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CALL TO ORDER

[Time: 00:00:04]

Mayor Lane: Good afternoon, everyone. It's nice to see you here. I would like to call to order our November 12th, 2014 City Council meeting.

ROLL CALL

[Time: 00:00:14]

Mayor Lane: It's approximately 5:00 and we will start with a roll call, please.

City Clerk Carolyn Jagger: Mayor Jim Lane.

Mayor Lane: Present.

Carolyn Jagger: Vice Mayor Guy Phillips.

Vice Mayor Phillips: Here.

Carolyn Jagger: Councilmembers Suzanne Klapp.

Councilwoman Klapp: Here.

Carolyn Jagger: Virginia Korte.

Councilmember Korte: Here.

Carolyn Jagger: Bob Littlefield.

Councilman Littlefield: Here.

Carolyn Jagger: Linda Milhaven.

Councilwoman Milhaven: Here.

Carolyn Jagger: Dennis Robbins. Absent. City Manager Fritz Behring.

Fritz Behring: Here.

Carolyn Jagger: City Attorney Bruce Washburn.

Bruce Washburn: Here.

Carolyn Jagger: City Treasurer Jeff Nichols.

Jeff Nichols: Here.

Carolyn Jagger: City Auditor Sharron Walker.

Sharron 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. It's the white card that the City Clerk is holding over her head. And if you have any written comments, it's the yellow card that you can fill out and we will read those in the course of the proceeding. We do have Scottsdale police officers Tom Cleary and Jason Glenn to assist you if you have need for them. They are directly in front of me on the mezzanine. And the area behind the Council dais are reserved for Council and for staff. We do have facilities over here under the exit here to my left for your convenience.

PLEDGE OF ALLEGIANCE

[Time: 00:01:16]

Mayor Lane: Today we have Brownie Troop 1509, and their leader Laura Jensen and Elizabeth Harris are here to lead us in the pledge. Ladies, if you want to move to the microphone, please, and if you can, please stand.

Brownie Troop 1509: I pledge allegiance to the flag of the United States of America, and to the republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

Mayor Lane: Boy, you've got this program down. I don't even need to tell you. Turn the microphone around and introduce yourself and your school and your favorite subject, but you probably already knew that?

Brownie Troop 1509: I'm Stella. I'm in grade three, and my favorite subject is probably social studies. My name is Alex, and I'm in grade three. And my favorite subject is math. I am Tatum and I'm in third grade and my favorite subject is reading. I am Shea from first grade and my favorite subject is science.

Mayor Lane: Very good. Thank you ladies, I very much appreciate that.

INVOCATION

[Time: 00:02:57]

Mayor Lane: In place of anyone giving us a prayer, we will have a moment of silence for our invocation, please. Thank you.

PRESENTATIONS/INFORMATION UPDATES

[Time: 00:03:26]

Mayor Lane: Move right on to the first order of business. We do have a presentation, the Scottsdale Cultural Council Activities, and an Update. We will start with Mr. Paul Katsenes.

[Time: 00:03:30]

Tourism and Events Director Paul Katsenes: I'm proud to introduce you to Neale Perl, this is the first chance we have had to keep the promise to you on the Cultural Council. So I present to you Neale Perl, president and chief executive officer.

Mayor Lane: Thank you, Paul. And welcome Mr. Perl.

[Time: 00:04:00]

Scottsdale Cultural Council President and CEO Neale Perl: Thank you so much. Good afternoon, Mayor Lane and members of the City Council. I want to thank you for this opportunity to share with you a brief update of some of the highlights of the Cultural Council's activities, and I also want to thank the Mayor and Councilmembers for attending so many of our events throughout the year. This past fiscal year, we have served almost 400,000 people. According to Americans for the Arts, our

programs and activities had an estimated impact exceeding \$4 million. This is an R.O.I. of over 400%. This slide illustrates how the Cultural Council is actively promoting and branding Scottsdale throughout the world as a leader and innovator in the arts.

The museum's current exhibition, Covert Operations, where Mayor Lane addressed our audience on opening night, has received national attention from numerous media outlets including the highly visible ones you see on the screen here. In addition, according to our friends from the CVB, New York Magazine this past June wrote extensively on our Public Art program, as well as the James Terrell Night Rise at SMOCA. This magazine's circulation, this one magazine alone is 400,000.

The museum is also home to lit lounge. The highly popular story performing series has been selling out its performances since its inception three years ago and has received many rewards including the Phoenix new times best spoken words series for 2013 and 2014. The SMOCA lounge events, arm wrestling for art and good and plenty artist awards have given more than \$10,000 to support Arizona creative artists. This slide shows the newly completed mural by James Marshall. It is featured on Instagram's official corporate account and its accompanying blog side, which boasts 56 million viewers. Our images receive more than 400,000 likes and nearly doubled SMOCA's own Instagram followers. Instagram attention has resulted in the proliferation of nearly 200 additional mentions throughout various blogs around the globe, bringing international attention to Scottsdale and its cultural assets.

