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CALL TO ORDER

[Time: 00:00:10]

Mayor Lane: Good afternoon, everyone. It's nice to you have here. For our 5:00 regular meeting, March 18th, 2014 and I would like to call it to order and we'll start with the roll call, please.

ROLL CALL

[Time: 00:00:11]

City Clerk Carolyn Jagger: Mayor Jim Lane.

Mayor Lane: Present.

Carolyn Jagger: Vice Mayor Virginia Korte.

Vice Mayor Korte: Here.

Carolyn Jagger: Councilmembers Suzanne Klapp.

Councilwoman Klapp: Here.

Carolyn Jagger: Bob Littlefield.

Councilman Littlefield: Here.

Carolyn Jagger: Linda Milhaven.

Councilwoman Milhaven: Here.

Carolyn Jagger: Guy Phillips.

Councilman Phillips: Here.

Carolyn Jagger: Dennis Robbins.

Councilman Robbins: Here.

Carolyn Jagger: City Manager Fritz Behring.

Fritz Behring: Here.

Carolyn Jagger: City Attorney Bruce Washburn.

Bruce Washburn: Here.

Carolyn Jagger: 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. Well, first order of business is some introductions. We do have cards if you would like to speak on any subject or for public comment, the white cards that are held over the head of the City Clerk right at the moment at my right here. And there are yellow cards if you would like to write any comments for any of the items on the agenda, which we will read during the proceedings. This afternoon we have Scottsdale police officers Greg Carlin and Tom Cleary are here with us, directly in front of me, if you have any need for their assistance. The areas behind the Council dais are reserved for Council and staff. If you have need for facilities, we do have them over to our left under the exit sign there.

PLEDGE OF ALLEGIANCE

[Time: 00:01:17]

Mayor Lane: Today we have, to lead us in the Pledge of Allegiance, we are welcoming the Red, White and Barker Club, it's from the Barker Branch of the Boys and Girls Club and they are accompanied by

Tyler Hertz. If you would like to come forward and you can lead us in the pledge and everybody that can, please stand.

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

Mayor Lane: Thank you very much. I think you know the program, but if you could just go ahead and introduce yourself and maybe tell us where you go to school and what's your favorite occupation or subject might be.

Red, White and Barker Club: Hi, I'm Mandy and I go to Pima. I'm in second grade and I am treasurer of Red, White and Barker. Hello, I'm Madeline and I'm in fourth grade of Pima Elementary School, and I am the secretary of Red, White and Barker. Hi, I'm Carl Maddox. I go to Our Lady of Perpetual Help Catholic School and am president of Red, White and Barker.

Mayor Lane: Thank you very much for that.

INVOCATION

[Time: 00:02:48]

Mayor Lane: Tonight we have an invocation as we are going to be provided by Todd Miller who is a minister of students at First Southern Baptist Church of Scottsdale. Mr. Miller?

Todd Miller: If you'd like, I would like to invite you to bow your heads as I pray. Dear loving and heavenly Father, we thank you on behalf of this group tonight. We are grateful to be able to assemble here. We are thankful for our blessings, for the many things that you have done for us. We are grateful that we can, for our health and for our work, for the leadership that you have given us, the friendships that we have. We ask you to be involved in the things that we do. We are grateful for our freedom. And we thank you for loving us. In the Scriptures you said we ought to obey the Governing authorities and since you have established those, then we ask that they would promote peace and justice. We pray for our Mayor, and the leaders who are here this evening, in all levels of government. We ask that you give them wisdom to govern over the issues of the times and in our city, that would you allow them to Govern in a way that brings justice and rightness to the people. We ask that you would help them to work together harmoniously, even though there may be honest disagreements, but in unity. Give them peace and joy in their tasks. I pray for the agenda set before them even today, that you would give them full knowledge of the task at hand and you be pleased at their work. We ask you to bless this City of Scottsdale, and we remember at this time as well those families who are affected in the Malaysian air flight as well as those who have been a part of the tragedy in New York. We ask your blessings on their families that they would hear and know that there are people around the world praying for them even now. It is in your blessed name that we pray. Amen.

Mayor Lane: Amen. Thank you.

MAYOR'S REPORT

[Time: 00:05:35]

Mayor Lane: As part of my Mayor's report, I wanted to report back on something that occurred a couple of weeks ago that I wanted to make sure that I communicate as best as I possibly can. The difficulties that I created, I suppose, by making a mistake with regard to a moment of silence that a citizen wanted to invoke at a time of our public comment and I denied that and it was my mistake and my mistake alone. I am the presider over these meetings and that is my responsibility to attend to those matters. And in that case, I come to understand certainly very truly that people were hurt, injured and felt that somehow or other that I had dishonored or disrespected not only detective Hobbs who is a victim, obviously, of criminal activity, just two weeks ago as well, and that moment of silence was called for, for him, but I can only say that I apologize for it. It was something that was just an insensitive moment to consider not having it done immediately at that point in time, rather than having it later on in the meeting. So I would just want to say that certainly the acknowledgment and the admission of a mistake on my part, of which I'm sincerely sorry for and I also want to report that I have, obviously received a great deal of concerned citizens and law enforcement officers who have contacted me on this. I have responded to each and every one of them that gave me a path or an Avenue with which to respond and that's by phone, that's by email, and that's by letter. And in those instances where I could, in fact, I contacted with that same message plea, which is the Phoenix police union in order to get it distributed as well. So I can only hope that they, that those who are hurt or angered by my insensitivity on that subject would accept my apology.

Next order of business is the City Manager's report and there is none. Okay. Thank you, Mr. Behring. We have no presentations or announcements.

