIQUE NULLE.

[Time: 01:34:37]

Alexandra Duemer: GOOD EVENING ALEXANDRA DUEMER 7914 E VIA BONITA. I HAVE A LONG INTIMATE ASSOCIATION WITH THE BORGATA. IN FACT, I HAVE A MOST UNIQUE RELATIONSHIP WITH THE BORGATA YOU WILL FIND IN THIS ROOM. I AM THE DAUGHTER OF ONE THE TWO PEOPLE THAT STARTED THE BORGATA MORE THAN 30 YEARS AGO. EXCUSE ME. MY PARENTS HAD THE GREAT OPPORTUNITY TO TRAVEL THE WORLD BEFORE THEY CHOSE SCOTTSDALE AS THEIR HOME. AND MY MOM WHO IS HERE WITH ME TONIGHT FELT THERE WAS NO PLACE IN SCOTTSDALE WHERE A WOMAN COULD SPEND THE DAY IN A BEAUTIFUL PLACE SHOPPING AND DINING. SHE ENVISIONED A CITY WITHIN A CITY. MY FATHER WAS AN ATTORNEY TOOK CARE OF THE LEGAL ISSUES AND MY PARENTS WORKED TOGETHER AND SELECTED THE ARCHITECTS TO EMULATE AN ITALIAN VILLAGE. THEY TOOK THIS PROJECT AS FAR AS THEY COULD, NOT BEING GENERAL CONTRACTORS OR FINANCIERS THEY FOUND THE BEST WAY TO GET IN THEIR DREAM BUILT WAS TO BUILD A CONCEPT. TO SELL THE CONCEPT TO A CANADIAN COMPANY WHO ACTUALLY BUILD THE BORGATA. IT BROUGHT A NEW LEVEL OF LUXURY AND AMBIANCE AND CHARACTER TO MY HOME TOWN. I AM PROUD OF IT. AND I AM PROUD OF MY PARENTS FOR THEIR VISION OF SCOTTSDALE. THE BORGATA HAS STRUGGLED IN RECENT YEARS BUT THAT IS NOT SOLELY BECAUSE NOBODY HAS BEEN ANY EFFORT AT ALL IN HELPING IT NOT TO STRUGGLE. IF YOU DO NOTHING TO SOLVE PROBLEMS NOTHING WILL HAPPEN AS A RESULT. I MAKE MY LIVING TODAY BY SELLING ADVERTISING. THE INCOME FROM MY BUSINESS IS THE UNDERSTANDING OF TEACHING MY CLIENTS HOW TO USE MARKETING SO IT WORKS FOR THEM AND I CAN TELL YOU THE BORGATA DOESN'T HAVE TO STRUGGLE IF ITS PROMOTED AND ADVERTISED PROPERLY. I REGULARLY READ COMMENTS AND REMARKS, SOME OF THOSE FROM CITY COUNCIL AND YOU SEEM TO ALL SAY THE MOST IMPORTANT TASK OF SCOTTSDALE GOVERNMENT IS ECONOMIC GROWTH AND DEVELOPMENT. THERE IS A GREAT PLACE TO PUT THOSE WORDS INTO ACTION WHERE BUSINESSES CAN FLOURISH JOBS COULD BE CREATED AND FAMILIES COULD EARN INCOMES. WE DON'T NEED TO ATTRACT OR COURT DEVELOPERS TO BUILD SUCH A PROJECT IN SCOTTSDALE BECAUSE IT IS HERE AND IT IS UNIQUE. IT IS A LANDMARK. AND AS ONE GENTLEMAN SAID CAN BE REPURPOSED. I SINCERELY HOPE WE WILL SEE KEEPING THE BORGATA A PART OF SCOTTSDALE IS THE BEST WE CAN DO ANY WILL VOTE ACCORDINGLY. THANK YOU.

Mayor Lane: THANK YOU. NEXT AND FINAL CARD IS FOR MONIQUE NULLE.

[Time: 01:38:04]

Monique Nulle: MY NAME IS MONIQUE NULLE AND I AM ONE OF THE ORIGINATORS OF THE BORGATA WITH MY HUSBAND. I LIVE AT 7914 E VIA BONITA AND I HAVE BEEN IN SCOTTSDALE SINCE 1971. WE

SELECTED SCOTTSDALE BECAUSE I FELL IN LOVE WITH THE FEELING OF FLAIR FOR THAT LITTLE CITY IN THIS VALLEY. I COULDN'T STAND PHOENIX I COULDN'T STAND TEMPE I COULDN'T STAND THE MESS EVERYWHERE. NO PLANNING BUT WHEN I SAW THAT LITTLE CORNER OF MAIN STREET AND SCOTTSDALE ROAD WITH THE GALLERIES AND SO FORTH I SAID THIS CITY HAS SOME FLAIR WHY DON'T WE LOOK INTO IT AND TRY TO SETTLE HERE? THAT IS WHAT WE DID AND OF COURSE I STARTED A BUSINESS FOR WOMEN IN COSMETOLOGY AND I'VE MET A LOT OF LADIES OF THIS VALLEY, VERY PROMINENT AND AFFLUENT AND THESE POOR LADIES HAD NO PLACE TO GO WHERE THEY COULD PAMPER THEMSELVES, ENJOY THEMSELVES AND GET OUT. I TOLD MY HUSBAND, THEY HAVE THE OPPORTUNITY FOR THIS AND I SAID WHY DON'T WE DO SOMETHING LIKE THAT AND WE FOUND TWO REMARKABLE ARCHITECTS WHO FINALLY PASSED ON WITH THE SALE OF OUR PROJECT TO THE CANADIANS BUT THE SAD PART OF IT IS IT WAS THAT THE SOUL WAS LOST AND AS MY DAUGHTER SAID THE NEXT STEP WAS TO MARKET IT AND THE MARKETING WAS NEVER FOLLOWED UP PROPERLY AND I AM SORRY BUT I AM WORKING AGAINST THE DESTRUCTION OF THE BORGATA. IT IS A LANDMARK FOR SCOTTSDALE AND IF YOU'RE TRYING TO FIND A DIRECTION FOR THE CITY WITH FRANK LLOYD WRIGHT AND PAULO SOLERI AND ALL THOSE BIG NAMES IN ARCHITECTURE EVEN IF THE BORGATA IS NOT NECESSARILY FITTING IN THE DESERT IT IS WORTH KEEPING. IT IS A MAGNIFICENT PRODUCTION. THANK YOU.