[Time: 00:06:36]

Now, in its 16th year, Visions brings together some 40 art students from diverse Scottsdale and valley high schools for a year-long workshop, a year-long series of workshops and activities designed to cultivate artistic skills, collaboration and civic engagement. Students meet monthly and work with local, national and internationally known artists in an all-day workshop and then tour exhibitions with a curator.

SMoCA also organizes Art Days. This is a series of organized field trips to the museum that engage students with a 45-minute presentation followed by an interactive docent guided tour and culminates with students creating their own works of art.

Art start is designed for younger students. This series of museum tours encourages and aids children in building confidence, self-awareness and self-expression as well as promoting language development. A very popular program at the museum is called, oh, sorry, a program that the museum offers is called "Modern Phoenix." Annually we partner with Allison King to celebrate mid-modern century architecture, culminating our sold out 10th annual home tour.

Shana Koenig was commissioned to create a large scale installation of glowing, color-changing fiber optic sculptures. This unique work, which just debuted on November 6th, titled jellies in the sky, cacti in the water, brings the ocean to our skies and desert plant life into the waters of the Arizona canal between the Solari and Marshall Way bridges. Part of Scottsdale Fall for the Arts Community Celebration, this installation will remain on exhibit through mid-January.

On November 1st, with Councilmembers Korte and Milhaven in attendance, Mayor Lane was the emcee and the speaker at the opening of Sonoran Sea Pods.

Scottsdale artists give key created unique sculptures based on the sea pods found in the Sonoran deserts. Individual cultures were placed along the three-quarter mile hiking trail. An entry marker, honoring Frank Query, is located at the top of the nature trail. Mr. Query's generous bequest to Scottsdale Public Art made this possible.

Local artist Robert Adams created copper falls transforming a distinct urban corner where at one time trash would collect at the radial gates. The result is a unique sound component at the lively corner of Scottsdale while the public work art enhances the views and the mountains. This now beautiful corner attracts pedestrians crossing the bridge who can experience the calming sound of flowing water, while motorists will be able to see the works with sun light on the copper during the day, and the back lit copper falls at night.

[Time: 00:10:01]

Through the magic of theater, Detour Company Theater provides quality art education and performance opportunities for students and adults with developmental and other challenges, including deafness, blindness, and autism. The center has had a very special relationship with Detour, since the company began in 2005. In 2012, we invited Detour to be part of our education and outreach programs. This allowed the company to stage both of their annual full scale musicals in the piper theater and have access to back up rehearsal space when needed. The space, the equipment, full-time technical crew and production support are provided by the center to the company free of charge. The center is committed to making the arts accessible to everyone.

In addition to our work with the Detour Theater, each November, we hold our annual Celebration of the Arts for children with disabilities. For 500 special needs children. Students are given the opportunity to draw, paint, sing, and create their own art or music during this event. Engaging nearly 200 volunteers to assist and instruct 500 students and their teachers. This experience touches both the children as well as the community members who sign up to participate year after year.

Celebration has become one of our most popular volunteering activities for corporations such as American Express, UPS and others. At the center alone we served 25,000 students of all ages in more than 1,000 workshops, classes, lectures and performances during our last fiscal year. Our education and outreach programs is the foundation of everything we do at the center. Again, I would like to thank the Mayor and the City Council for your investment in the cultural life of our city, its citizens and the Scottsdale Cultural Council. Thank you for your time.

Mayor Lane: Thank you, Mr. Perl.

PUBLIC COMMENT

[Time: 00:12:18]

Mayor Lane: Next order of business is Public Comment. We will have, Public Comment is reserved for citizens comments regarding non-agendized items with no official Council action taken on these items. Speakers are limited to three minutes, and there will be a maximum of five speakers and there will be another occasion, an opportunity for Public Comment at the end of the meeting. We have one request to speak for Public Comment and it's Mr. Michael Aloisi.

[Time: 00:13:08]

Michael Aloisi: Honorable police officers, visitors and voters of Scottsdale, Mayor and City Councilmembers, I want to turn the clock back to December of 2012, when an award was made by this body over here, of \$15 million to the 200 Players Club. Not only was it ill advised, I feel it was at least a misdemeanor committed and maybe grand larceny. No jokes tonight. That \$15 million should have gone to Public Safety. Again, I ask this question: Is there anybody in the room who feels that there's anything more important than Public Safety, raise your hand.

Now, let's go further. The Tournament Players Club is worth \$1.3 billion a year. It is the largest grossing golf tournament in the world, bigger than the master's for four days. It certainly warrants our attention. But not a 7-0 vote for \$15 million. That money should have gone to Public Safety. There was a quote the other day from somebody that said police shouldn't get white collar salaries when they are blue collar. That's a mistake. They are gold collared. How many in this room would put the uniform on and go out for a week? Police officers are getting shot and some are dying all over this country.

I intend to get that money back and I would like the permission in writing from this body to pursue it. I have done some research and I believe we can recover that money. I would like to support of the visitors here tonight and anybody else who feels that money would be better spent if we got it back here and put it into Public Safety. I appreciate your time, energy and commitment to the safety of this city, and state, but now it's time we did something about it, and I hope I have your blessing. I will be sending a proposal to the Council. Thank you.