PUBLIC COMMENT

[Time: 00:08:06]

Mayor Lane: We do have Public Comment and Public Comment is reserved for citizens' public comments regarding non-agendized items with no official Council action taken on these items. The speakers are limited to three minutes each with a maximum of five speakers. There will be another opportunity for our public comment at the end of the meeting. So we do have five cards three minutes each. And we will start with Patty Badenoch.

[Time: 00:08:51]

Patty Badenoch: Good evening Mayor and Council, my name is Patty Badenoch, 40 plus year resident of Scottsdale. Community Design Studio, historic value includes the following, the first Lutheran church was built in 1952 and named Ascension Lutheran Church. Currently, there's direction under our city's management to sell it, when sold no protection of assessments will remain. The historic value is of great interest to a number of citizens to keep and preserve this lovely place for our staff and

as a community gathering for future generations to enjoy. Petitions are circulating and the signatures have been easy to acquire. And the list keeps growing to keep the Community Design Studio from being sold to a private enterprise.

In addition, I note the art. It may provoke controversy for some, some might say that's interesting, but is it art? I happen to like the vibrancy it lends, but no one can deny the fabulous execution of the very large mural along the west wall outside the courtyard, predicting major signature events and noted historic characteristics that have made Scottsdale unique. Even our General Plan 2001 states under the heading character and design element, Scottsdale values, protection of significant historic buildings and settings and, again, Scottsdale values art, integrated into our community as an important component of good design, page 43. In closing, I would like to reference our General Plan draft of 2014 under the lifestyle and character chapter. Art, culture and creative community element, acc4, identify and protect Scottsdale historical archaeological historic resources to promote and awareness for them for future generations. Policies, acc4.1. Identify and protect our significant historical cultural, archeological resources and work to mitigate, unavoidable loss through the historic and archaeological preservation programs. Thank you.

Mayor Lane: Thank you, Ms. Badenoch, Patty, only because I was given this list, did you want to mention the folks on this list? Okay. Next would be David Smith.

[Time: 00:12:11]

David Smith: Mr. Mayor, members of Council, my name is David Smith and I live at 10801 East Happy Valley Road in Scottsdale. I'm here to talk on what may be a redundant speech but it's going to be an expression of interest in the community property being sold or proposed for sale. You all know that I'm on record as saying that we, concern and the lack of funding for our capital program and I think it's putting us on a path of unsustainability for the future. We need to have \$100 million to reinvest in the \$3 billion of capital infrastructure that we have, just to stay even with depreciation. And so I applaud the City Manager for initiatives to identify redundant assets in the city and try to sell them to raise some small amount of money to go towards this \$100 million per year obligation. Certainly the Main Street property, I have no view way or the other, whether they can be consolidated elsewhere, and those products can be sold. Similarly for the McKnight Building if we can consolidate the employees somewhere else, so much the better.

I wish we could turn back the clock on the McKnight building. We got that building in exchange for a pristine piece of real estate facing on to the civic center plaza and what we got was a two-story building. We renovated the apartments and we have yet to rent them. It's a property that should be disposed of. But really, the one I'm here to talk about as so many other people is the Design Center. As the previous speaker mention it got its life as the Ascension Lutheran church. It's one year younger than the city itself and whether that seems old or not, it is part of our short but meaningful culture and heritage. It's part of who we are. And I think every effort should be made to save or repurpose that building if at all possible. And as the previous speaker mentioned, it is also a part of our city's public art and I'm not sure I understand how you can just have something as public art one day and offer it for sale the next.

It either is or isn't public art, you either like it or don't, but, again, it's part of our culture and heritage. Families don't, families don't sell their heirlooms to put a new roof on the house. They don't melt down grandma's silver to repave the driveway and I urge you, if this does come before you, to consider carefully that this is part of Scottsdale. This is part of who we are, part of what makes us special. So I urge you to show some vision and repurpose this building. What comes to mind is it would be an ideal place for the historical society to have as its headquarters since they are already cramped in the Little Red Schoolhouse. But use your imagination. Figure out a way to save this iconic building in Scottsdale. Thank you very much.

Mayor Lane: Thank you, Mr. Smith. Next would be Darlene Peterson.

[Time: 00:15:38]

Darlene Peterson: Darlene Peterson, Mayor and members of the Council, I've lived in Scottsdale for 54 years or more. And it came to my attention that there were three buildings that the city was contemplating selling. Well, when I found out that one of them was the old Urban Design Studio, I remembered that about the only way you can save anything in this town is to make sure that you advertise and so we got together with a group of ladies and a few gentleman and amazing how signatures, people wanted to sign signatures to preserve this building. You are going to sell it for nothing and the inside, I don't know how much the Cultural Council paid to have it painted inside, and the big mural that's in the patio. Now, I'm one of the ones that Patty talked about, that I love the entrance. I'm not too crazy about the front part of the church, but as you know, I've gotten involved with some of the part in this town. It's in the eyes of the beholder. And if you have not been there, I suggest that you go there because staff is, and you can walk around. In the patio is a history of Scottsdale. It's Spanish-type art, and you have to look and decipher what it means. And I hope to take the City Manager there in a couple of days. But I think it's something that you should look into and save. And I guess that's all I have to say.

Mayor Lane: Thank you, Darlene. Next is Jim Hill, POSA.

[Time: 00:18:15]

POSA President Jim Hill: Good evening, Mayor, City Council, my name is Jim Hill, the president of the Police Officers of Scottsdale Association. My address is on file. First, I would like to thank you for giving an apology today about the denial of the moment of silence for Detective Hobbs. Unfortunately, the apology comes too late to undo the damage done to the damage to Scottsdale. It was a blow to all the men and women in law enforcement, to their families who live with the knowledge and the fear that their loved one may give the ultimate sacrifice one night and every decent citizen in Scottsdale. The citizens and business owners of Scottsdale have been tremendous supporters of police department and did not deserve to be subjugated to the that. I know groups have said they will not come to Scottsdale for vacation or conferences. And I can tell you that our association office has taken calls from outraged citizens to know what happened.