Mayor Lane: THANK YOU. THAT COMPLETES THE PUBLIC TESTIMONY ON THE SUBJECT. DO YOU HAVE SOME BRIEF COMMENTS IN RESPONSE?

[Time: 01:40:40]

John Berry: YES I WOULD NOTE THERE ARE SUBSTANTIAL NUMBER OF SUPPORTERS THIS EVENING, A COUPLE OF THOUGHTS FROM SPEAKERS. PEOPLE CAN DIFFER ON WHAT AN ICON AND A LANDMARK IS AND YOU HAD ARNOLD ROY WHO ACTUALLY PRACTICED WITH MR. WRIGHT AND HE IS INVOLVED IN THE HISTORIC PRESERVATION COMMISSION AND OTHER ACTIVITIES IN THE CITY. HE SUBMITTED A LETTER TO THE CITY WHICH UNEQUIVOCALLY SAID THIS IS NOT A LANDMARK OR WORTH PRESERVING. AND I JUST LIKE TO READ ONE PARAGRAPH AND IT SAYS THE FOUNDING CHAIRMAN OF THE HISTORIC PRESERVATION I CAN ASSURE YOU THAT THE EXISTING BORGATA IS NOT HISTORIC. IT IS NOT A CANDIDATE TO BE DESIGNATED HISTORIC AND IT IS NOT A LANDMARK. IT WAS AN INTERESTING EXPERIMENT THAT DID NOT WORK AND IT SHOULD NOT BE VIEWED AS A PRECIOUS OBJECT THAT REQUIRES SAVING. AND ONE OF THE SPEAKERS TALKED ABOUT WISHING WE COULD TAKE A POLL AND A VAST MAJORITY OF SCOTTSDALE WOULD SUPPORT THE PRESERVATION THAT WOULD BE GREAT IF THEY WOULD SHOP THEN WE WOULD NOT BE IN THIS POSITION WHERE IT HAS NOT BEEN ABLE TO SUCCEED AS A RESULT OF THE EVOLVING NEW RETAIL THAT HAS COME TO SCOTTSDALE. I WOULD ALSO POINT OUT THE SEAL OF THE CITY BEHIND YOU SAYS THE WESTS MOST WESTERN TOWN. IT DOES NOT SAY THE WEST MOST ITALIAN TOWN. IN FACT IN ONE OF THE LETTERS, NOTED THAT THIS WAS DISNEYESQUE AND ONE OF THE SPEAKERS SAID HE HAS SEEN THE MATTERHORN. CHANGE IS DIFFICULT AND I SYMPATHIZE WITH THE MOTHER AND DAUGHTER. CHANGE IS DIFFICULT AND WHEN YOU HAVE THAT IDEA IT IS DIFFICULT TO SEE IT BE DEMOLISHED. IT IS TIME FOR SCOTTSDALE AND ITS TIME FOR THIS PROPERTY TO RECOGNIZE THAT POSITIVE THINGS CAN COME FROM THE SO THAT WILL BE TO CONTINUE TO ENSURE THAT SCOTTSDALE IS A VIBRANT PLACE TO LIVE AND DO BUSINESS I'M HAPPY TO ANSWER ANY QUESTIONS YOU HAVE. THANK YOU.

Mayor Lane: I WANT TO THANK ALL THOSE THAT PARTICIPATED AS WELL AND FOR THE PRESENTATIONS MADE ON THIS TOPIC. IT IS NOW OPEN FOR CONVERSATION DISCUSSION AND DELIBERATION FOR THE COUNCIL AND WE DO HAVE A COUPLE OF ITEMS TO BE CONSIDERED, ITEM 35 TO ADOPT RESOLUTION 9459 DECLARE A RESIDENCE AT THE BORGATA DEVELOPMENT PLAN PUBLIC RECORD AND TO ADOPT A RESOLUTION 9494 APPROVING A NON-MAJOR GENERAL PLAN AMENDMENT FROM COMMERCIAL LAND USE DESIGNATION TO MIXED-USE LAND DESIGNATION ON 4.7 ACRES OF A 6.85 ACRE SITE AND TO ADOPT AN ORDINANCE 4101 APPROVING ZONING DISTRICT AMENDMENT FROM CENTRAL BUSINESS DISTRICT TO PLANNED UNIT DEVELOPMENT DISTRICT WITH APPROVAL OF A DEVELOPMENT PLAN AND AMENDED DEVELOPMENT STANDARDS. FINDING THAT THE PLANNED UNIT DEVELOPMENT DISTRICT CRITERIA HAVE BEEN MET AND DETERMINING THAT THE PROPOSED ZONING DISTRICT MAP IS CONSISTENT AND CONFORMS WITH THE ADOPTED GENERAL PLAN TO REDEVELOP EXISTING COMMERCIAL BUILDINGS.

Councilwoman Milhaven: SECOND.

Mayor Lane: THAT WAS NOT A MOTION I APPRECIATE THE CONSIDERATION. IT WON'T BE NECESSARY IF YOU WANT TO CITE THAT READING BUT NEVERTHELESS, COUNCILMAN PHILLIPS.

