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#### **ROLL CALL**

[Time: 00:00:04]

Mayor Lane: With that, I will call to order the October 25<sup>th</sup>, 2016 meeting, it's about 5:00. We will start with a roll call, please.

#### **ROLL CALL**

[Time: 00:00:16]

City Clerk Carolyn Jagger: Mayor Jim Lane.

Mayor Lane: Present.

City Clerk Carolyn Jagger: Vice Mayor Kathy Littlefield.

Vice Mayor Littlefield: Present.

City Clerk Carolyn Jagger: Councilmembers Suzanne Klapp.

Councilwoman Klapp: Here.

City Clerk Carolyn Jagger: Virginia Korte.

Councilmember Korte: Here.

City Clerk Carolyn Jagger: Linda Milhaven. Absent. Guy Phillips.

Councilman Phillips: Here.

City Clerk Carolyn Jagger: David Smith.

Councilman Smith: Present.

City Clerk Carolyn Jagger: Acting City Manager Brian Biesemeyer.

Acting City Manager Brian Biesemeyer: Here.

City Clerk Carolyn Jagger: City Attorney Bruce Washburn.

City Attorney Bruce Washburn: Here.

City Clerk Carolyn Jagger: City Treasurer Jeff Nichols.

City Treasurer Jeff Nichols: Here.

City Clerk Carolyn Jagger: City Auditor Sharron Walker.

City Auditor Sharron Walker: Here.

City Clerk Carolyn Jagger: And the Clerk is present.

Mayor Lane: And just so we have it officially on the record, of course this was Councilwoman Linda Milhaven will not be attending with us tonight. She's not on the roll call.

Moving to the next order of business, we just have a few items. We do have cards if you would like to speak on any of the items on our agenda, or for public comment, that is the white card that the city clerk is holding up over her head just to my left here and if you would like to give us some written comments on any of the agenda items, that we will read during the proceedings that yellow card can be filled out and given over to us.

Scottsdale police officers David Schurr and Jason Glenn are almost at 11:00, directly in front of me. They are here to assist you if you have a need for their services and the area behind the council dais are reserved for council and staff. We do have facilities, restrooms here over the exit sign to my left for your convenience.

**PLEDGE OF ALLEGIANCE**

[Time: 00:01:40]

Mayor Lane: This evening, we have the honor of having Troop 454 and their troop leaders, well, troop leader Heather Phillips is here with us today, to lead us in the Pledge of Allegiance. So ladies, if you could move to the microphone, and if you can, please rise for the Pledge of Allegiance.

Troop 454: 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. Red, white and blue, we love you.

Mayor Lane: Excellent, ladies. I appreciate that. Well, what I would ask you to do -- well, microphone has been turned around and facing the audience. If you take a turn introducing yourself and telling us where you go to school and what your favorite subject is.

Vivian: My name is Vivian. I go to Pueblo, and my favorite subject is math.

Mayor Lane: Very nice. Thank you.

Kali: My name is Kali, I go to Pueblo and my favorite subject is science.

Ellie: Hello, my name is Ellie. I go to Pueblo and my favorite subject -- subject is science.

Ella: My name is Ella and my favorite subject is reading.

Alexa: My name is Alexa. I go to Pueblo and my favorite subject is reading.

Dylan: My name is Dylan and I go to Pueblo. And my favorite subject is reading.

Alexis: My name is Alexis. My favorite subject is reading. I also go to Pueblo and I'm in second grade.

Annabell: My name is Annabell. I go to Pueblo and my favorite subject is science.

Alex: Hello my name is Alex, but my real name is Alexandria, and my favorite subject is science.

Zoey: Hello, my name is Zoey Phillips and go to Pueblo and my favorite subject is reading.

Annabella: My name is Annabella and my favorite subject is reading and I go to Pueblo.

Hailey: My name is Haley and I go to Pueblo and my favorite subject is science.

Mayor Lane: Very nice. Thank you, ladies. Very nice to have you here. Thank you very much.

And to have said the Pledge of Allegiance with such authority. It was very nicely done.

### **INVOCATION**

[Time: 00:05:21]

Mayor Lane: Is pastor Josh Newton here?

Well, instead of an invocation by the pastor, we will take a moment of silence if we can think about our country and city and maybe even this council and the decisions that we need to make here, please consider us in your thoughts along with just the wellbeing of our country. Thank you.

### **MAYOR'S REPORT**

[Time: 00:06:11]

Mayor Lane: As part of the mayor's report, we have a little bit of recognition that I would like to talk about. I would like to recognize a local start-up company that's based here in Scottsdale at A.S.U. SkySong. Neolight was founded in August of 2014 as an Arizona State University company, designed and develops photography technology to treat and eradicate jaundice in newborn infants. This Scottsdale company, not only is revolutionizing healthcare, but was awarded a \$100,000 investment from Steve Case, the former A.O.L. cofounder, and C.E.O.