The men and women from the police department or constantly being challenged by officers from other jurisdictions with the question. What's wrong with your Mayor? Why would he do that? What compounds that embarrassment was the non-apology apology that first game out it. It said first let me apologize and then never really apologized. During the TV and radio interviews all that were happening were excuses on why it happened and not a heartfelt I'm sorry it happened. First it was the fault of Roberts Rules of Order and then it was the fault of the citizen making the request and then it was you were caught off-guard and for one part it was the pastor's fault for not including it in the invocation and then it said it was POSA's fault, which is very insulting. It's our belief that that instant showed your feelings and true feelings about how you feel about the police. Along with that the constant disingenuous claim, when you did give a moment. It was evident that you were going to end the meeting and Councilman Littlefield had to remind you to do that.

[Time: 00:20:31]

Throughout the many responses that were sent out by various Councilmembers to citizens and police families that wrote in to complain was one from Councilwoman Milhaven that stuck out. It was very unfortunate a moment that passed too quickly. I'm very sorry. Well, I'm sure Councilwoman Milhaven was trying to explain why no one spoke up. It came across to the police family as oh, well, things happen. Here's the thing about a moment. We in police work live in those small, life and death moments. We make decisions every day in those moments, whether to use deadly force, whether to make an arrest, and 100 other things. All within a moment, in the middle of chaos, we live or die in those moments. Just as Detective Hobbs lived and died as a hero in a moment. So to claim that a moment passed too fast while sitting safely in a cushy chair rang hollow. We hope you will reflect on this moment and understand that going forward your deeds and action will show the city and the country whether you truly support law enforcement, or was the apology just carefully crafted? Thank you.

Mayor Lane: Thank you, Mr. Hill and this is not a departure from any kind of protocol. Since you have alleged things that I have said that I have not, at no time did I ever blame POSA. At no time did I do anything other than to discuss the idea of what protocol may have called for, but I truly, and truly indicated and I mean I'm sorry about the fact that I followed that protocol or even nil thought of it, but, or even any thought of it. But some of the other things you said, I have not made any kind of verbal blaming of anyone else, and as quickly as I could, I took full responsibility for it and I mean as far as I could determine within the next day or so. And I just, I have been, maybe that was too long, but if my apology is unacceptable, I take that from your conversation it's unacceptable but at this point in time, Mr. Hill, that's the one thing I can do. I'm at peace with it.

There was never any intended disrespect or dishonor of anyone and it does bother me immensely that this incident took on the extent that it did, that in any way distracted or frankly caused any further hurt to Mrs. Hobbs and her family, that's going through this. You have a recurring criminal who has been faced off with, and guns down one of Phoenix's finest. I mean, it haunts me that this episode took anything away from the outrage of that event. But in any case, I understand you do not see it in your heart to forgive me as far as this is concerned or believe me and I accept that. Thank you. Next is Susie Wheeler.

[Time: 00:23:57]

Susie Wheeler: Good evening, Mayor and City Council. It was a few days ago I heard you were going to sell the Community Design Center, which used to be the Urban Design Center. The Community Design Center is a great name for it, but it's like selling a piece of art because the whole building is a piece of art. The artists even put themselves up in the window on the, in this piece of art and you can't save it and the history, like they said is in the patio which is absolutely incredible. I have served on commissions in this building and I have served here and I have served at the senior center and I have served up north and the community is very, very comfortable, more comfortable than any place to stand up and speak in the Community Design Center. It is, it's an incredible building, and I hope you find a way not to sell it. And, you know, we won't let up. We will stay engaged until we see that this building is saved. Thank you.

Mayor Lane: Thank you, Susie. That completes the Public Comment cards that I have. And thus the Public Comment period.

MINUTES

[Time: 00:25:17]

Mayor Lane: The next order of business, I would ask if I have a motion to approve the Work Study Session minutes of February 11th, 2014, and the Regular Meeting minutes of February 25th, 2014.

Vice Mayor Korte: So moved.

Mayor Lane: Motion has been made and seconded. No comment or amendments indicated. I think we are then ready for a vote. All those in favor, please vote by aye, and those opposed with a nay. The tally is unanimous, 7-0. That order of business is completed.

CONSENT AGENDA

[Time: 00:25:54]

Mayor Lane: Do we move on to our Consent items 1 through 22. I have no cards to report on those Consent items or any request to remove them to the Regular Agenda, unless there are some comments from the Council here, I would entertain a motion to accept the Consent items 1 through 22.

Councilman Robbins: Mayor, I move that the Council approve consent items 1 through 22.

Mayor Lane: A motion has been made and seconded. Seeing no further discussion on the matter, we are then ready to vote. Please indicate by aye, and those opposed with a nay. It's unanimous then, 7-0 on the Consent items. If you are here for the Consent items, you can feel free to stay with

us or to leave quietly.

REGULAR AGENDA

[Time: 00:26:43]

Mayor Lane: Moving right along to our Regular Agenda items, which are items 23 through 26, and we'll start with 23, which is the Water, Sewers and Sewage Disposal Code Amendment. And we should have Brian Biesemeyer, our Water Resources Executive Director here. He will present.

[Time: 00:27:13]

Water Resources Executive Director Brian Biesemeyer: Good evening Mayor and Council, I believe I have a short presentation for you, if it comes up.

Mayor Lane: Well, I think we had to censor it. No, I'm just kidding. We have been having some technical difficulties earlier today there. We got you!

Brian Biesemeyer: You got me.

Mayor Lane: That's quite a presentation.