Mayor Lane: Thank you Mr. Aloisi. Completes the Public Comment for this evening, at this time.

MINUTES

[Time: 00:16:10]

Mayor Lane: Next order of business is the approval of minutes and I would ask if I have a motion to approve the Special Meeting Minutes, the Regular Meeting Minutes and the Executive Session Meeting Minutes of October 7th, 2014.

Vice Mayor Phillips: So moved.

Councilman Littlefield: Second.

Mayor Lane: Moved and seconded. I think we are ready to vote. No comments. No adds, deletes. So if you would, please indicate by aye if you approve of the Minutes and nay if you disapprove. The vote is unanimous, 6-0 by present members.

CONSENT AGENDA

[Time: 00:16:46]

Mayor Lane: We move on to the next item of business which is the consent items 1 to 17, and we had a request from Vice Mayor Phillips that items 11 and 12 be removed for discussion and separate vote. So we will pull items 11 and 12, and they will be the first items on our Regular Agenda, items for discussion so leaves Consent items 1 through 17, less items 11 and 12. And I have no cards or comments on those Consent items otherwise. So I would ask for a motion to approve the Consent items 1 through 17, less items 11 and 12.

Councilwoman Klapp: So moved.

Councilwoman Milhaven: Second.

Mayor Lane: The motion has been made and seconded. I think we are ready to vote. No further comments. So all of those in favor, please indicate by aye and register your vote. Those opposed nay. It's unanimous for the Consent items as was indicated in the motion, 6-0 for all present.

REGULAR AGENDA

[Time: 00:18:00]

Mayor Lane: Next order of business is our Regular Agenda items, 18 and 19, but we have moved 11 and 12 into that Regular category. So I would ask whether or not we could have a presentation starting with item 11 from staff.

[Time: 00:18:36]

Planning and Development Director Randy Grant: Mayor, members of City Council, Randy Grant, Planning and Development Services. Item 11 is an extension of premises. It's very much like the other extension of premises that you have seen in recent years. It allows for an extension into the right-of-way beyond the boundaries existing liquor license and it's simply for the approval to use the patio deck above the ground floor for an extension of the liquor license that the owner currently has.

Mayor Lane: Randy, I presume then, of course, that 11 and 12 are attached at the hip, as far as this issue is concerned. Is there any further explanation on 12 that you would want to lend to this?

[Time: 00:19:26]

Public Works Executive Director Dan Worth: Mayor, members of the Council, item 12 is essentially our standard outdoor dining license agreement. We've got over 20 of these at various establishments that are using portions of the right-of-way throughout the downtown area. The license agreement is using our standard template form, that gives the city the same protections we have in other places. The amount that we are charging for it is based on our assessment of current prices, market prices for real estate. We basically take a look at fee simple and charge about 10% for the use of right-of-way. The big difference between this license and other licenses is that this doesn't actually encumber the right-of-way at ground level. People will still be able to walk along the sidewalk, just as they did prior to this project, as Mr. Grant pointed out, this is granting the use of space above the ground level in the right-of-way for a second floor balcony. Other than that, it's the same as most of the other license agreements that we have for outdoor dining in the downtown area.

Mayor Lane: Very good. Thank you Mr. Worth. I see, Mr. Washburn, did you have a comment to make?

City Attorney Bruce Washburn: No.

Mayor Lane: I think you may have turned it off.

[Time: 00:20:50]

City Attorney Washburn: That's why the light is blue. With respect to the two items being, quote, joined at the hip, while they are theoretically independent of each other, Council could grant one without the other. My office's advice is not to grant the extension of premises unless you are also going to grant the outdoor dining license agreement, because otherwise, you are essentially granting a, or making a recommendation in favor of an extension of premises for an area that they cannot use.

Mayor Lane: Very good. Thank you. I will take this a little out of order but since Vice Mayor Phillips did bring this to the attention to have it removed from Consent Agenda, Vice Mayor Phillips, if would you like to speak toward it.

[Time: 00:21:31]

Vice Mayor Phillips: Thank you, Mayor. Well, you brought up, I had another question, but you brought up a good point there, Mr. Worth, and that is if you granted the extension, it's for the balcony above. Are they going to misconstrue that you can walk around and drink underneath it because the extension out there or is it just an air extension?

Dan Worth: Mayor, Vice Mayor Phillips, the liquor license limits are very explicit. They don't include the area below it. The use license limits are very explicit in the agreement. They don't have the use of the city land below the balcony. So if they misconstrue it, it's at their risk. We would take appropriate action.

Vice Mayor Phillips: Okay. Thank you. And then Mr. Grant, I know this came before, and I think we voted on the approval of the bar itself and I didn't want to go for it because I didn't want the balcony and you said this doesn't include the balcony. That's coming at a later date. Is this a vote for the balcony or is this a vote for an extension of premises which happens to be the balcony.