During the rise of -- the rise of the rest bus tour in Phoenix. It was an interesting event that we had in -- down at SkySong and an interesting program, really to give some opportunity for investment for sometimes companies overlooked in that area of things. Tourists made up of a number of stops throughout the day and was capped off with that pitch competition, between eight local start-ups.

Six judges, who included Case, like Neolights, focus for babies which will expand the products beyond just jaundice. The money will be used for commercialization, and get to market and I would like to recognize the C.E.O. and the cofounder, Vivek Kopparthi. Scottsdale is proud to be home of innovative firms like Neolight who are truly changing the world one baby at a time. Neolight presented at the rapid fire session and its success to see the continued growth and success, we wish them the best.

As a side, Vivek was named as Phoenix's journal, for 40 under 40. I would like to call Vivek, and Chase Garrett, the VP of development and Sivakumar Palaniswamy the CTO forward if you are here. To just congratulate you and have a photograph with you here.

[Time: 00:09:20]

Mayor Lane: One other additional item to report on is that we have the red ribbon week proclamation. And it's a proclamation with regard to the red ribbon week, of course, which is a United States young marines and their efforts, which I'm about to proclaim here as you understand

and then I will ask Crystalline Shakenber who are here to accept the proclamation, and as soon as I get through this here.

This proclamation reads as follows: Whereas alcohol and drug abuse in this nation has reached epidemic stages; and whereas it's an imperative that visible, unified prevention, education efforts by community members be launched to eliminate the demand for drugs; and whereas, the east valley young marines a local unit of the United States marines is a youth education and service program for boys and girls that focuses on promoting the mental, the moral and physical development of its members, including character building, leadership and encouraging a healthy drug-free lifestyle.

And whereas the young members -- I'm sorry the young marines is the official youth program of the United States Marine Corps and is a focal point of the United States Marine Corps youth drug demand reduction efforts and is open to youth and ages 8 through high school completion, who are in good standing in their school and whereas the national red ribbon campaign and the east valley young marines program offer citizens an opportunity to demonstrate the commitment to a drug-free lifestyle.

And whereas the national red ribbon campaign will be celebrated in every community in America during the red ribbon week, October 23<sup>rd</sup> through the 31<sup>st</sup> and whereas business, government, parents, law enforcement, media, medical institutions religious institutions schools, senior citizens, service organizations and youth will demonstrate their commitment to healthy drug-free lifestyles while wearing and displaying red ribbons during the week long campaign and whereas the city of Scottsdale further commits its resources to ensure the success of red ribbon campaign.

Whereas October 23<sup>rd</sup>, through the 31<sup>st</sup>, have been designated as national red ribbon week, which encourages Americans to wear a red ribbon to show their support for a drug-free environment. Red ribbon week, and encourages citizens to participate in drug prevention, education activities, not only during the red ribbon week but all year long, making this a visible statement that we are strongly committed to a drug-free Scottsdale.

If you could come forward, I would appreciate it, please.

#### **PUBLIC COMMENT**

[Time: 00:12:52]

Mayor Lane: Next is public comment. It's for non-agendized items with no official council action to be taken on these items. Speakers are limited to three minutes each, a maximum of five speakers. We have one card. There's another opportunity at the end of the meeting if, in fact, there's any additional requests.

But we do have one request to speak under public comment, and it's Helen Begay. If you could come forward, Helen.

Helen Begay: Mayor Lane and City Council, I want to thank you for opportunity to bring two of my student to your meeting here to talk about an activity or a project that they are doing in their school. I will let them take it over.

Dorian Hernandez: Hello, I'm Dorian Hernandez and I came here to talk about the empty bowls. In my opinion, the empty bowls is a wonderful way to help those in need. Thanks to Scottsdale arts, I had an extraordinary opportunity to create a bowl. I had time to think about all of those people who need our help the most, some people making the bowl would be a waste of time, but to others, like me and my class -- like my class and me, it meant something more. It meant giving our time and our heart to help those in need, to help people who don't even have money to buy food. It meant stopping hunger and in some cases death. Although the bowls were small, it was a huge difference in our world. I want to thank Scottsdale Arts and Ms. Tammy Heinz for giving us this amazing opportunity and creating the cool pots.

Monserret Rosario: My name is Monserret Rosario and I participated in empty poles by Alli Ortega. It's wonderful and outstanding project. After I created my coil pot, I had a great feeling inside of me. I created my coil pot and it made me see from a different perspective of many things. How many times have we told ourselves I'm starving. Are we really starving? Many people would do anything just to eat what others eat. They would wish to have clean water to drink. This experience changed me. There's times where we can exaggerate about things. Many people wish that we -- that they were like us, and we take everything for granted, and we don't appreciate what we have. Once again, I would want to thank Ms. Tammy Heinz and Scottsdale Arts for the opportunity to make coil pots. I would like to thank Alli Ortega thank you for helping those in need. Wherever you are, thank you. Rest in peace, Alli Ortega.