Brian Biesemeyer: That's the sad part of that presentation. Anyhow, before I have a short presentation on proposed city code amendment that deals with the salinity rebate reduction program. Why salinity matters to us. Reclaimed water, particularly, where salinity, reclaimed water which salinity impacts is a large and essential part of the city's water portfolio. We use it for recharge and turf and golf course irrigation. High total dissolved solids is not removed in traditional wastewater processes. In the City of Scottsdale we have an advanced water treatment facility that does remove salinity, but it's just generally not in the valley removed. TDS is also costly to treat and that's our advanced water treatment facility and dispose of.

I'm just going to review salinity in our wastewater and where it comes from. Again, these are in milligrams per liter but you can see from this diagram that while some salinity is added by food waste, and chemicals, some by cooling towers and some actually by water treatment processed chemicals, outside the raw surface water salinity, the largest contribution is from softening, water softening.

Scottsdale and the Water Resources Division have been actively participating in salinity issues for a number of years. We participated in various studies and pilot projects. We have expanded the advanced water treatment facility at the Water Campus to expand our treatment capability for salinity. We evaluate salinity in our master planning efforts. We also participate in the multistate salinity coalition to keep ourselves aware of the latest technology with salinity removal and we participated in the technical advisory committee to the joint legislative committee on water salinity issues. Water softeners in Scottsdale, through survey data we have estimated that there's 46% of our residential customers in the city have a point of entry devices or water softeners. The regeneration of these

softeners results in a discharge to the sewers of 300 million gallons of water, equivalent to 900-acre feet.

If we could reduce this salinity by even a third, and I will go back a couple of slides, you can see the softening we show is 350 milligrams per liter on the bottom left of the slide. If we could reduce that by 150 milligrams or half, we could reduce our operating cost at the advanced water treatment facility by about \$200,000 per year.

In addition to that, TDS reductions would extend the life of our current membrane system, which is a multimillion dollars system in itself, and then one of the unknowns I put at the bottom bullet, SROG where we send some of our wastewater, it's also where we send our brine from the advanced wastewater treatment facility. We send very high saltwater, TDS water to the 91st Avenue wastewater treatment facility. There's no TDS standards for the 91st Avenue treatment facility. If the salinity levels continue to increase, the cost potential for the city is extensive, and I will get to on the following slide. What are the options to reduce salinity? Currently, there are two approaches. The first approach is at the treatment facility to treat salinity at the treatment plants and our advanced wastewater treatment plant increased salinity results in higher operating costs and membrane replacement costs. We did a pilot study to determine what it would cost us if our SROG partnership imposed salinity, or TDS standards. The pilot study showed a cost of \$87 million in additional capital to construct a brine management system and \$3 million in operating costs if we were not allowed to send our brine from our advanced water treatment facility to 91st Avenue treatment facility.

[Time: 00:32:52]

Mayor Lane: Brian, if I might just to, what is, where is that heading? What's the likelihood that SROG would be faced with that?

Brian Biesemeyer: I don't think it's an immediate issue, but it is an issue such that APS, who runs the Palo Verde nuclear generating station who receives a large portion of that reclaimed water from 91st Avenue has stated that they have issues with the salinity in the water and the rising salinity is a concern to them. I don't think it's an immediate issue but I think as it increases, it's a potential issue. And we did the planning, to just understand and see what the potential costs were.

Mayor Lane: And Palo Verde, as far as costs are concerned, not just ours but Palo Verde actually has to undergo a process of desalinization of the water they receive in order to use it, is that not right?

Brian Biesemeyer: They do a water treatment process with that water, exactly how that works I'm not sure but they are concerned and they do monitor that, as well as the salinity. They have different issues with the chemical elements other than salt but they do have concerns and they do remove some of the constituents.

Mayor Lane: When you say constituents we are talking about a variety of elements.

Brian Biesemeyer: Some of the constituents that come up in TDS, total dissolved solids.

Mayor Lane: Okay. There was one other thing, with our reclaimed water system for the golf courses we have now for a number of years, under an agreement, a modified agreement where the golf courses pay for this additional cost, but we do two things. We have to treat it further than it was treated before, in order to reduce the salinity, but we also blend potable water into the system. Is that something that is figured into the savings in either water or in costs in what you are talking about here if, in fact, we are able to affect a reduction for that reclaimed water and the processing?

Brian Biesemeyer: Well, just to be clear. We don't put potable water in there. We do sometimes blend, depending on demand, canal water, Central Arizona Project water which we could treat for potable purposes but we don't take our true drinking water and put it there.

Mayor Lane: Okay.

Brian Biesemeyer: Just to be clear.

Mayor Lane: And on the terminology, I suppose what I would think we used to call maybe fresh water but nevertheless we all know that it requires treatment at this point in time. But certainly water that is first time use.

[Time: 00:35:35]

Brian Biesemeyer: Yes, sir. And as you said, yes, we are in partnership with our, what we, the reclaimed water distribution partners, the golf courses, and they do share in the costs of treating the salinity and that's factored in. We factor that in as a daily basis of what our true costs are. We do, however, take some of the other portion of that water, we take and we recharge. The cost for recharge is totally upon the city because we recharge that. We treat that water and recharge it, meaning we put it back in the aquifer and the cost of that is on the city and our customers.

Mayor Lane: And is that part of some of the cost calculation that you are talking about?

Brian Biesemeyer: That \$200,000 is an overall cost. So that would be the cost calculations for that and, like, the capital costs we are talking about here, that would have to be shared in a participation with others to reduce that, but, I mean, yes. So it's a shared cost.

Mayor Lane: Okay. Thank you.