Randy Grant: Vice Mayor Phillips, the previous action that you saw was the conditional use permit for the bar itself. This is for the extension of the second floor patio for the liquor license and for the license agreement. So before we said this would come back to you for the appropriate action on only that portion of the premises that's extending over the right-of-way and that's what this action is tonight.

Vice Mayor Phillips: Okay, but it's the action of the extension of premises. It's not the actual brick and mortar extension?

Randy Grant: Vice Mayor Phillips, only in the sense that it's extending over the right-of-way. It doesn't take the right-of-way on the ground floor. It extends over it on the second floor.

Vice Mayor Phillips: So it is basically the brick and mortar balcony itself that we are voting on here? I wanted to make sure that it doesn't come back to us later. Okay. My feeling still stands the same. So if somebody else had a question?

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

Councilwoman Milhaven: I would like to move approval of items 11 and 12.

Councilwoman Klapp: Second.

Mayor Lane: Motion has been made and seconded. Seeing no further comments on this issue, I think we are ready to vote. All those in favor, please indicate by aye. And those opposed with a nay. Register your vote. The motion passes 4-3 with Councilman Littlefield and Vice Mayor Phillips opposing. 4-2, pardon me. So that completes, oh, now incidentally, I'm sorry. Just for my own clarification, you did include both, right? Yes. Okay. All right. So that completes the consent items for even those that were moved to the regular agenda.

ITEM 18 – REATA WASH FLOOD CONTROL BUDGET TRANSFERS

ITEM 19 – REATA WASH FLOOD CONTROL ENGINEERING SERVICES CONTRACT

[Time: 00:24:29]

Mayor Lane: Our next item would be item 18 and that's the Reata Wash Flood Control budget transfers. And actually as I have noted here, we have item 19, which again, maybe this is tied at the hip. So if we could hear about both of these, and how they are integrally tied together.

[Time: 00:24:54]

City Engineer Derek Earle: Good evening Mayor Lane, members of Council, I'm Derek Earle, I'm the City Engineer. A short presentation for you tonight on this request. What we call the Reata Wash Pass Flood Control. Essentially we are looking at two things tonight two, actions for Council to consider tonight. The first is a budget transfer to create a new project. This budget transfer will occur from an existing project due Pima Road drainage system and C.I.P. project. It's over \$1.2 million, but I might say this appropriation is only for the engineering analysis. No construction funding is being requested at this time.

Second part of your action tonight is approval of an engineering contract. Engineering contract is for analysis on alternatives for preparation of a design concept report for this drainage project. This includes up to 15% design, and any further progress on the project will require further Council action. The map in front of you right now with the large green areas, this is essentially the northern part of Scottsdale, north of the C.A.P. C.A.P. located down in this area. The areas in green are FEMA regulatory flood plains in north Scottsdale. There are actually two areas. One is to the west is this area, it's called the Rawhide Wash. Yes, Rawhide Wash Floodplain Area.

That is currently being studied and analyzed by the Maricopa County Flood Control District. That is not the subject of what we are looking at tonight. The area that we are going to be concerned about this evening is called the Reata, we call it the Reata Wash Floodplain. It may have other names as well. It encompasses about 4500 structures in this area. The primary focus that we have tonight is a flood control project in this area. This is a little bit closer up view of it. If you look at this closely, or at least if you are familiar with the area, you will see that there are several very large master planned communities in this area. For example, D.C. Ranch, parts of Grayhawk, Ironwood, Ironwood Crossing and several other in this area. The most interesting part of this map is all of the lines that you see down the middle of the map.

Over the last 15 years or so, various portions of drainage improvement have been constructed by developers and builders in this area. Part of the purpose of this study that we are looking at tonight is to analyze these sections and see how they would behave in a flood because we don't know. They have been put together in various parts and pieces over time. We have established the primary goal for the analysis that we are looking at, and that is to identify and recommend and you will see the very first bullet point which we think is one of the most critical bullet points, a publicly acceptable and, of course, cost effective. We wouldn't do anything other than a cost effective program, and a regulatory aging, excuse me, regulatory agency compliant flood control project.

[Time: 00:28:15]

The primary issue of cost effective is you want to be sure that the benefits exceed the costs, the regulatory agency compliance is the fact that we will work very closely with FEMA and other regulatory agencies to be sure that it meets their requirements. Obviously, there are quite a few stakeholders that will be involved in this process. There's even one I didn't list on here, which is the Arizona department of water resources, but, again, as staff has looked at this, we believe that the top is the most critical, that the City of Scottsdale residents are the most important stakeholders in this project.

Clearly we have to work closely with these other agencies and many of these other agencies are already familiar with the work that we are looking at on this project. As far as the engineering study is concerned, I won't go into the high level of detail. But in essence, this is the study of the floodplain area along with recommendations for potential preferred alternative for handling the flood hazards in this area. Again, and I hate to keep hammering on this, note the second bullet point is focused on, again, seeking public input on preferred alternative and actually if you move on down, you will see another bullet point that says public outreach and education. An extensive part of this engineering study is actually public outreach, public meetings, open houses, one-on-one meetings if necessary, publications, websites, et cetera. We think it's extremely critical to have the public engaged in this process. That concludes my presentation. Our request tonight is approval of two resolutions, 9912 will make the appropriate budget transfers, and Resolution 9913 would approve the engineering analysis. With that, I'm available for any questions.