[Time: 01:44:45]

Councilman Phillips: THANK YOU, I HOPE I AM NOT THE ONLY ONE SPEAKING ON THOSE THERE IS A LOT OF EMOTION INVOLVED WITH THE BORGATA AND I'M GOING TO TRY TO KEEP OUT OF THE EMOTION PART BUT IT IS NOT EASY. I THINK IT IS A SHAME THAT WE HEAR SOME OF THESE PEOPLE SAY THAT DEMOLISHING A LANDMARK IS EXCITING. I DON'T SEE ANYTHING EXCITING ABOUT BUILDING MORE CONDOS AND APARTMENTS IN SCOTTSDALE. WE'RE GOING TO BUILD 10,000 UNITS HERE. THIS IS NOT THE ONLY ONE THIS IS NOT GOING TO SAVE SCOTTSDALE. AND I'M SORRY THEY'RE NOT APARTMENTS, THEY ARE CONDOS. PEOPLE BUY CONDOS AND RENT THEM OUT, THAT'S WHAT THEY ARE. PRETTY MUCH THE SAME THING. ANOTHER THING IS, AV HOMES IS IN A HEAP OF TROUBLE AND IF THEY BUY THIS AND TEAR IT DOWN I FEEL LIKE WE'RE GOING TO END UP WITH A HOLE IN THE GROUND LIKE THE DEVELOPERS IN THIS AREA AND SEVEN YEARS LATER WE WILL BE SITTING THERE WONDERING WHY WE'RE GOING TO DO ABOUT THE BIG HOLE SITTING THERE AND NOBODY WANTS TO BUILD ANYTHING. IS NOT A GOOD IDEA. 220 UNITS, 300 CARS. WHILE THAT BE WONDERFUL? LET'S BRING IN MORE TRAFFIC MAYBE THAT WILL PUSH THAT LIGHT RAIL THAT SOME PEOPLE WANT SO BADLY. AND SOMEONE MADE A COMMENT, IT IS NOT A LANDMARK AND WORKED ON FRANK LLOYD WRIGHT BUILDINGS. WHAT IF THIS WAS A FRANK LLOYD WRIGHT BUILDING? WOULD WE TEAR IT DOWN? IS THAT THE ONLY IMPORTANT BUILDING? THE PROBLEM NOW IS THAT IT HAS BECOME SUCH A WONDERFUL EXCITING CITY AND BECAUSE OF THINGS THAT PEOPLE HAVE DONE IN THE PAST AND WE'RE IN A HURRY TO TEAR THIS STUFF DOWN AND INCLUDED MORE APARTMENTS AND BRING IN MORE PEOPLE AND MORE TRAFFIC AND MAKE MORE MONEY. LET'S MAKE MORE MONEY AND WE ONLY-WE DON'T CARE HOW WE DO IT AS LONG AS WE DO. 20 YEARS FROM NOW IF SCOTTSDALE IS ANOTHER PHOENIX, SO WHAT. THE DEVELOPERS HAVE MADE MONEY AND THEY HAVE COME AND GONE, GOOD FOR THEM. THERE WAS A LEGAL PROTEST ON THIS I'M SURPRISED SOMEBODY BROUGHT THAT UP AND I SAW THE E-MAIL FROM STAFF AND I THINK THAT EXPLANATION IS VERY VAGUE AND CONVOLUTED AND SO I WOULD LIKE TO MOVE THE STAFF POSTPONE 7-GP-2012 AND 18-ZN-2012 UNTIL WE CAN GET A RULING FROM THE ZONING ADMINISTRATOR FOR THE VALIDITY OF THE LEGAL PROTEST.

Councilman Littlefield: I WILL SECOND THAT.

Mayor Lane: MOTION HAS BEEN MADE AND SECONDED. DO YOU WANT TO SPEAK TOWARDS IT?

[Time: 01:47:40]

Councilman Littlefield: IT IS FUNNY. I LOOKED AT THIS AND HAVING BEEN UP HERE FOR 12 YEARS I HAVE HEARD THE SAME THING OVER AND OVER AGAIN. I ALWAYS HEAR, CHANGE. WE NEED TO CHANGE. NOT ALL CHANGE IS GOOD AND NOT EVERY PROJECT WITH A ZONING ATTORNEY, EVEN ONE AS ELOQUENT AS JOHN BARRY SAYS BOLD, ICONIC, VISIONARY, AND WORLD- CLASS IS. TAKING EMOTION OUT OF THIS, WE ARE TALKING ABOUT TAKING RETAIL SPACE AND TURNING IT TO HIGH DENSITY RESIDENTIAL. WE DON'T NEED MORE HIGH DENSITY RESIDENTIAL. WE HAVE APPROVED TOO MUCH HIGH DENSITY RESIDENTIAL AND IN THIS AREA JUST UP THE ROAD AT LINCOLN AND SCOTTSDALE WAS WHAT I CONSIDERED TO BE A TERRIBLE PROJECT WHICH IS NOT ONLY POORLY DESIGNED BUT IS GOING TO BE TO DANCE. SO TAKING EMOTION OUT OF IT, I QUESTION IF THIS IS THE STORY, WE GET SMOKESCREENS THROWN INTO THE DEBATE AND THE BOTTOM LINE, THE REAL ISSUE IS SHOULD WE AS ZONING PEOPLE THE PEOPLE IN CHARGE OF PLANNING THE CITY, SHOULD WE TAKE A PIECE OF COMMERCIAL PROPERTY AND TURN IT INTO NOT JUST RESIDENTIAL BUT HIGH DENSITY RESIDENTIAL AND THE ANSWER IS NO. NO OFFENSE JOHN BUT FOR ALL THE YEARS YOU HAVE BEEN UP HERE. EVERY PROJECT YOU TELL US IS GOING TO DECREASE TRAFFIC AND IF THAT WERE THE CASE, BY NOW, THERE WOULD BE NO CARS LEFT SCOTTSDALE CONSIDERING ALL THE STUFF OF YOURS WE'VE APPROVED. WE HAD A LOT OF TALK ABOUT THIS AND THAT, WHETHER IT IS ICONIC OR HISTORIC BUT THE BOTTOM LINE IS THE REAL ISSUE IS, SHOULD THE COUNCIL APPROVE ZONING CHANGE FROM COMMERCIAL TO HIGH DENSITY RESIDENTIAL AND THE ANSWER IS NO, WE SHOULD DEFINITELY NOT DO THAT. ONE OF THE FOLKS UP HERE SAID AND I QUOTE WE CAN ALWAYS USE MORE PEOPLE. NO WE CAN'T ALWAYS USE MORE PEOPLE. MAKING SCOTTSDALE MORE CROWDED AND TURNING IT INTO TEMPE IS NOT GOING TO MAKE SCOTTSDALE A BETTER PLACE TO LIVE. WHY WOULD ANYBODY WANT TO COME HERE IF WE TURN IT INTO TEMPE ARIZONA AND THAT IS WHY I'M OPPOSED THIS PROJECT.