Brian Biesemeyer: The second way to reduce salinity would be through source reduction. And that would be eliminating, reducing salinity as it enters the wastewater system. There are communities across the country that have approached this, several in California have approached this by actually mandating the elimination of water softeners. This is not what we are proposing but it has been done in some areas with varying success. Actually when you mandate it, some of those have been very successful, but not a lot have tried rebate, a rebate program, particularly as we have proposed it. The rebate program would be a two-year, we propose a two-year pilot program.

We try for three tiers of rebates. The first one is to replace softeners with high efficiency softeners and we would use some standards that I will talk about later. Another one would be to do portable exchange services and, again, I will talk about all three of those on the next slide. The third component is a customer survey where we collect data from our customers, mostly to understand the customer satisfaction with the process and the technology, and how well they view the technology that's working for them and then we would report back to Council after two years to quantify our results.

[Time: 00:38:17]

The pilot numbers by the programs again, we would have three levels. The first is to replace an existing softener with a high efficiency softener. We would do it in a report that's attached to the Council report for the standards initially. By going to a higher efficiency water softener, there's a water efficiency, as well as salt savings. This is using the same technology as a water softener, instead of recharging itself and discharging to the sewer, the vendor comes to the house every three or four weeks and then exchanges a device or the cylinder that has the resin in it and take that to a facility where they can regenerate the units there with very minimal or zero discharge at that facility, thereby avoiding the discharge at the customer of the salts and the water loss associated with that.

And the third would be to remove water softeners completely. And in this one, we would give \$125 up front pending verification and after a year just to ensure that it's really been permanently we moved, we would have another inspection and then offer another \$125 to those customers. And the pilot program costs are \$82 million per year, and you can see the different variations of the rebates and then there's a cost to administer and do the customer surveys. It's the request of a code change before you tonight. We have within the water resources budget which will be presented before you by the City Manager as part of the entire city's budget in April and then pending approval on those basis, we would roll out our rebates in July. And then pending your questions, that's my presentation.

Mayor Lane: We have a couple of requests to speak on this subject, so if you stand by, that we undoubtedly have some questions as well. I will go to these requests to speak first.

Brian Biesemeyer: Thank you, Mayor.

Mayor Lane: I start with Andy Jacobs.

[Time: 00:41:27]

Andy Jacobs: Andy Jacobs, 3502 North 85th Street. I want to thank you, Mr. Mayor and Council for the opportunity to comment on this important issue of excessive salinity in water caused by self-regenerating water softeners. I represent the Rain Water Corporation, which sells water softeners and offers portable exchange water softening service. We believe the status quo in the Valley is unsustainable. Rain is also a member of the Water Quality Association and worked

alongside Brian and the city on the technical advisory committee assembled by Representative Fann that started this issue. We support this ordinance, it is an important first step and sends the message that Scottsdale is serious about long-term water quality. It makes Scottsdale the first municipality in Arizona to directly address salinity from water softeners. As Brian mentioned in his speech, over 600 million pounds of salt are discharged from water softeners in the metro area every year according to the study.

Estimates are as high as Brian mentioned as 50% in Scottsdale, of people who own water softeners and water softeners dump 63 million pounds of salt. Scottsdale water reclamation system every year according to our systems and we think those might be even low. Water softener brine is 60%, according to Marshall Brown and all the salt that stays in the valley, it stays here in the valley, either on the ground in golf courses in groundwater recharge or discharged into the Salt River after going through the 91st Avenue treatment plant. At Rain, we believe source control is the long-term answer. We are actively developing sustainable water softener technology that will eliminate salt discharge completely. We believe public policy about water softener, brine discharge must shift in this direction to protect Arizona's long-term water quality. We were impressed by this pilot program and Mayor Lane, in particular, who has demonstrated that he knows more about this issue than most. Thank you for your leadership and have a good day.

Mayor Lane: Thank you, Mr. Jacobs. Next is Ryan Harper.

[Time: 00:44:09]

Ryan Harper: Mayor Lane and members of City Council, Ryan Harper, 4314 East Montecito. I'm representing the Water Quality Association. We represent the point of use, point of entry water treatment industry in Arizona. We promote the benefits of water quality water to consumers, advanced professionalism of its members and administering a code of ethics and manage and consider issues of interest to the industry. Over the last few years we have developed a member approved mission statement to reduce the water salinity, including a public education campaign that provides basic information on salinity and how salinity affects water resources.

Salinity management and water conservation activity, water softener efficiency campaign that shows industrial users how to use water softeners efficiently to decrease the amount of salinity entering the sewer system. Minimum efficiency standards for self-regenerating water softeners, statewide bans on the sale and the use of softeners regenerated by time clocks, and incentives for homeowners to upgrade installed equipment that has time clock controlled regeneration or does not meet salt efficiency standards. We are committed to participating collaborative stake order processes to develop a reasonable state, regional and municipal regulations of water treatment advices that are best for the consumer and the environment, while preserving the current and future use of industry products and services.

For the past three years, the Arizona Water Quality Association has been an active member of the joint legislative committee and the technical advisory committee and fully support the recommendations in your packet. Scottsdale's proposed water softener rebate program is a natural extension of the joint

committee's recommendation and we support the goals of the pilot program. When approving, we do have two, we do have a concern that we want to raise with the City Council. When approving high efficiency water softener alternatives we urge the Scottsdale City Council and the Water Resources Department to consider alternative technologies that are able to be independently lab tested and certified. We believe consumers and property owners need to be fully protected from unknowingly choosing technologies that make unsupportable promotional claims. Also, we have clarified with staff the intent of the portable exchange language and now support the language, but think it's worthwhile stating that it's agnostic in types of technology and does not want to pick winners and losers within the pilot program. We clarified this with Water Resources staff and no longer have an issue. We would like to thank Brian Biesemeyer and the Water Resources staff for seeking a collaborative relationship with our industry. We continue to look forward to a continued relationship with the Scottsdale City Council and the Water Resources Department. Thank you.