Mayor Lane: Thank you, Mr. Earle. We do have some public testimony on this. If you want to stand by, we may have some questions after that. Now, we will start with a request to speak from Edward Marklow, I believe it is.

[Time: 00:30:46]

Edward Marklow: Good evening, Mayor Lane, and City Councilmembers. My name is Edward Marklow and I have lived in the northeast Scottsdale area for the past 26 years. For the past 12 years, I have lived on Calle de Valle Road which is a 12-acre parcel of which 9 acres is considered in the Dobson Wash. For those of you that are unaware, I would like to review the following events regarding the Reata Wash Flood Control.

As early as 1988, FEMA studied the flood hazard in north Scottsdale. In 1989, Scottsdale voters approved a bond issue for \$21 million for a solution to the flooding. In 1992, the Council approved the Greenbelt concept which is the Reata pass amended the General Plan. In 1998, the U.S. Army Corps of Engineers wrote to Senator John McCain and said that the scope of the project had more than doubled. In February of 1999, the Army Corps of Engineers rejected first alternative analysis submitted to the city. By April of 2000, after submitting rolls of drawings, a case full of environmental, economic, biological documents and responding to over 350 letters from concerns citizens, the EPA and the Army Corps of Engineers rejected the Reata pass Greenbelt project. The reasons were the benefits did not outweigh the concerns of the citizens of Scottsdale, and its overall impact to the environmentally sensitive area.

I'm disappointed but not surprised that this project didn't die in 2000. The continued pressure on the staff of the City of Scottsdale to rezone areas for higher density, litigation from current developers or FEMA's unwillingness to accept their development plans, and inability to come up with a viable solution to deal with the accumulation of water on undeveloped properties and the cost effectiveness for developers. Increased development creates more concrete and more concrete, more flooding. Most residents that live in the area have spent tens of thousands of dollars to protect their homes by complying with FEMA regulations. I personally suggest that this be tabled until our water resource

engineer firm is able to be in town. He's currently in Washington meeting with FEMA. Thank you.

Mayor Lane: Thank you, Mr. Marklow. Next is J.D. Helms.

[Time: 00:33:53]

J.D. Helms: Good evening Mayor Lane. Good evening members of the Council, my name is J.D. Helms, my wife and I live on Church Road, just south of Pinnacle Peak Road. We border on the Wash, just below the bridge that crosses over Pinnacle Peak, you might refer to it as the apex of the alluvial fan. Our consultant, as has been mentioned, who we hired, is in Washington this time. He's going to meet tomorrow with some FEMA people. So he wasn't able to be here.

We asked for a continuance, but apparently, you are not going to give us one. All I would say is if he was here, he would argue that the proposed study to channelize water down the Reata Wash will not comprehensively deal with 100 year flood because it fails to deal with hundreds of homes and the alluvial fan to the west of Reata Wash.

Since the locust of rainfall is known to create to the west of Reata Wash, this will do nothing to alleviate flooding when it occurs again in that area. If we are committing money to this project, I would advise you to schedule a public hearing to hear this public consultant and what he has to say. Second, economic considerations. Spending millions to provide protection to a relatively few structures would burden all the taxpayers and all the residents in that area, including many of us who spent our own money to comply with building codes and requirements, regulatory requirements.

It's not fair to ask those of us who have complied with these requirements to share the remediation costs with those who failed to comply with those same requirements. Millions of dollars were spent in the late '90s on the Desert Greenbelt project that was put into place by local resistance. It deals with the same issues, the same real estate and resurrecting it makes no more sense to us than it did back then. Nonetheless, the city staff has persisted and managed to not only spend some of our tax dollars on the recent T.Y. Lin study and to spend more on this study which will likely lead to another multi-million dollar bond issue. We have long memories of that failed project and they are not good ones.

Finally, the environment and the quality of life. It's not possible to lay down gunnite or even high retaining walls without disrupting wildlife and spoiling the landscape. It will have adverse impacts to the environment to the west. This may also negatively impact the replenishment of the aquifer, which we all have vital interests in protecting. Now, we all have a stake in preserving our natural environment and the city uses that as one of the major selling points as they try to attract others to the city. Voting to approve another study begs the question, what is in it for the various constituencies? Well, developers and some city staffers will probably welcome this.

Mayor Lane: Mr. Helms if you could wrap it up, we are out of time.

J.D. Helms: I am. It will come at a great cost to the citizens and the environment. We are urging

you not to fund this study or if you intend to do so, that you give it another period of time so you can hear from our consultant. Thank you very much.

Mayor Lane: Thank you, Mr. Helms. Next we hear from Marilyn Andrews, who has a donated card from Donald Andrews. Marilyn, I will give you four minutes then.

[Time: 00:38:12]

Marilyn Andrews: Mayor Lane and members of the City Council, I'm Marilyn Andrews, Scottsdale resident, residing on Church Road.