Mayor Lane: Thank you very much, but let me just say, Helen, I don't know whether you have any closing comments but thank you very much for bringing them and I have this announcement. And for those of new the audience that may or may not know, former councilman here, David Ortega, his daughter is Alli Ortega, a young lady who died a few years ago -- a couple of years ago and they renamed the program in her honor after that occasion. She was intimately involved with it before she died. I just wanted to at least mention that as well.

Helen Begay: I want to also tell you that these kids are involved in a program at our school, it's called avid, which advancement via individual determination and it's a college readiness program, getting them to be ready in college. And on November 30<sup>th</sup>, they are going to tour the campus of Scottsdale Community College, and at the same time, the empty bowls project is going to be held. So if you are around the neighborhood, come to Scottsdale community college and look at the bowls and purchase one for yourself, because it is for a great cause. Thank you.

Mayor Lane: Very good. Thank you very much, Ms. Begay and the students as well. It's a very good program. That concludes the public comment at this time.

**CONSENT AGENDA**

[Time: 00:17:31]

Mayor Lane: And so we would move on to our consent agenda. We've had a request to have item 4 pulled for separate vote, by Councilman Smith. So that westbound removed from the consent agenda. I see no other comments on any of the -- I'm sorry. I take that back. We do have some comment requests on another item and that's item 10, but it won't be pulled from consent.

**ITEM 10 – NAMING OF THE AMPHITHEATER AT THE BROWN'S RANCH TRAILHEAD**

Mayor Lane: I would like to just make a particular note on item 10. Of course, this is the naming of an amphitheater at the Brown's Ranch Trailhead for the Honorable Carolyn Allen and who passed away not to very long ago. They are naming the amphitheater after her and it's something we are voting on here tonight.

We do have a couple of requests to speak toward it but first and foremost, I would like to turn it over to Councilwoman Korte, who was a very close friend and good friend in it later years and certainly through her life, of Carolyn Allen, and put together a very nice celebration of life at the Museum of the West, not too very long ago in honor of her. So what I will do is certainly comments from Councilwoman Korte.

[Time: 00:18:54]

Councilmember Korte: Thank you, Mayor. So Carolyn Allen, our warrior, passed on August 27<sup>th</sup> and she was a good friend to many, and a mentor to hundreds of people. And tonight, we have this opportunity to honor her with the naming of an amphitheater up in brown's ranch and how fitting that, is because she was a warrior not only locally with our environmentally sensitive lands ordinance task force, our McDowell Sonoran Conservancy advisory board, desert foothills but also on a regional and state level, working with governor Symington on the Arizona preserve initiative. She really is our champion.

I wish to publicly and personally thank Carla for having the conversation with Carolyn on what would be appropriate to honor her with our preserve and that was Karla's work and Karla's conversation with Carolyn to honor her with the amphitheater. We as Scottsdale citizens are incredibly blessed by Carolyn's leadership. So thank you, Carolyn.

Mayor Lane: Thank you, Councilwoman. We do have two requests to speak on this item and I would start with Carla. And I presume if you would like to come up together, as well as Sam Campana, the former mayor here in Scottsdale.

[Time: 00:20:40]

Sam Campana: Thank you Mayor and members of the Council. It is an honor to be here this evening to ask you to formally name the amphitheater at Brown's Ranch after former Senator Carolyn Allen. Anyone who enjoys Scottsdale's beautiful undeveloped northern desert at the Brown's Ranch

access area need to know and thank Senator Carolyn Allen. Her unwavering dedication to what Scottsdale residents wanted to preserve and her unbelievably strong leadership at the state capitol assured that this would be golf course and high-end development, instead became the incredibly beautiful and forever protected northern air of the McDowell Sonoran Preserve, the people's preserve. I say that because Joan Fudala, the historian, who wrote the book on the people's preserve, and is here supporting this as well. And as you said, she will forever be known as the Preserve champion.

Mayor Drinkwater appointed Carolyn to the planning commission, just when things were starting to heat up. She spent 400 hours hammering out a plan for land use, always committed to protecting the environment in the community, and state, and as Councilman Korte said, the many commissions that she served on, and the work that she did with Governor Symington, they believe that they have this place named for her and to mourn her recent passing. During the Scottsdale campaign for the McDowell Sonoran Preserve, from the dais at the Scottsdale city hall and the legislature, she was one the preservationists strongest and sometimes only champion. The space she fought to preserve will be her legacy and Senator Carolyn Allen amphitheater at brown's ranch will appropriately honor her memory.

I would like to present this to you with over 100 signatures on this to ask you to formally declare this this evening. Thank you.