Mayor Lane: Thank you, Mr. Harper. That concludes the requests to speak on this subject. And so we'll go to questions here from the Council or comments. Starting with Councilman Phillips.

[Time: 00:47:30]

Councilmember Phillips: Thank you, Mayor. Brian, can you go back to the three rebate items? I have a couple of questions. Does Scottsdale charge or have any permit fees for soft water businesses or customers?

Brian Biesemeyer: There's a licensing fee for all businesses but we don't have a specific fee for water softeners, for, yes.

Councilmember Phillips: And we don't charge any customers for putting salt into the system?

Brian Biesemeyer: Mayor, Councilman Phillips, no, we don't.

Councilmember Phillips: I have a soft water system but I have a septic tank. So I'm just destroying my own yard.

Brian Biesemeyer: And the aquifer.

Councilmember Phillips: Yeah, as soon as it overflows. But it stopped working. I never appreciated it anyway. The first one, replace existing softener with a high efficiency softener, the \$50.00 one-time rebate. The reason I got the cheap salt one is the high efficiency ones, although that's the way to go, are too expensive. So even the \$50 rebate, that's just a drop in the bucket. I don't think that's really enough to help anything. I understand that you figured out some kind of a budget for this rebate program. So what I was thinking considering, maybe the Council may want to consider, before you remove the water softeners and get the \$125 up front and use the \$125 after one year as part of the rebate for the first one. So they get a little bit more of a rebate to make it more worthwhile. So that's just a thought on my part. And the portable exchange, I think that's a great idea. I didn't even realize you had that. That's, I think that needs to be advertised more. I think if

more people knew about that, they would do it also. This is a great thing that the city is doing. It's very important and I appreciate we are taking a proactive approach on it. Thank you.

Brian Biesemeyer: Thank you.

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

[Time: 00:49:37]

Vice Mayor Korte: Thank you, Mayor. Thank you, Brian. Have we calculated the cost to the city per resident to treat a household with a water softener?

Brian Biesemeyer: I don't have that information. And it's variable too. It depends, again on how much water.....

Vice Mayor Korte: How much water they use.

Brian Biesemeyer: But it's extensive. We calculated per year, it's 600 to 1,000 pounds of salt is what they add, a water softener would add to our system. That's a substantial amount of salt.

Vice Mayor Korte: And so when you say 46% of our residents have water softeners, what's that number?

Brian Biesemeyer: We based that on a survey that was done several years ago. It was a water conservation survey that the water resources division did and as part of that survey, we asked about water softeners and based on Chris, Chris, I think that was 1,000?

[Time: 00:50:38]

Planning and Engineering Director Christopher Hassert: Vice Mayor, Mayor, Council, what I think you are getting at, how many customers that would equate to?

Vice Mayor Korte: Thank you.

Christopher Hassert: We have about 87,000 customers. So a little less than half of that.

Vice Mayor Korte: Thank you. So 87,000 customers and we're looking at a rebate program that really only would impact 600. I'm not sure if we are really accomplishing what we are, we would like to accomplish and maybe this is the first step to an educational awareness program, but I'm kind of taking off of what Councilmember Phillips suggested, that, you know, maybe there's some type of surcharge if we, if one household is generating 600 pounds of salt a year, maybe there's some type of surcharge on, you know, on that household for the water softener. I kind of use the same analogy as solid waste. If a household produces a lot of solid waste, they have two bins they put out per week and it costs them extra to process that. My second question is, what other technologies, you know, I

read a little bit. There are some other technologies out there to accomplish similar result for a household, but without salt.

Brian Biesemeyer: Mayor, Vice Mayor Korte, we have looked at those, and we did not find any that were, I guess, sufficiently developed in the market to have a true market presence. Some of those, like the whole house conditioning systems are just activated carbon, which make your water taste better, perhaps or different but they don't reduce the salt level. There are others, but we were trying to stay with the traditional methods, and the ones that the industry has validated as was mentioned by one of the speakers, that has really been validated by the industry. If I may, going back to your first question about a surcharge, the difficulty there is that then we end up being the water police and we end up trying to find who actually has a softener and would doesn't. The data that we've gotten has been through surveys and we would really not like to be intrusive into people's homes. That's why we are trying to come up with a rebate program to stir on folks to do the right thing. Recognizing the fact that this is a small amount when we first started out, but we would like to gather the data and get the facts and then come forward with a more robust program when we have more information on what our customers desire and what is effective for Scottsdale residents but not residents anywhere in the country.

Vice Mayor Korte: Thank you, Brian.

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

[Time: 00:53:45]

Councilwoman Milhaven: I want to think around that order of magnitude and impact. On slide five and some of the tradeoffs as well. On slide five, you make a point to say, if we would reduce the solids in the water by half, it would save us \$200,000. So am I reading that right? So if we have 40,000 households with water softeners, we need to get 20,000 of them to switch to save \$200,000 a year.

Brian Biesemeyer: It would be extensive. I don't have the math, but I haven't done the math exactly in my head. It's an extensive number. It's a much larger number than this rebate program. We wanted to start out and validate what is effective and not just jump in and say this is what's effective. We would rather study it, come up with a recommendation that could be effective and thus this much smaller number than what you see.

Councilwoman Milhaven: I guess what I'm challenged with is spending over \$80,000 to one day save \$200,000. We would be spending \$80,000 for a long time before we save \$200,000. I want to make sure I'm reading this correctly.

Brian Biesemeyer: I understand the concern with cost and the actual cost rebate for this. Again, this is designed to be a pilot and give us more information to design a more efficient system. You could do it at the source rather than at the treatment system.