Mayor Lane: Marilyn, you might want to move the microphone down for you a little bit.

Marilyn Andrews: Okay. Can you hear me now.

Mayor Lane: When you speak into it, yes.

Marilyn Andrews: Okay. Okay. Reside on Church Road. I'm here tonight to speak to items actually, a short one for 18 and 19 on the Regular Agenda and this is for the public record. I question the need for another study for Reata Pass Flood Control project, and the transfer of \$1,256,000 from one project to another. I have the, I have before you the original Desert Greenbelt project. No one has ever forgotten this horrible project. And this was dated January 1995. This is the first failed study project that was terminated five years later in year 2000.

The contributing factors for the termination were the public outcry, Army Corps of Engineers, EPA, withdrew and the cost overrun in the millions for a failed project. The second study was prepared by T.Y. Lin, completed in 2013. The LiDAR mapping is outdated and uses inaccurate assumptions to arrive at a precise answer. The third study to be prepared by Patel and Associates called the Reata Wash Flood Control Improvement District. Upon review of their proposal, I find they are intent on incorporating some of the findings from the other two studies.

Keep in mind these are two failed studies that they intend to incorporate. The example I'm going to give you, I quote, the study area benefits from significant right-of-way and flood control improvements that were constructed in the past. No, it's not that easy. The Supreme Court ruled in '14 against the government. Easements must be reverted back to the original owner. The Desert Greenbelt was terminated. In this case, easements have now reverted back to the original landowner. Number two, FEMA Homeowner Flood Insurance Affordability Act. It was signed into law March 21, 2014. Flood control projects must be approved by Congress. Our consultant is in Washington, as I speak, and will have some answers when he returns. Condemnation will not be easy. We have new laws there too. Our consultant as I said before is in Washington. We ask for a 90-day continuance to allow him to address the technical findings that he will return with. We feel this is not an unreasonable request, and I don't know why it was denied.

Mayor Lane: Thank you, Ms. Andrews. That completes the Public Comment on items 18 and 19.

We do have some comments from the Councilmembers. But is this anything in particular, Mr. Earle you would like to add to any of the comments as you heard them?

[Time: 00:43:01]

Derek Earle: Mayor Lane, at this time, no. I do realize that the last speaker did refer to a study that I'm not familiar with, which I think is the Patel Reata Wash Flood Control. That was likely done for a private developer and not the entire watershed. I would have to get more familiar with that in particular. As far as the continuance, we were aware of a request for a continuance. Of course, we will concur with Council's direction this as well. We are not sure from the staff perspective that we can see any benefit for continuing this because the whole point is to bring on the technical expert that is going to help us understand these issues, coordinate with the federal agencies and take this professional input as part of the analysis. Thank you.

Mayor Lane: Thank you, Mr. Earle. Councilmember Korte.

Councilmember Korte: How does this study area differ from the Desert Greenbelt?

Derek Earle: Mayor, Councilwoman Korte, this, the Desert Greenbelt was a significantly larger project. It includes portions of the Rawhide Wash. It includes areas west of Pima road this is actually a small subset of the area that was studied. This is a small subset of the area that was studied for the Desert Greenbelt. But I do want to reiterate this is not the Desert Greenbelt. We have no intention of this being a Desert Greenbelt or incorporating any of the features that were incorporated in the Desert Greenbelt. Plain and simple, this is a flood control project to look at flood hazards in this area.

Councilmember Korte: When did the Maricopa County Flood Control District redraw up some of their maps of the northern part of Scottsdale that really works towards the Tonto? Weren't those flood maps redrawn about maybe five years ago? Four years ago?

Derek Earle: Mayor Lane, Councilwoman Korte, in a second I will look to my left, but this area was not included in the restudy that you are referring to.

Councilmember Korte: Okay.

Derek Earle: But I do believe it was just a few years ago, the maps to the west of here, the area between the two triangular fans were remapped. Is there any further clarification on that?

Senior Stormwater Planner Greg Toth: There have been several updates through the area, different places some more recent and some older. We are presenting them to the different interested parties in the affected areas.

Councilmember Korte: So we have some citizens, concerned citizens looking for a continuance until perhaps their expert counsel could address in a public meeting. Do you see that as a negative in do

you see that this is a critical project to move forward? Today or tomorrow, versus 60 days?

[Time: 00:46:23]

Derek Earle: Mayor Lane, Councilwoman Korte, I'm never going to say you need to make a decision today or you have to make a decision tomorrow. We have been working for six months to do the qualifications based selection for the engineering consultant on this. And we are familiar with the consultant that the group has discussed and not any time had he proposed, made any propositions on this project, nor had he proposed responding to it. So although we are more than interested in listening to any engineering position on this we would like to have a consultant on board to help filter our interests so that we are getting a broad view.

Councilmember Korte: Thank you.

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

[Time: 00:47:14]

Vice Mayor Phillips: Thank you, Mayor. For staff, this Desert Greenbelt, you said earlier was approved by the volunteers for \$21 million? And then later on you couldn't do it?