[Time: 00:22:50]

Carla: Thank you for having us here this evening and thank you, Sam, for what -- the words you just said. It's interesting as I look out in the audience how many of you I don't know. We used to be regulars here and it's interesting also that -- how many of you probably don't know Carolyn. She was a feisty lady from Texas. Very small. Very handsome, but at the same time, tough as nails.

I will tell you one quick story, just so you know. Down at the legislature, even after our city voted for the money and the money was coming in, we didn't have enough to buy the land yet. And all of that state land in north, more than once, was put into the queue for planning after which it would go to auction for development. And Carolyn was the only one down at the legislature, the state legislature with enough pull to get it done. Not the mayors, not the council, not us citizens, it was her pull, and I can never forget they're on the state legislature, we're in the little hall to the side and she pulls ahead of the legislature, Senator Jake Flake, who ran the thing for many years, big cowboy from way up north who believed state trust land should be developed for the benefit of schools, and she yanked him off of the floor and by yanked, I mean yanked, and she's this little tiny thing and he's almost 7-foot tall, good 300 pounds.

And she just yanked him off the floor and read him the riot act in the hallway. Told him in no uncertain terms if he wanted her vote or the vote of her people in the state senator the legislature at the time, he darn well better make sure that the land is protected. They yelled at each other for a good ten minutes and then there's a pause and he said, I love you, darling, and she said, I love you, cowboy and they linked arms and went back on the floor. And then by next morning our land was safe again. And this happened four times. I remember very, very clearly, and she made sure our

land had enough time for our citizens to raise enough tax dollars to purchase it for preservation, and so the schools got the money. And she was a fierce warrior.

And so when Kroy finally started being able to buy the land and the access areas were being built, I said Carolyn, whatever you want, mountain, the longest trail, the access area, whatever you want, it's yours, okay? We will make sure it's named after. She said, is there an amphitheater like the one for Chet Andrews. She thought about it. This amphitheater looks out all over all the land that without her, we wouldn't have.

So this is to Carolyn, and lord knows she would haunt me if she didn't. So -- and thank you all. This is perfect, and I hope at the dedication, you all are there, and we can all feel Carolyn's spirit once more. Thank you.

Mayor Lane: Thank you very much for the comments and for that presentation. And complete the comments on item 10. And that was only for comment.

So we have item 4, that has been requested to be removed from the consent items and moved to regular agenda for presentation and a separate vote and so we have items 1 through 14a, on the consent agenda items minus item 4 and there are seemingly no further questions on this item -- on these items, I should say.

And if not, I would accept a motion.

Councilmember Korte: Mayor. I would like to move to accept consent agenda items 1 through 14a, with the exception of 4.

Councilmember Klapp: Second.

Mayor Lane: A motion has been made and seconded. I believe by Councilwoman Klapp. And so we are then ready to vote. All those in favor of the agenda items as requested on the motion, please indicate by aye and register your vote. Aye. It's unanimous then. 6-0, obviously with absent Councilwoman Milhaven. So it is unanimous.

#### **ITEM 4 – OASIS CAFÉ CONDITIONAL USE PERMIT (7-UP-2016)**

[Time: 00:28:52]

Mayor Lane: So with that, so we will move on to the regular agenda which includes item 4 and hopes that staff is in a position to give us a presentation on item 4 and just for the record, we will say that item 4 is the Oasis Cafe conditional use permit, 7-up-2016, find that a conditional use permit criteria have been met and adopt. For a bar at 4200 square feet with central business/parking district downtown. So --

Current Planning Director Tim Curtis: Yes, Mayor Tim Curtis with the city's planning department.

This is a conditional use permit for a bar on the northeast corner of Buckboard Trail and Indian Plaza. This is an existing restaurant, which has recently been proposing to convert into a bar. A few weeks past, the applicant did pursue a liquor license change from a series 12 for restaurant to a bar. And then this is the complimentary case to obtain the conditional use permit for the bar. This -- I'm not sure if there are any questions from the council on this.

I know that the applicant is here to answer any questions, but this did go through the planning commission. We haven't received community comment about it. The planning commission did find that this request did meet the criteria for conditional use permit for a bar and -- and is recommending approval. So be happy to answer any questions from mayor or the council and, again, the applicant is present to -- to expand if so need be.

Mayor Lane: Thank you Mr. Curtis. Councilman Smith.

[Time: 00:31:12]

Councilman Smith: Thank you, Mayor. Tim, this -- let me understand this license, if granted is a license that's granted to the owner, to the premises? Who actually is the license holder in this case?

Current Planning Director Tim Curtis: Mayor and Councilman Smith, conditional use permits go with the land, so it's the benefit of the use permit, in this case will be the operator, but the landlord or the owner does obtain the conditional use permit and can keep the conditional use permit.

Councilman Smith: You have indicated in the staff report that the current owner operator, whatever intends to continue this as a restaurant. Can you explain what requirements there are that will force this to happen in the stipulations?