Mayor Lane: THANK YOU. A MOTION IS ON THE TABLE TO CONTINUE THIS FOR FURTHER CONSIDERATION ON THE LEGAL TEST ON THE PROTEST.

[Time: 01:50:23]

Councilwoman Milhaven: IS INTERESTING THAT THIS CONVERSATION COMES DOWN TO APARTMENTS WHEN THEY REQUESTED USE IS PLANNED UNIT DEVELOPMENT WHICH IS MIXED-USE AND THE QUESTION TO US IS WOULD ADDING RESIDENTIAL AS AN APPROPRIATE USE BE OKAY AT THIS LOCATION AND I HAVE TO SAY YES. I THINK THE MARKET IS GOING TO DECIDE WE HAVE DONE A LOT OF THESE IN THE LAST FEW YEARS AND THE MARKET WILL DECIDE IF IS GOING TO BE RESIDENTIAL OR COMMERCIAL AND I AM PERFECTLY OKAY WITH APPROVING THIS IS A MIXED USE WHICH WOULD MAKE RESIDENTIAL APPROPRIATE IN THIS PLACE. THE FREE MARKET AND CAPITALISM WILL DRIVE THAT USE WE WILL JUST BE PROVIDING ANOTHER OPTION AND I THINK RESIDENTIAL IS JUST FINE THERE AND I WOULD LIKE TO MAKE AN ALTERNATIVE MOTION TO ADOPT RESOLUTION 9459, 9494 AND ORDINANCE 4101.

Vice Mayor Klapp: SECOND.

Mayor Lane: MOTION HAS BEEN MADE AND SECONDED AS AN ALTERNATIVE MOTION WOULD YOU LIKE TO SPEAK TOWARDS?

Vice Mayor Klapp: BRIEFLY ABOUT A COUPLE OF THINGS THERE ARE COMMENTS BEING MADE THAT THERE ARE TOO MANY APARTMENTS BEING BUILT AND NOBODY WANTS THEM BUT ALL INDICATORS ARE MORE PEOPLE WANT TO MOVE INTO THE CENTER OF SCOTTSDALE PARTICULARLY PEOPLE WHO ARE 55 AND OLDER BECAUSE THEY WANT TO HAVE ACCESS TO SHOPPING AND CLOSER GROCERIES OR OTHER AMENITIES THAT THEY DON'T HAVE OUT IN SUBURBAN AREAS AND YOU HAVE TO UNDERSTAND THE WAY WE LIVE IS CHANGING A BIT CONDOMINIUMS AND APARTMENTS ARE FAR MORE ACCEPTABLE TODAY THEN THEY WERE A FEW YEARS AGO. THIS IS A GREAT LOCATION FOR THIS KIND OF COMMUNITY, EVEN THOUGH I KNOW THERE HAVE BEEN ARGUMENTS TO THE CONTRARY THIS COMMUNITY WILL BRING LESS TRAFFIC INTO THE AREA THAN A SHOPPING CENTER WOULD. AND YES THERE WOULD BE LESS TRAFFIC. ONE OF THE REASONS SCOTTSDALE HAS SO MUCH TRAFFIC IS WE BRING 50,000 PEOPLE IN THIS COMMUNITY THAT WORK HERE BUT DON'T LIVE HERE BECAUSE THEY DON'T HAVE A PLACE TO LIVE. THIS WOULD HELP RESOLVE SOME OF THE PROBLEMS. THEY HELP FOR PEOPLE TO LIVE IN THE CITY WHERE THEY WORK. THIS WOULD HELP THEM EMPLOYERS WHO, AND TALK TO US ABOUT IMPROVING THEIR ABILITY TO ATTRACT CUSTOMERS AND THEIR ABILITY TO ATTRACT MORE EMPLOYEES BECAUSE EMPLOYEES DON'T WANT TO DRIVE IN ORDER TO HAVE A JOB SO THEY CAN LIVE IN SCOTTSDALE THEY WILL WORK IN SCOTTSDALE THERE ARE A COUPLE OF GOOD REASONS WHY MORE HOUSING IS WELCOME AND SCOTTSDALE FOR YOUNGER PEOPLE WHO ARE EMPLOYED AND OLDER PEOPLE LOOKING TO MOVE TO THE CENTER OF THE CITY. SO I WILL BE SUPPORTING THIS.

Mayor Lane: THANK YOU VICE MAYOR. COUNCILWOMAN KORTE.

Councilmember Korte: THANK YOU. I AM IN SUPPORT OF THIS AMENDMENT TO CHANGE THE USE OF THIS PROPERTY AND I WOULD LIKE TO CITE SEVERAL PLANS THROUGH THE LAST SINCE 2001. TALKING ABOUT THE NEED FOR WIDE RANGE OF HOUSING OPTIONS SO WE CAN GO BACK TO THE CHARACTER SOUTHERN SCOTTSDALE AREA PLAN WHICH TALKS ABOUT THE NEED FOR REINVESTMENT IN RESIDENTIAL AND COMMERCIAL PROPERTIES AND TECHNOLOGISTS AND ACKNOWLEDGES A NEED FOR DIVERSITY OF HOUSING CHOICES. WE CAN GO TO THE 2007 SOUTHERN SCOTTSDALE STRATEGIC RECOMMENDATION BY GRUIN AND GRUIN THAT TALKS ABOUT THE NEED FOR INCREASED RESIDENTIAL UNITS INCLUDING MULTI FAMILY RESIDENTIAL AND MOST IMPORTANTLY, THIS WOULD APPEAL TO MAJOR EMPLOYERS AND LOCAL LABOR FORCE NEEDED FOR SUCH EMPLOYERS. IT IS IMPORTANT FOR THEM TO PROVIDE A DIVERSITY OF HOUSING OPTIONS SO PEOPLE CAN AFFORD TO LIVE AND WORK IN SCOTTSDALE. AND THEN WE CAN GO TO THE 2010 CITYWIDE DEVELOPMENT FORECAST BY APPLIED ECONOMIC AND AGAIN THEY TALK ABOUT REDEVELOPMENT OF NONPERFORMING RETAIL PROPERTIES INTO RESIDENTIAL AND IT WOULD BE A BENEFIT TO THE CITY OF SCOTTSDALE AND THIS MAKES ALL KINDS OF SENSE IN THE WORLD AND I WILL BE SUPPORTING IT. THANK YOU.