Derek Earle: Mayor, Vice Mayor Phillips, I'm not fully aware that it was actually approved. I think it was proposed at \$21 million and I believe the cost was significantly higher at one time. There was a bond program, and that will probably predate my time at the city. Of course, there was a bond program in Bond 2000 and I believe there was one in 1989, but I don't know the specifics on whether the \$21 million was specific to this project or to a broader range. We would be glad to provide that information to you.

Vice Mayor Phillips: I thought that's what you said, it was approved by the voters and later on it was not feasible and we didn't do it. If that's the case, that money is still, there that bond is still waiting.

Derek Earle: Mayor, Vice Mayor Phillips, no we are not aware that there's any bond authorization remaining from either 1989 or in the case of 2000, we know what little we have left there.

[Time: 00:48:29]

Vice Mayor Phillips: Okay. All right. Then on another note, what I have seen, this study only covers a minute portion of this Wash, it's right along the edge of it. You know, you can't tell the storm where to go. It's not just jump into there. It will dump to the side of it. I believe we need more input from FEMA. The last data that we had, FEMA didn't approve. So I'm not willing to spend another \$1 million to find out that FEMA doesn't approve this one. With all due respect, the residents have hired an engineering consultant and he went to Washington and he's with FEMA now. And I would really like to hear what they have to say before committing to another \$1 million study. According to his own words, we should solicit open input from higher authority, such as FEMA,

U.S.A.C.O.E., and Maricopa County flood control, before proceeding with this project. So what I would like to do is make a motion to have a continuance on this until Council has more information, and we can make a more educated decision.

Councilman Littlefield: Second.

Mayor Lane: A motion has been made and seconded. Would you like to speak to it, the second?

Councilman Littlefield: Sure. One of the things I learned in my 12 years, no bad idea ever dies entirely. Somehow like vampires, they seem to rise from the dead and this is a lot like Greenbelt revisited. I have actually met with the neighbors up there. I have walked the Wash all the way from Pinnacle Peak down to the 101. The Wash as it is, is beautiful. And in order to keep it that way, the neighbors up there have spent their own money, not taxpayer money, their own money to raise their homes out of the floodplain. So understandably, having done that, they are not happy with our idea to turn this into a ditch. Now maybe it will be a nice ditch but it will still be a ditch and before we do that, before we take this Wash, which is quite scenic and quite nice, in its natural state, I think we ought to be very, very careful. So that's why I'm supporting a continuance. It won't hurt us to take some time and listen to what the neighbors and their consultant have to say before we, a, spend \$1 million and b, start down a road that I don't think will be a good road anyway.

[Time: 00:51:16]

Mayor Lane: Thank you, Councilman. Mr. Earle, this is an assessment for resolutions or solutions we might have, to a responsibility we somewhere downstream, local and to FEMA and to the Maricopa County flood control, district is that not correct?

Derek Earle: Mayor, that is correct.

Mayor Lane: And so we are talking about something that we have been talking about for a long time and have not yet resolved and yet we had, and we have seen and felt the results of a lack of an answer to this answer over the past several years.

Derek Earle: Mayor, generally....

Mayor Lane: Downstream.

[Time: 51:49]

Derek Earle: Mayor, generally, that's correct. I will qualify that the recent storms that we had, had very little impact in this area, that the storm surge was lower in this area and larger down south.

Mayor Lane: I'm speaking down to the berm and also to the 101 and beyond. If we had more than a few years ago. I mean there was another storm all together not just a recent one. This is a topic that we have been discussing with FEMA and the Maricopa County flood control district for some time

and also with Mr. Rezakhani and in his suggestions, in the meetings, it has centered around his solution to this has it not?

Derek Earle: Mayor, I have not been privy to most of those meetings but my understanding from the hearsay is he's focusing on his solutions primarily. And we would listen to all.

Mayor Lane: I'm not anxious on spending a lot of money but if we have a responsibility to solve this situation for a lot of not just of the immediate locale but beyond. I don't think there's any preconceived notion of a ditch. I think we are entirely to solutions including Rezakhani's solutions as well. I think that it's something that the more we, the potential time we put on this, the more risk we run of further damages and lawsuits against the city for no resolve. So I'm concerned about that aspect of the cost as well. So I'm concerned that we move and I think an environment where we have adequate representation coming from any and all sources, I think it would be important for us to say it's worthy of our attention to it now. So I have an indication of staff wanting to speak to us. Okay. I don't think you are on.

[Time: 00:54:10]

Greg Toth: There we go. I point out that we met with FEMA last week. We talked to them about this project. They are very excited about. And some of the representation as to the disapprovals.....

Mayor Lane: You turned it off. It's a nervous finger.

Greg Toth: The representations of the Corps not approving it. There was eventually, with regards to the Greenbelt. We had a discussion last week in Prescott with Region 9, that's a critical part of this. They indicated that they were excited about this. They understand it's a flood control project. They know there are 4500 structures in the floodplain and it is a critical element of what we are trying to do to clear this up. I have had discussions with Massoud Rezakhani, and invited him to be part of this. The engineers that we have discussed through the process of the interview are some of the most highly represented engineers in the country. And we believe that they will bring to us the best solution that there is.