Current Planning Director Tim Curtis: Yes, Mayor and Councilman Smith, at the risk of speaking for the operator --

Councilman Smith: And if you would rather have the operator answer, that's fine too.

Current Planning Director Tim Curtis: And they could expand on it. The establishment has been there for years, operating as a restaurant. I think one of the main reasons why they are making the change, particularly with the department of liquor, was because of the auditing and of the amount of liquor relative to food sales, and so the applicant's intention will speak to that, is to continue operating as a restaurant, as it has been for years, but without the need to concern themselves with the liquor.

Councilman Smith: And not to parse words with you, but when you say his intention is to do that, is there any requirement that he continue to do that?

Current Planning Director Tim Curtis: No, Mayor and Councilman Smith, with the bar use permit, it allows the operation to convert from a restaurant to a bar, however, the -- there are some stipulations particularly with the floor plan that that remain intact. But directly to your point, no, there's no

requirement that they continue operating exactly as they have in the past.

Councilman Smith: The reason it was cited in the council report for this change and I don't know whether you wrote it or someone on your staff, but was, quote so as -- this is for the owner, so as not to worry about complying with the 60/40 alcohol to food sales ratio. I'm not sure what to read into that statement. Is he -- what is he trying to -- what worry is he trying to avoid?

Current Planning Director Tim Curtis: Mayor and Councilman Smith, that pertains to the audit, the liquor audit about the 60/40. In order to operate under a series 12 restaurant liquor license, there's a certain amount of food and liquor sales that you have to meet. You get audited periodically. The intent here is to change the operations as much as to not concern themselves with an auditing requirement that would force them to change to a series 6 for the bar. As a result of all of their efforts, particularly with the state liquor department, they decided to move forward with the series 6 bar liquor license, instead of their existing series 12 restaurant liquor license, and in our conversations, particularly with the criteria associated with the bar as outlined in the zoning ordinance, they have technically now become a bar and the operator is willing to go through the conditional use permit in -- in compliance with our technical requirement that once you reach that 60/40 split, even though the city doesn't do the audit but that the state does the audit, that they would move forward with the conditional use permit, again, showing good faith in compliance with the city code.

[Time: 00:35:25]

Councilman Smith: I may not have any other questions, but I do have a comment speaking for myself. We have managed to develop in this part of town the largest concentration of bars in Maricopa County, probably in the state of Arizona, maybe in the western region for all I know. And I do not relish the idea of adding to the equation simply to alleviate the worry about whether he will be able to comply with the 60/40 alcohol to food sales ratio. Because as you say, there's nothing that requires him to continue this as a restaurant the day after we approve this. They can turn the stoves off and turn it into a full bar.

In part of your rationale -- rationale, one of the conditions that has to be reviewed, does the characteristics of this proposed conditional use permit, are they reasonably compatible with the types of uses permitted in the surrounding areas? And the answer to that is, of course, resoundingly yes, because we don't have anything but bars around us. We have the Lotus spa, the Dakota bar, the Bottled Blonde and the high five bars when you locate yet another bar into the midst of the biggest bar concentration in the state of Arizona, it's not surprising that you find that it's perfectly compatible with its neighbors. I know the owner may be worried about whether he can maintain his 60/40 ratio of sales of food to liquor, but I'm far more worried that we will be adding one more bar to the world's largest concentration of bars.

And so for that reason, I will not be supporting this. Thank you, mayor.

[Time: 00:37:34]

Mayor Lane: Thank you, Councilman. Mr. Curtis, I'm not sure whether you can answer this question or not, but the zoning on this property, does it allow for a bar a series six?

Current Planning Director Tim Curtis: Yes, sir. With the conditional use permit, Mr. Mayor.

Mayor Lane: And that conditional use permit is created here at the municipal level, not at the state alcohol board this.

Current Planning Director Tim Curtis: That's correct, Mayor.

Mayor Lane: Do they have -- barring an acceptance for conditional use permits or stipulations do they have a right to get a license on that property?

Current Planning Director Tim Curtis: Mayor, they do have a right to request a series 6 bar license, separate from our city ordinance process to the state liquor department, yes.

Mayor Lane: And thus through the conditional use permit, we can keep them from opening, unless they meet certain criteria? Or stipulations if you will?

Current Planning Director Tim Curtis: Yes, Mayor, I think it would be better to phrase it as we could monitor their operations under the conditional use permit. They are already open and operating and it's just now monitoring the bar operations.

Mayor Lane: We can monitor them, but if they got -- if they went and spent the money for a series 6, what right do they have to operate under that? They would not be in violation of the state liquor board as far as that is concerned.

Current Planning Director Tim Curtis: That's correct, Mayor.

Mayor Lane: Or would they be in violation of a lack of a conditional use permit?