Mayor Lane: THANK YOU COUNCILWOMAN. COUNCILMAN ROBBINS.

[Time: 01:55:19]

Councilman Robbins: I WILL SUPPORT THIS AS WELL. I THINK CHANGE IS TOUGH AND DIFFICULT. MY FATHER MOVED HERE IN 1947 AND LIVED IN A LITTLE ADOBE HOUSE ON SCOTTSDALE ROAD AND HIS HIGH SCHOOL IS NO LONGER THERE AND THE HOUSE IS NO LONGER THERE. CHANGE HAS BEEN PART OF GROWING UP IN SCOTTSDALE THE SPIRIT OF SCOTTSDALE THE WEST'S MOST WESTERN TOWN, THAT HASN'T CHANGED. THE ABILITY TO DO BUSINESS IN A FRIENDLY COMMUNITY, THAT HASN'T CHANGED. THE HIGH QUALITY OF LIFE THAT WE EXPECT, THAT HASN'T CHANGED. SOMETIMES BUILDINGS CHANGE AND SOMETIMES USES CHANGE AND I THINK THE BORGATA WAS COOL LOOKING BUILDING WHEN IT WAS BUILT AND IT HAS AN ICONIC STATUS TO IT BUT AT SOME POINT IN TIME THE EBB AND FLOW AND THE MARKET HAS THINGS TO SAY WHAT A USE SHOULD BE AND WHEN YOU HAVE A RETAIL CENTER WITH A HUGE WALL IN FRONT OF IT, SET OFF SCOTTSDALE ROAD IT MAKES IT DIFFICULT AND IT MAKES IT REALLY TOUGH TO RUN A BUSINESS THERE. I AGREE WE HAD WESTCOR TRYING TO MAKE IT HAPPEN AND IT WASN'T HAPPENING AND AS ALL KNOW, WE HAVE BEEN THROUGH A TOUGH ECONOMY AND RETAIL HAS BEEN HIT VERY HARD AND THERE WAS A COMMENT MADE AND THE PERSON TO SPEAK BUT IT WAS A BUSINESS OWNER, KELLY'S BOUTIQUE, THAT SAID THERE WAS TOO MUCH SHOPPING IN THE AREA. SO YOU CAN'T LOSE SIGHT OF THE FACT THAT A SMALL BUSINESS OWNER IS LOOKING FOR CUSTOMERS WHO IS LOOKING AT COMPETITION AND THIS DOES ELIMINATE SOME COMPETITION IN THE AREA BUT THE PEOPLE THAT WERE IN THE BORGATA BEFORE RELOCATED IN SCOTTSDALE THAT HELPED OUT ALL THE BUSINESS OWNERS WHO HAD EMPTY SPACES FOR LEASE. I THINK THIS IS A GOOD SOLID PROJECT AND WE CANNOT LOSE SIGHT OF THE FREE MARKET DETERMINING THE USES OF THIS. WE HAVE A PROPERTY OWNER WHO THINKS THIS IS THE BEST USE OF THIS PROPERTY AND HE IS WILLING RISK AND TO PUT HIS MONEY AND OTHER PEOPLE'S MONEY AS WELL, IT TAKES PARTNERSHIPS TO BUILD SOMETHING OF THIS MAGNITUDE. THIS IS SOMETHING WE CAN BE PROUD OF AND WHO WOULD FAULT HIM FOR ADDING HOMEOWNERSHIP AS ONE OF THOSE THINGS THAT I THINK IS BENEFICIAL AND I'M GOING TO SUPPORT THIS PROJECT.

Mayor Lane: THANK YOU COUNCILMAN ROBBINS. COUNCILMAN LITTLEFIELD.

Councilman Littlefield: IT'S KIND OF INTERESTING. IN THE LAST FIVE MINUTES OF DISCUSSION SUDDENLY THE PROPOSED RESIDENCES HAVE TURN INTO WORKFORCE HOUSING AND I DIDN'T NOTICE THAT WAS SUPPOSE TO BE PART OF THE PITCH. BUT I WOULD BE INTERESTED TO SEE HOW MUCH IT WOULD COST. WHETHER IT IS PERMITS OR CONDOS, THE PROBLEM HERE IS HIGH RESIDENCY RESIDENTIAL. I HEAR THIS ALL THE TIME. THIS ARGUMENT THAT SOMEHOW WE HAVE TO LET THE FREE MARKET WORK. WE ARE NOT LETTING THE FREE MARKET WORK WITH THIS DECISION. I REMEMBER BACK WHEN I FIRST GO ON THE COUNCIL WE APPROVED THOUSANDS OF CONDO UNITS. I DIDN'T BUT THE OTHER PEOPLE ON THE COUNCIL DID. THEY NEVER GO BUILT. WHY WERE THEY EVEN APPROVED? BECAUSE THAT IS WHAT DEVELOPERS COULD GET FINANCING FOR. THAT'S THE SAME THING NOW. I ACTUALLY GO TO THE MEETINGS THAT DEVELOPERS HAVE, THEY ARE NOT TALKING ABOUT RESIDENTIAL HERE BECAUSE THAT IS WHAT'S BEST FOR THE CITY. THAT'S WHAT THEY CAN GET FINANCING FOR RIGHT NOW. THIS HAS NOTHING TO DO WITH THE FREE MARKET. I THINK GUY IS RIGHT, PROBABLY THESE WON'T EVEN GET BUILT. PEOPLE WILL TURN AROUND AND FLIP IT. I REMEMBER ALL THE CONDOS WE APPROVED IN 2003 AND 2004 THEY NEVER GOT BUILT. THEY WERE ALL APPROVED BECAUSE THAT'S WHAT THEY WANTED TO GET FINANCING FOR TO INCREASE THE VALUE OF THEIR PROPERTY. IT HAD NOTHING TO DO WITH THE FREE MARKET. THIS HAS NOTHING TO DO WITH THE FREE MARKET EITHER. THIS IS A DODGE. THIS HAS TO DO WITH WHAT THE DEVELOPER THINKS HE CAN GET FINANCING FOR. IT IS NOT GOOD FOR SCOTTSDALE. TAKING THIS OUT OF THE

COMMERCIAL INVENTORY AND PUTTING IT INTO HIGH DENSITY RESIDENTIAL IT IS NOT GOOD FOR THE CITY AND IT IS NOT GOOD FOR THAT AREA AND IT IS NOT GOOD FOR THE ENTIRE CITY.