Councilwoman Milhaven: And I guess that's what I would need to see is what's the true savings? Does the savings offset the cost of the rebate? And listening here, you know, I know most of our citizens are pretty conscientious. I think if we let them know as the water softeners need to be replaced, this is better for all of us, we may get there and have an impact. Thank you.

[Time: 00:55:47]

Mayor Lane: Thank you, Councilwoman. You know, I guess one thing I would want to say on top of everything else, obviously, we've got the concern with SROG and the fact that there may be, and I know it's on an allocated or pro-rated portion of \$87 million if that would come down to the pike and then \$3 million in the cost of desalinating the water we send to them. I think the major component that's not quantifiable in dollars and cents and I think Councilwoman Milhaven alluded to this, we have a general population that shares a lot of the concerns of what we are doing in polluting our water.

When you think of most of the west side Valley wells that are in the Salt River plain, are undrinkable because of salinity, and they have to be treated from moment one and they can't be used in their present form. There's a pollution process in our aquifer that has been devastating and this has been seen in other communities, as Brian mentioned in California, and the San Clarita valley and their study of a voluntary system as well as a mandatory system and there were varying levels of costs associated with a mandatory system and frankly the complexities of trying to find out who was in compliance and what their contribution rate was to the solution.

But we are literally burying ourselves in salt. And if everybody remembers the history of the valley, of the Hohokams, there's a theory that the Hohokams left the valley, they were using background salt, they didn't have water softeners. It was poisoning their land and they had to move on. That's one of the theories. And I think as you look around, you can see how that might have happened for sure years and years of evaporation of the salt on to the soil.

So I think one of the things that we've got to bear in mind this is a pilot and I, and frankly, I know there's been a good bit of work done to try to determine what kind of pilot we could put together that could awaken some of the environmental sense but also give some motivation in exchange for what we would perceive to be the kinds of savings we would see just within our own system. So I think it's an important one for us, as the City of Scottsdale, I believe, that being a leader in this and I thank you very much, Brian for what you have done here in presenting it. I think you need to start somewhere. And even to gather the data as you are talking about, because we don't have metering on our sewage coming out of it. We use an estimate to the extent of water used and we don't have an inventory or any requirement to register your water softener.

So it would create quite a system to try to, I guess, take that inventory and then, frankly, either regulate it or otherwise by getting that inventory together. I think that's, those are important concerns as far as I'm concerned, and I'm also very concerned about the idea if we can design any kind of system that has a voluntary compliance and draws upon, through an education process, I think that we'll probably be easier to determine compliance or frankly have compliance, and I think we will serve all of our purposes. So I would have to say, I applaud the efforts to put something together here as

the starting moments. I think the rest of the cities in the Valley certainly are looking to us to see what kinds of steps can we take and how can we gather information on this. And there have been a number of studies done but not so much here in the state of Arizona, even though this is a water conservation issue. There is a water pollution issue and it's electrical power issue as we move these things around. It's membrane issues. It can not only cost us money but poison our environment but what steps we can take to get something put in place I think is an excellent one. Councilman Littlefield.

[Time: 01:00:06]

Councilman Littlefield: Now, the money for this program is not going to come out the General Fund. Going to come out of your enterprise fund, correct?

Brian Biesemeyer: Mayor, Councilman Littlefield, that's correct.

Councilman Littlefield: Okay. One question I do have, if you, if we have 87,000 customers and you estimate that 46% of them have water softeners, that's about 40,000. And if I look at this the maximum number of customers who could take advantage of any one of these programs is 600, so that's about 1.5%. So I guess the question I would have is, even if all 600 take advantage of this, that being such a tiny fraction of the total amount of people who are tossing salt into the system, how are you going to measure the success of the program? I mean, clearly you can't expect with 1.5% that it's going to produce any measurable impact on the amount of salt in the system. Or can you?

Brian Biesemeyer: Mayor, Councilman Littlefield, it's difficult to measure that on a systemwide basis, and the two, the second and third ones where we remove them are pretty easy. I mean, we know and we'll take a look at, part of the process of inventorying what is taken out of the system would be to find the technology that's taken out and do some specific analysis on that technology to know how much salt was being introduced through the technology removed and so we'll look at from that basis because it's extremely difficult to measure systemwide and it's also costly if we try to measure each individual homeowner's residents, just the access to that would be very difficult. So what we will try to do is look at the technology removed and do the analysis based on the technology that's been removed from the homeowner's house.

[Time: 01:01:57]

Councilman Littlefield: Because what I'm concerned about here is what is the definition of success? I actually like the idea of encouraging people to not use these. I think that makes sense. It's just that doing this as a study program, I wonder how you decide after a year that it succeeded or failed, because other than the one alternative where people are actually sending their water softeners off to be recharged, I mean, you could then look at those and come up with some, if you knew how many people did that, and what size their water softener is, you could actually come up with an estimate of how much salt was not put into the system. But the others are just too subjective. So I guess I would wonder how you would define success at the end of a year.

Brian Biesemeyer: Well, Mayor, Councilman Littlefield, again, we proposed by the technology taken out. So if you take an older style water softener offline. It's a time clock recharge base. So it recharges and discharges daily to the system. The newer ones don't. They are based on demand based. So they will do it on whatever the demand is, every three or four days. Taking one of those out, we can determine what the salt and the water usage is. And so what we can come up with a measure of that, granted there's some subjectivity to that and we will have apply that.

Councilman Littlefield: Okay. Next year when you are back here, what kind of number would you hope to produce that would say the program worked?

Brian Biesemeyer: Mayor, Councilman Littlefield.....

Councilman Littlefield: I'm trying to figure out where the goal post is, that's all.