Current Planning Director Tim Curtis: Mayor, not necessarily. Some restaurants in town are operating as restaurants with a series 6. And Don and Charlie's, for instance, is one of them. And so you can operate a variety of establishments with a series 6 bar. It's very lenient. You don't have to operate as a traditional bar with a series 6. So we would be looking for any zoning violations relative to their bar operations if, for instance they did not receive the conditional use permit.

Mayor Lane: So they would be in violation of city ordinance?

Current Planning Director Tim Curtis: Not necessarily, Mayor. There's a certain criteria that would qualify you by definition as being a bar. One of them is the 60/40 split. We don't really do audits of that but that's still built into the ordinance. Another one is the kitchen size relative to the establishment. They meet that, the bar service area, they meet that as well as a restaurant. So you really are only looking at carding at the door, and cover charge.

Mayor Lane: Those would be the added stipulations that we would have with that designation?

Current Planning Director Tim Curtis: Right, Mayor those would be the code enforcement activities we would be monitoring if they did not receive this conditional use permit, but were still operating liquor sales with a series 6 by the state.

Mayor Lane: So they wouldn't be in violation if they missed the 60/40 food to alcohol or maybe it's reverse, but nevertheless, the 60/40 split?

Current Planning Director Tim Curtis: Correct.

Mayor Lane: You know, one thing that's been troublesome and it's probably not something we need to enter into right now but violating a conditional use permit, there seems to be only one option and that's to shut somebody down. We have had difficulty in when some stipulation was not met, whether there's any actual enforcement tools beyond just a shut down.

Current Planning Director Tim Curtis: Well, Mayor, you are right, that would be the end game but there's often a lot of work involved with any notice of violation, about providing some sort of remedy before we get to that.

Mayor Lane: But we don't have any fines or anything in between that, it's just a matter of working it out and make sure that they come into compliance?

Current Planning Director Tim Curtis: Typically Mayor, yes.

Mayor Lane: Okay. Thank you. Councilmember Korte.

[Time: 00:41:45]

Councilmember Korte: Just a question. Our entertainment district that is carried the moniker of the greatest concentration of bars in the world or the state or whatever that is, whatever that moniker is. Is that -- is that an old moniker or is that current -- is that a current given the transition we are seeing in the -- in this area with condos -- with condominium projects be built and some apartments being built in there and perhaps in transition of services to meet the needs of that 24/7 population.

Has anyone really looked at the number of bars past versus present and what that transition is looking like?

Current Planning Director Tim Curtis: Mayor and Councilwoman Korte, no, I don't think to those specifics and I'm not sure how to answer your question regarding monikers or names, but, I can tell you that it seems if you want to call it a bar or a restaurant, the trends seem to be that businesses are more inclined to have longer operating hours during the day because of an influx of residential and we're seeing now interest in different types of operations. You are getting a more variety of

interests, breakfasts, lunches, more daytime that then perhaps may morph back foot bar in the evening, but you are seeing -- back into the bar in the evening but you are seeing a more captive audience that may be active in earlier daytime business. So those are the trends that we are seeing down there.

Councilmember Korte: And perhaps that is of some interest that our economic vitality department could look into to give us a feel for the shift of uses down there given the 24/7 lifestyle. Thank you.

Mayor Lane: Thank you, Councilwoman. Councilwoman -- I'm sorry, Councilman Phillips?

Councilmember Phillips: I move to approve the oasis cafe conditional use permit, 7-UP-2016.

Mayor Lane: The motion has been made.

Councilmember Korte: Second.

Mayor Lane: And seconded. Would you like to speak to it? Mr. Washburn, did you have a comment or a question?

City Attorney Bruce Washburn: Yes, Mayor thank you. I wanted to clarify one point. Mr. Curtis is absolutely correct that the end game on C.U.P. enforcement, the last measure is the -- is the cessation of operations. But there is -- we do -- we can cite people for C.U.P. violations just like any other zoning violation and we go through the civil process and there are fines available.

Mayor Lane: I see good.

City Attorney Bruce Washburn: It's very rare but it's possible.

Mayor Lane: Appreciate it. The motion has been made and seconded. I don't think there's anything further.

Councilman Smith: The motion is to approve?

Mayor Lane: Yes. Yes. So I think we are then ready to vote. All those in favor please indicate by aye. Those opposed with a nay. Aye. Motion passes 5-1 with Councilman Smith opposing.

**ITEM 15 – MONTHLY FINANCIAL UPDATE**

[Time: 00:45:14]

Mayor Lane: Thank you very much for the input on that and move on to the regular agenda item, the real regular agenda, and that's the monthly financial update from our Mr. Nichols, our city treasurer. Mr. Nichols, welcome.