[Time: 01:59:53]

Mayor Lane: THANK YOU COUNCILMAN. THE STORY OF BORGATA IS A LONG AND TOUGH ONE. THERE HAVE BEEN A LOT OF EFFORTS TO TRY AND MAKE IT WORK DESPITE AN HONORABLE RESPECTED CONCEPT PUT FORWARD, AND WHAT EVER EFFORTS WERE MADE PEOPLE WERE AT RISK AND CERTAINLY THEY WOULD TRY TO DO THE BEST THEY COULD TO MAKE IT WORK. EVEN THE OWNERS PRIOR TO THIS APPLICANT WERE TALKING ABOUT WHAT THEY DID YEARS AGO WITH SOME OPPOSITION WAS TO TAKE DOWN THE WALL THAT STOOD IN FRONT OF IT. THERE WERE ALL COMMENTS MADE AT THE TIME AS TO WHY THAT SHOULDN'T HAPPEN. IT HAPPENED BUT IT WASN'T ENOUGH TO DO IT. THERE WERE ATTEMPTS TO HAVE IT SUCCEED. ONE OF THE THINGS THAT ARE DIFFICULT IN THIS ENVIRONMENT HERE IN GOVERNMENT IS THE EXTENT OF CONTROL THAT SOME MEMBERS OF GOVERNMENT FELT THAT WE SHOULD EXERCISE OVER PRIVATE PROPERTY RIGHTS, PRIVATE PROPERTY IN GENERAL, BUSINESSES IN GENERAL, CONTROL AND REGULATE TO WHATEVER DESIGNS THEY HAVE IN THEIR MINDS. IN THIS INSTANCE THIS PROJECT IS CONSISTENT WITH WHAT CITY PLANNING CALLS OUT FOR IT ALSO DOES RESPOND TO A MARKET CONDITION. TO TRY AND DENY A PROPERTY OWNER HIS RIGHT TO BE ABLE TO ADJUST OR ADAPT TO CONDITIONS IS WRONG. THE OTHER ITEM THAT IS OF GREAT CONCERN IS THE MARKET IS REFLECTED IN WHAT CAN BE FINANCED. THERE IS NO TRUER INDICATION PEOPLE DON'T INVEST IN THINGS THAT ARE NOT IN DEMAND IN THE MARKETPLACE. SUPPLY AND DEMAND IS A MARKET PRINCIPLE. IT'S A PRIVATE SECTOR ISSUE AND NO ONE IS GOING TO FINANCE IF IT IS NOT MEETING CERTAIN MARKET CONDITIONS. IT WOULD BE IDIOTIC TO THINK OTHERWISE. I AM IN FAVOR OF THE ALTERNATIVE MOTION TO APPROVE THESE.

I SEE THAT WE HAVE NO FURTHER COMMENTS AT THIS TIME AND WE DO HAVE AN ALTERNATIVE MOTION ON THE TABLE WHICH WOULD PRECEDE THE ORIGINAL MOTION. AND THAT WAS TO APPROVE THE THREE ITEMS THAT WE HAVE ON ITEM 35. WE ARE READY THEN TO VOTE. ALL THOSE IN FAVOR PLEASE INDICATE WITH AYE AND THOSE OPPOSED WITH A NAY. MOTION PASSES 5/2 WITH COUNCILMAN LITTLEFIELD AND COUNCILMAN PHILLIPS OPPOSING. THANK YOU EVERYONE FOR YOUR INPUT ON THIS. THAT COMPLETES ITEM 35.

ITEM 36 – EAST VALLEY DIAL-A-RIDE FARE INCREASE SCHEDULE

[Time: 02:03:00]

Mayor Lane: THAT MOVES US ON TO ITEM 36 ON THE AGENDA AND THAT IS EAST VALLEY DIAL A RIDE FARE INCREASE SCHEDULE, AND I THINK WE HAVE MR. BASHA HERE TO GIVE US A SUMMARY OF WHAT IS ENTAILED THERE.

Transportation Director Paul Basha: THANK YOU MR. MAYOR, MEMBERS OF THE CITY COUNCIL. MY NAME IS PAUL BASHA. I AM THE TRANSPORTATION DIRECTOR FOR THE CITY OF SCOTTSDALE. AGENDA ITEM 36 IS A RESOLUTION THAT CORRECTS AN INEQUITY IN THE FARES WE CHARGE FOR DIAL A RIDE SERVICES. THE TRANSIT OPERATION HAS ITS OWN SET OF LANGUAGE SO LET ME EXPLAIN. THIS IS A NON ADA FARE INCREASE. ADA REFERS TO THE AMERICANS WITH DISABILITIES ACT. THIS ACT WAS PASSED BY THE UNITED STATES CONGRESS APPROXIMATELY 20 YEARS AGO. THIS ACT

DEFINES PHYSICAL AND MENTAL DISABILITIES AND THOSE PEOPLE WHO HAVE THOSE DISABILITIES ARE PROVIDED WITH CERTAIN TRANSIT OPTIONS. NON ADA REFERS TO PEOPLE WITH DISABILITIES OR AGE RESTRICTIONS THAT ARE NOT DEFINED IN THE AMERICANS WITH DISABILITIES ACT. THE FEDERAL TRANSIT ADMINISTRATION PROVIDES FUNDS FOR SOME OF THE TRANSIT SERVICES FOR THE CITY OF SCOTTSDALE AND ONE OF THE REQUIREMENTS OF THOSE FUNDS IS THAT WE PROVIDE DIAL A RIDE SERVICES FOR PEOPLE WITH DISABILITIES AS DEFINED BY THE AMERICANS WITH DISABILITIES ACT. THOSE SERVICES ARE REQUIRED TO BE PROVIDED FOR PEOPLE WHO LIVE WITHIN $\frac{3}{4}$ OF A MILE OF TRANSIT SERVICES. SCOTTSDALE AND OTHER CITIES IN THE VALLEY ALSO PROVIDE DIAL A RIDE SERVICES FOR PEOPLE WITH TEMPORARY DISABILITIES AS WELL AS PEOPLE OVER THE AGE OF 65.