That does not diminish those that may be opposed to it. I think it's critic to understand that this is a flood control project. We have 4500 homes in the flood plain. If we take a look at \$1,000 to \$2,000 a year that they were paying and we took a look at what we are trying to do with this project. We understand the Desert Greenbelt project, while a good intention it kind of went off course. And the mistakes that were learned from that are something that we are looking at today and that's to absolutely minimize the impact to properties. We will meet with each of the neighbors that are there. I think if Mr. Rezakhani gets into the project, I think he could be a great asset to it. My sense is his intention is to kill the project completely. The engineers that we have dealt with who are highly published throughout the nation, have brought to us, we think some initial, really good positive ideas. That's not to say it's continued. We have already started our work with ADWR, the Corps of Engineers, and we think we are trying to do this in the most sensitive, caring way, and just thought

that should be mentioned because there were statements that said this thing was not approved in the past. And it eventually was. Some changes were made and those agencies did come on board.

[Time: 00:57:18]

Derek Earle: Mayor, if I could just add, this is Greg Toth, he's the Senior Storm Water Manager with the City of Scottsdale. I apologize for not introducing him when he started speaking.

Mayor Lane: There's really not an option to do nothing, is that correct? Something has to be done. There has to be a solution.

Derek Earle: Correct.

Mayor Lane: And this is a study to determine the best possible with consideration for everyone involved to resolve it. Running the risk of further potential risk to the city, the liability risk stands in the way of doing nothing. You know, or even on a timely basis. But, okay. Thank you very much, gentlemen, for those responses and Vice Mayor Phillips.

Vice Mayor Phillips: Thank you, Mayor and thank you for your comments. I didn't get your name but you said you would be willing to work Mr. Rezakhani, that's all we are asking for is a little more time on this. We are not saying we don't want to do it. We are not saying anything like that. We are saying give us a little more time. If he's not willing to work with you, then we know that. We are asking for more information to make a responsible decision.

Mayor Lane: Thank you, Vice Mayor. There is a motion and a second, for a continuation on this issue. Was it a 60 day continuance?

Vice Mayor Phillips: I didn't say. They asked for a 90 and let's give them a 60.

Mayor Lane: All those in favor, please say aye. Opposed nay. That motion fails 4-2, with Councilman Littlefield and Vice Mayor Phillips supporting it. So with that said, we do still have two items on our agenda, 18 and 19. Unless there are further questions or comments, seeing none, I would ask if there is an alternative, or rather a new motion.

[Time: 01:00:04]

Councilwoman Milhaven: Mayor, I will make a motion and I'm very sensitive to the comments that the citizens have made and I think that this is about initiating a conversation to consider your concerns and so by authorizing this, we are just beginning a conversation. So it's not ignoring your concerns but rather saying we will have a broader conversation that will incorporate your concerns no look for solutions. So I will make a motion to adopt Resolution 9912 and to adopt Resolution number 9913.

Mayor Lane: And I will second that, but I also would like to make the same comment, really, truly. The obstacle here is whether or not the city goes through a concerted process to bring together

parties, all parties concerns parties, downstream, upstream and those experts that would weigh in it too. There's no predetermined solution. We are looking for and we need to have a solution for everybody's purposes. And so I think this does provide us that avenue to bring those parties together and to study the issue and make sure that we have got a good, solid solution. And as was indicated before, I know the city and I have been privy and engaged in it myself, with regard to conversations with FEMA and with the county flood district folks. This is something that is not something that we can just wish to go away. It's something that we do have to have resolved and we do need to be speaking to all stakeholders and all interested parties, not just one expert. So Councilman Littlefield?

Councilman Littlefield: Well, I hear up here that we are all going to be sensitive to the needs of the neighbors and if that were really true, we would go ahead and vote for the continuance, and potentially save ourselves the million dollars, which we are about to spend. So if we really cared about what they had to say, we would be continuing this, and we wouldn't be tossing that \$1 million out.

Mayor Lane: Thank you, Councilman. With that, we have a first and a second. The approval of item 18 and 19, of course, as has been mentioned. We are now ready to vote. All those in favor, please indicate by aye and those opposed with a nay. A tie. Well, the tie goes to a defeat on it. Oh, I'm sorry. We need to, Councilwoman Klapp hit the wrong button. Can we clear that? We will do it all again. Okay. Those for it, please indicate by aye and register your vote. Aye. That motion passes with Councilman Littlefield and Vice Mayor Phillips opposing. So thank you very much, everyone, for your input and I do appreciate it and we hope to see this go forward in a very positive way. All right. We have no further Public Comment items. No petitions, I presume, since I have not seen anything here.

ADJOURNMENT

[Time: 01:03:03]

Councilman Littlefield: Move to adjourn.

Mayor Lane: And no Mayor and Council items. I have a motion to adjourn prematurely but do I have a second on that.

Councilwoman Klapp: Second.

Mayor Lane: All in favor of adjournment, please indicate by aye. We are adjourned. Thank you very much.