City Treasurer Jeff Nichols: The monthly financial update as of September 30<sup>th</sup>, 2016. You notice we are starting off a little different. We have a visual, for those who are more visual. I'm more of a numbers person. We go from top to bottom, we will go to the '14/15 goals and the '15/16 actuals and the light gray, the '16/17 actuals and the gray that's kind of a striped color is the '16/17 revised budget. And as you can see, the majority of the lines regarding actuals related to budget, we have positive variances which I will go through those numbers on this next slide. I will deal with taxes, the local taxes in a minute.

A couple of positive variances show state shared revenues with a positive variance of about \$400,000 or 3%. Most of that is due to the auto loop tax. That tax is a 60 to 90 day lag and so we are seeing that come in in the first quarter. You also see some building permit fees and charges. \$200,000 favorable variance there. That's related to single family construction. And finally, the transfers in is due to higher enterprise franchise fees and higher revenue collected in the water and wastewater and those are being transferred over into the general fund.

Let's go back to the taxes and the different -- on the left, the miscellaneous retail, automotive, all the different types of taxes. Here we have a mix of variances both positive and negative. Better displayed, I believe, on this slide for those, again, who like numbers like myself. One area you will notice, bottom line, bottom right-hand corner. The bottom of that, related to construction activity, again related residential construction. Some of the rental activity that we are seeing was an updated self-report on a spec build if you will, and so we captured that sales tax or that rental tax in that category.

Going further, I'm hitting the button. So for fiscal year-to-date, you notice that we forecasted 2% increase in the 1% general purpose sales tax. Right now, this month it's running at about 5.2% year-over-year. However, for the year, it's running at approximately 4% over in total. 3.8%.

[Time: 00:48:26]

Mayor Lane: Mr. Nichols?

City Treasurer Jeff Nichols: Yes, sir.

Mayor Lane: I wonder if -- I don't know whether we just skipped over the one or I missed it when you brought it up on the screen, but the general fund operating sources sales tax, miscellaneous retail stores is a negative 2%. And frankly automotive is negative 5%. I think I understand some of the industry trends as it relates to the automotive but miscellaneous retail stores what exactly -- is it anything other than major department stores or is it -- is there a certain category of it? I realize it's a fairly large piece of this particular source, but at \$4.1 million.

City Treasurer Jeff Nichols: And right now the miscellaneous retail stores that staff have looked at causing the negative variance is related to home furnishing and computer and software and hardware.

Mayor Lane: Okay.

All right. Thank you.

[Time: 00:49:40]

City Treasurer Jeff Nichols: You're welcome. So general fund operating uses by category, as you can see, again, actual less than revised budget. So majority of positive variances in our spends today, showing actual totals down towards the bottom right-hand corner about \$3.2 million. Some of that was personnel services which I will go over later and contractual services category, we are looking at areas within -- within public works. They had approximately 46 projects that they were going to be handling this year on the operating side. Six of those projects have been completed. Six are under design and six are in progress. So it's just -- they are starting their fiscal year, and they haven't been able to meet their budget to actual yet. We believe it's a timing difference.

On the personnel side, you see there positive variance in salaries, the retirement, health and dental, across the board. And the salaries being, the majority of the positive variance, we are filling positions that were budgeted. People retire and we are filling them and it's costing us less to fill those positions. So we are having some salary savings there. On the retirement program, we have a few more people entering the drop program than we expected, and so we have retirement savings related to that. We also have a fire insurance premium tax credit that you all are probably aware of, and this year, we received more than we thought we would. So that's having a positive effect on the retirement side.

You look at the general operating fund by division, and the vast majority of divisions, again, are operating with positive variances. The one division that is not at this point in time, is public safety fire, the majority of that is due to some overtime issues that they are dealing with. They have about 14 staff that are on lighter restricted duty. They are also having some people go about -- about 16 people going through training to be a paramedic and that's causing some issues. We expect that to continue, the overtime issues within the fire department this fiscal year, as our staff has -- has a difficult time staying on duty instead of versus light duty.

But overall, sources, positive \$1 million variance, uses of \$3.2 million positive variance. So a \$4.2 million difference when you compare the actual to what we thought the budget would be at this point in time. And with that, I will take any additional questions you may have.

[Time: 00:52:29]

Mayor Lane: Thank you, Mr. Nichols. Councilman Smith.

Councilman Smith: Thank you, Mayor. Mr. Nichols, will you go back to the slide that talks about the receipts from the various categories -- keep going back. There. You didn't -- the fourth line down talks about charges for service and other. Last year, this was a number of \$9 million at this point in time, this year it's a number of half that.

City Treasurer Jeff Nichols: Yes, sir.

Councilman Smith: Did you talk about and I missed or can you talk about what the changes.

City Treasurer Jeff Nichols: I did not talk about that actual to actual. What that was, was the sale of the H.R. building and the graphics building. That was a category that those sales were receipted in. That's more of an anomaly for that year.