CURRENTLY, DIAL A RIDE USERS ARE CHARGED THESE BASE FARES AND THESE ADDITIONAL FARES. AS YOU CAN SEE, PEOPLE WITH DISABILITIES ARE CHARGED \$4.00 AND PEOPLE WITH TEMPORARY DISABILITIES OR OVER THE AGE OF 65 ARE ONLY CHARGED \$1.00. AN ADDITIONAL FARE IS ADDED TO PEOPLE WITH TEMPORARY DISABILITIES OR OVER THE AGE OF 65 OF 50 CENTS PER ZONE. THERE ARE APPROXIMATELY TWO DOZEN ZONES IN THE VALLEY, SO EVERYTIME A NON ADA DIAL A RIDE SERVICE USER TRAVELS BETWEEN ZONES, THEY ARE CHARGED \$1.00 PLUS 50 CENTS FOR EVERY ZONE THEY PASS THROUGH.

WITH THE PROPOSED RESOLUTION THERE WILL BE A TWO STEP GRADATION INCREASE IN THE FARES FOR THE NON ADA DIAL A RIDE USERS. FOR 9 MONTHS THE SERVICE WILL BE A BASE RATE OF \$2.50 AND THE FARE WILL CHANGE FROM A ZONE BASED SYSTEM TO A MILE BASED SYSTEM AS INDICATED. AFTER JUNE 30, 2014, BASE FARES FOR PEOPLE WITH DISABILITIES WILL BE IDENTICAL TO PEOPLE WHO HAVE TEMPORARY DISABILITIES OR THOSE OVER THE AGE OF 65 AND THE PER MILE FARE WILL BE THE SAME.

THIS RECOMMENDED FARE INCREASE IS IN ACCORDANCE WITH THE GUIDELINES OF VALLEY METRO AND IS CONSISTENT WITH THE RECOMMENDED FARE INCREASES TO THE CITIES IN OUR VALLEY WHO HAVE SIMILAR DIAL A RIDE SERVICES. I WOULD BE HAPPY TO ANSWER ANY QUESTIONS YOU MAY HAVE.

Mayor Lane: THANK YOU MR BASHA. I DON'T SEE ANY QUESTIONS THIS POINT IN TIME BUT I WILL ASK FOR MYSELF. THIS DISCREPANCY BETWEEN PERMANENT AND TEMPORARY, HOW IS A TEMPORARY DEFINED? IF IN FACT IF THERE IS A PROSPECT FOR A CHANGE IN CONDITION EVEN ONE THAT MIGHT BE DESIGNATED AS A PERMANENT CONDITION COULD THEY HAVE APPLIED IN THE PAST FOR TEMPORARY DISABILITY?

[Time: 02:07:13]

Paul Basha: MAYOR LANE, THE DIFFERENCE BETWEEN TEMPORARY AND PERMANENT HAS NOT CHANGED WITH THIS RESOLUTION. ESSENTIALLY, TEMPORARY DISABILITY WOULD BE SOMEBODY THAT WOULD NEED TO BE ON CRUTCHES FOR THREE MONTHS, THEY WOULD QUALIFY FOR TEMPORARY DISABILITY.

Mayor Lane: AND AS SUCH, TO THIS POINT IN TIME, WOULD QUALIFY FOR A SUBSTANTIALLY LESSER RATE?

Paul Basha: THAT IS CORRECT.

Mayor Lane: SO WHAT WE HAVE ACCOMPLISHED HERE IS NOT NECESSARILY AN INCREASE FOR THOSE WITH DISABILITIES BUT IT HAS BEEN EQUALIZED BETWEEN THOSE TWO CATEGORIES.

Paul Basha: MR. MAYOR, THAT IS CORRECT.

Mayor Lane: IT IS ACTUALLY GIVING THE SAME SERVICE TO THE PEOPLE WHO NEED THIS TYPE OF SERVICE BECAUSE OF DISABILITY WHETHER IT IS TEMPORARY OR PERMANENT.

Paul Basha: MAYOR LANE, THAT IS CORRECT BUT THE BASE FARE FOR PEOPLE WITH TEMPORARY DISABILITIES ALSO HAVE A PER MILE CHARGE ALSO ASSESSED.

Mayor Lane: OK, SO TEMPORARY ACTUALLY MOVED UP TO A HIGHER LEVEL OF PAYMENT THEN OR POTENTIALLY?

Paul Basha: CORRECT, FOR RIDES GREATER THAN 5 MILES.

Mayor Lane: OK, THANK YOU VERY MUCH MR. BASHA. COUNCILMEMBER KORTE.

Councilmember Korte: THANK YOU, MAYOR. FIRST I WOULD LIKE TO WELCOME MR. BASHA BACK TO THE FOLD. WELCOME BACK TO THE CITY AND REALLY LOOK FORWARD TO WORKING WITH YOU AS YOUR NEW ROLL, SO THANK YOU PAUL.

Paul Basha: THANK YOU, IT'S AN HONOR TO BE HERE.

Councilmember Korte: WITH THAT I MOVE TO ADOPT RESOLUTION 9500 AUTHORIZING APPROVAL OF THE REGIONAL RECOMMENDATION TO INCREASE THE EAST VALLEY DIAL A RIDE NON ADA BASE FARE FROM 1.00 TO 2.50 ON OCTOBER 1ST AND THEN INCREASE THE BASE FARE AGAIN FROM 2.50 TO 4 ON JULY 1, 2014 AND THEREAFTER INCREASE THE NON ADA FARE AS THE ADA FARE IS INCREASED TO MAINTAIN UNIFORMITY AND CHANGE THE CHARGE TO ZONE TO CHARGE PER MILE ON OCTOBER 1, 2013.