Councilman Smith: Okay. Thank you. It looks like to a lay observer looking at the bottom line, it looks like the receipts are lower, but except for anomaly, they are higher. Slide forward two slides to where you are talking about sales tax here. Third from the bottom is food stores. I assume that that is what it says, food stores but they are selling a lot of things besides food. I mean, grocery stores sell batteries and light bulbs and everything else. Do you have a haunch of how much of that number is actual food sales tax receipts?

City Treasurer Jeff Nichols: Mr. Mayor, Councilman Smith, we have done an analysis to the best of our ability within that category. That's an N.C.I.A.S. code that we code those stores as food stores. And we believe approximately about 80% of the sales within those stores maybe as high as 86% are related to food for home consumption.

However, I have also reached out to some friends across the valley in Phoenix, down to Tucson and Mesa, over in the best valley, municipalities that had a food tax at one time, and then -- and then got rid of their food tax because we are just doing a best guess. Michael Gugusberg is our residential expert. He's very good at what he does, but it is -- you don't know exactly what that will be until you say take off the tax for food for home consumption and what that impact will be. But we feel we have a pretty good idea.

Councilman Smith: Well, if I may, I would like to make a suggestion. Because under current operating directive that you have from council, the tax from food consumed at home, will merely pass through the general fund. It will ultimately end up in the capital investment fund, the C.I.P. fund. And maybe one day it will go away all together, but in any case, since it's not truly a long-term receipt of the general fund, wouldn't it make sense or could I suggest or maybe the council would agree to show that as a separate line item of food or tax from food consumed at home being at least your best estimate, you will show what I presume is a transfer out of the general fund and into the C.I.P. fund.

City Treasurer Jeff Nichols: Mr. Mayor, Councilman Smith, yes, we would show it as a transfer out from the general fund into the capital project fund. And we can certainly do that if council would like.

Councilman Smith: Well, I will speak for all of counsel, yes, we would all like that. Thank you, Mayor.

[Time: 00:56:19]

Mayor Lane: We, we don't make one person decisions. Personally, I don't know that there's any objection from any members of the Council. That's probably a way that we can handle it. I can see that isolating it would at least give us a handle on it with these reports, if we were to isolate it and then when the time came we would know exactly -- or not exactly but if it's a best estimate, whatever it is, that it comes out of the budget.

City Treasurer Jeff Nichols: I would be happy to do that, Mr. Mayor.

Mayor Lane: Any objection to that? Oh, I'm sorry. Councilwoman Klapp.

Councilwoman Klapp: I also would like to see it separate. Thank you.

City Treasurer Jeff Nichols: You're welcome.

Mayor Lane: Vice Mayor?

[Time: 00:57:04]

Vice Mayor Littlefield: I have no objection to separating it. I just wanted to ask you out of a curiosity, since some -- the food tax part of it is going to be moved to the C.I.P., when do you anticipate doing that to make it available for C.I.P. use? Is that done, like on a half year basis or quarterly basis or at the end of fiscal year or what?

City Treasurer Jeff Nichols: I will ask my budget director, Ms. Judy Doyle when we have that budgeted.

Budget Director Judy Doyle: Mayor and members of the Council, we typically do that transfer in the month of June, once we know what the actual activity has been for the fiscal year. We could certainly do that on a quarterly basis if you would have a preference or biannually but generally we do it at the end of the year.

Vice Mayor Littlefield: Thank you, I would leave that with the Council to decide if that's appropriate or not but I think it's fine. I just wanted to know when that would be gone. So that we could make appropriate analysis. Thank you.

Mayor Lane: Thank you, Vice Mayor. Staff member has some unknown, unnamed staff member. It's disappeared. So we will never know.

Budget Director Judy Doyle: Yeah, Mayor and members of the Council, I did just want to mention what you are looking at here is just the 1% sales tax and if you recall, the directive was for the 1.1% to go over to the capital program. So amount that you are seeing on the food stores is pretty darn close to what will ultimately be transferred. I think if you are looking at the amount of 1.6 million and the 1%, I think we are pretty close to what will be transferred at year end.

Mayor Lane: Very good. One thing I might mention with regard to the timing on that, obviously there's a budget in C.I.P. in budget right now so that would probably be beneficial and work better.

Budget Director Judy Doyle: Yes, sir.

Mayor Lane: So I see no further questions of you. And so I think we have a very good report and thank you very much for that.

City Treasurer Jeff Nichols: Thank you.

Mayor Lane: Okay. We have no further public comment. Any petitions. None. The mayor and council items. None.

**ADJOURNMENT**

[Time: 00:59:37]

Mayor Lane: I would ask for a motion to adjourn.

Councilwoman Klapp: Motion to adjourn.

Councilmember Korte: Second.

Mayor Lane: Move to adjourn and second by Councilwoman Korte. I want to thank everybody for their input and that will adjourn this meeting and so we will adjourn and we will be taking a five-minute break in between this and the work study session. Thank you.