[Time: 02:09:25]

Mayor Lane: THANK YOU COUNCILWOMAN. SEEING THERE'S NO FURTHER COMMENTS THANKS MR. BASHA AND WELCOME BACK. I THINK THEN WE ARE READY TO VOTE. ALL IN FAVOR INDICATE BY AYE AND REGISTER YOUR VOTE AS OPPOSED TO THE NAY AND REGISTER YOUR VOTE. ALL RIGHT THE MOTION PASSES 6-1 WITH COUNCILMAN PHILLIPS OPPOSING. THAT COMPLETES ITEM 36 AND THAT MOVES US ON TO ITEM 37.

ITEM 37 – INITIATE CITY COUNCIL REVIEW OF THE DEVELOPMENT REVIEW BOARD'S AUGUST 1, 2013 DECISION REGARDING 15-DR-2013 (THE VIG AT PASEO VILLAGE)

[Time: 02:10:05]

Mayor Lane: AND MOVES US ONTO COUNCIL ITEM NUMBER 37 AND THAT'S TO INITIATE A CITY COUNCIL REVIEW OF THE DEVELOPMENT REVIEW BOARD AUGUST 1ST 2013 DECISION REGARDING 15DR2013 AND THAT'S THE VIG AT PASEO VILLAGE. THE REQUEST OF COUNCILMAN LITTLEFIELD I WANT TO MENTION THERE'S NO TESTIMONY TAKEN PUBLIC TESTIMONY TAKEN ON THIS AND THIS VOTE IS GOING TO A DECISION AS TO WHETHER OR NOT TO AGENDIZE THE ITEM AT A FUTURE DATE.

Councilman Littlefield: WELL, TWO REASONS I ASKED TO CONSIDER THIS REVIEW ONE IS BECAUSE THE NEIGHBORS ASKED ME TO AND BECAUSE THEY WERE NOT HAPPY WITH THE PLAN AS IT WAS APPROVED AND THE REASON THEY ARE NOT HAPPY IS BECAUSE THE SITUATION THAT THE DRB BOARD APPROVED WILL PUT PARKING FOR THIS ESTABLISHMENT, WHETHER IT'S A BAR OR RESTAURANT, RIGHT BEHIND THE BACKYARD FENCES OF SURROUNDING RESIDENCES WHICH MEANS INDEPENDENT OF WHAT YOU THINK MIGHT OR MIGHT NOT BE, AT ONE OR TWO ON SATURDAY AND SUNDAY MORNING, THE RESIDENTS WILL HAVE TO PUT UP WITH PARKING AND DRIVING THERE. SO I BELIEVE THAT WE SHOULD REVIEW THAT AND SEE IF WE CAN DO A LITTLE BETTER JOB FOR THE RESIDENTS AND WITH THAT I WILL MAKE A MOTION THAT WE INITIATE THE REVIEW.

Mayor Lane: THANK YOU COUNCILMAN.

Councilman Phillips: I WILL SECOND.

Mayor Lane: MOTION SECONDED. AND ANY COMMENTS?

Councilman Phillips: WELL, I AGREE I THINK WE SHOULD LOOK IT OVER AND WE HAVE TALKED TO THE APPLICANT AND HE SAYS HE IS WILLING TO DO SOMETHINGS AND I WOULD LIKE TO GET THAT IN WRITING. SO, I WOULD LIKE TO HAVE AT THAT REVIEW.

Mayor Lane: THANK YOU COUNCILMAN. WE HAVE THE MOTION TO RECONSIDER ON THE TABLE WITH A SECOND. COUNCILWOMAN MILHAVEN.

Councilwoman Milhaven: ACTUALLY I WANT TO CLARIFY THAT WHAT THE DEVELOPMENT REVIEW BOARD AND I VOTED TO SUPPORT IT AND I NEED TO BE CLEAR THE EXISTING SITE PLAN HAS PARKING IN THE SAME PLACE THAT THE SITE PLAN THAT WAS APPROVED HAS SO THERE'S NO CHANGE TO THE PARK AND HAD WE DENIED THE APPLICATION THE PARKING WOULD BE WHERE THE NEIGHBORS ARE OBJECTING TO. BUT WHAT I WILL--I WILL SUPPORT THIS MOTION BECAUSE I DO--WOULD LIKE US TO LOOK AT THE POTENTIAL OF REMOVING THE PARKING. I DON'T THINK IT'S AN EASY ANSWER BECAUSE I HEAR FROM FOLKS THAT THE CENTER DOESN'T HAVE ENOUGH PARKING AS IT IS AND WE DISCUSSED WITH THE APPLICANT THIS AFTERNOON ABOUT MOVING THE PARKING TO ANOTHER LOCATION. THAT DOESN'T SEEM TO BE SOLUTION BUT I WILL SUPPORT REHEARING THIS TO SEE IF IT'S BETTER SOLUTION TO THE PARKING.

Mayor Lane: THANK YOU COUNCILWOMAN I WANT TO AT LEAST CAUTION THAT WE ARE NOT HERE TO HEAR THE MERITS OF THE CASE ONE WAY OR OTHER ONLY SIMPLY AS TO WHETHER OR NOT IT WARRANTS IN YOUR OPINION TO BE RECONSIDERED. COUNCILMAN ROBBINS. SO, WE HAVE THE MOTION TO HAVE THIS REHEARD BY COUNCILMAN LITTLEFIELD AND THERE'S NO FURTHER COMMENT ON THAT THAT I SEE. SO I BELIEVE WE ARE READY TO VOTE. ALL THOSE IN FAVOR INDICATE BY AYE AND THOSE OPPOSE NAY. MOTION FAILS 4-3 WITH COUNCILMAN LITTLEFIELD, COUNCILWOMAN

MILHAVEN AND COUNCILMAN PHILLIPS AFFIRMING. SO THAT COMPLETES ITEM 37. THAT ITEM WILL NOT BE SUBJECT TO AN AGENDA ITEM. WE HAVE NO FURTHER PUBLIC COMMENT ITEMS.

ADJOURNMENT

[Time: 02:13:55]

Mayor Lane: ARE WE IN RECEIPT--WE ARE NOT IN RECEIPT OF ANY ITEM? MOTION TO ADJOURN HAS BEEN MADE AND ANY SECOND? SECONDED AND THOSE IN FAVOR INDICATE BY AYE. AYE. WE ARE ADJOURNED THANK YOU VERY MUCH.