[Time: 01:03:42]

Brian Biesemeyer: Understand, sir. Well, first of all, it will be two years because the program would run for two years. It would be two years that we would be back here or we can give you, you know, a report halfway through, but the intent would be two years from now we would come back and tell you, one, I would like to see how fast the rebates go. How quickly they are exhausted and people apply for them. How satisfied they are with that. So I know that folks identify with that technology, and feel like it met their need and then we also apply the salt and the water conservation measures that were applied so we can come up with some dollar amount so we could determine how much we have invested on a rebate for how much salt is removed or how much we invest in a rebate and how much water savings occur.

Councilman Littlefield: So the definition of success is not the amount of salt taken out of the water, it's how quickly people take up on the program?

Brian Biesemeyer: I would say there's two. It's one, how quickly people take up with the program and what the demand is for that, but the other component is, how much salt and water is taken out.

Councilman Littlefield: So if all 600 slots are snapped up by August, you think, wow, people love this and we should do more of it. If a year and a half from now only half are taken up, you would conclude that the public wasn't buying into it?

[Time: 01:05:03]

Brian Biesemeyer: And we would look at surveys to see in the reason for that is because we didn't offer a significant amount of rebate. I mean, think there's several things to be analyzed that I'm not sure I have an exact answer for you here.

Councilman Littlefield: Okay, well, I actually like the idea but I think we ought to have a more concrete definition of what success is as opposed to just, I mean, the money is coming out of the water

fund which is fine, as it should. And I like the general idea, because I would much prefer to incentivize people not to use these things as opposed to punish them or to make a rule that they can't. So I'm all for that. I just wish you had a tighter definition of what your definition of success was.

Mayor Lane: Thank you, Councilman. Councilman Phillips.

[Time: 01:05:59]

Councilmember Phillips: Thank you, Mayor. So going back to the three rebates again, and along with what Councilman Littlefield said and Councilwoman Korte, I think we can be more aggressive with this if we have the one-time removals and the \$125 and the rebate is \$150, we could also have a fee to, not to the customer, well, it would be to the customer but it would be whoever sells it a water softener would have the choice of if they buy the regular cheap, we charge them \$150 and if they buy the higher one, we charge them the \$150. So it would be more of an incentive to buy the better system. I think it would be much better. I realized you brought this up tonight and we didn't talk about it earlier. So I'm hoping you will think about this in the future and maybe, as Councilman Littlefield said, you know, if doesn't seem like it's aggressive enough, maybe we can go a little stronger on it. So I guess with that, I will make a motion to adopt Ordinance 4146 and amending Scottsdale revised code 49 to allow for a salinity reduction rebate program to be effective July 1st, 2014.

Councilwoman Klapp: Second.

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

Councilwoman Klapp: No.

Mayor Lane: Thank you. There are no further comments on this from us here so I think then we are then ready to vote. All those in favor of the adoption of the ordinance as it's been stated by the motion, please indicate by aye and register your vote aye. The motion passes 6-1, with Councilwoman Milhaven opposing. Thank you very much, Mr. Biesemeyer. I very much appreciate that.

ITEM 24 – LEGISLATIVE UPDATE

[Time: 01:08:11]

Mayor Lane: Moving on to our next item is the Legislative Update, Brad Lundahl. Move to the podium, our government Relations Director. Mr. Lundahl.

[Time: 01:08:27]

Government Relations Director Brad Lundahl: Good evening, Mayor and members of Council. I'm here tonight to go over some updates on what's happening down at the state legislature on bills and other matters. I'm just going to move through the bills here fairly quickly. Feel free to stop me

along the way if you have questions. A lot has changed on some of these since I issued this report to you earlier. So I will be providing updates as we go through those.

Mayor Lane: Brad, for the record, we don't have your PowerPoint here with us. Was there an update? Okay. I will watch closely. Luckily, we have some technology here on the board.

Brad Lundahl: So today we hit the 65th day of the session. 1165 bills, or 1186 have been introduced and one bill so far has been vetoed and that was Senate Bill 1062 which I imagine we are all fairly familiar with. Let me start with our two Scottsdale bills, the first one is Senate Bill 1152. This is the bill that we introduced through Senator Chester Crandall to alleviate some of the traffic concerns that we have in our downtown area. Essentially the bill would create a transportation safety zone upon approval by the Council, which would allow the creation of a for-hire vehicle lane with the idea being that taxis, cabs, for-hire vehicles would have a dedicated lane within certain areas of downtown Scottsdale that they could use during the weekend night. They would utilize that lane for picking up and dropping off passengers, and that would free up one lane for through traffic. We did considerable stakeholder outreach with the taxi companies with ADOT, with the Department of Weights and Measures and we put to go a bill that everybody seems pretty content with, and it looks like it will be a pretty successful bill once passed. The bill did come out of the Senate with a vote of 27-0. So no no votes and the bill was heard in the House government Committee today and passed unanimously. So the bill is moving.

The next bill is the street light improvement districts. It would transfer from the county over to the City of Scottsdale and these are districts within our boundary but for one reason or another were not incorporated into the Scottsdale system back when we were annexing the Maricopa County lands. The bill got out of the House, 59-0 and it's moving through the Senate right now and we expect some action on that bill later on this week.

[Time: 01:11:31]

Next is 2220. This would apply to enhanced districts. It would have removed requirements that these districts only be formed in areas that are designated as blum and slight and, slum and blight. I'm creating new terms tonight. It's a Scottsdale thing. I forgot where I was. It's been a long day, Mayor. I apologize. This is the last week to hear bills in the committee. The bills that are not heard in committee are essentially dead and this bill unfortunately is one of them. It looked like was a promising bill for economic development purposes but right now the bill is dead but with still time in the session, you never know. Something could come back and if it does, I will alert the Council to that.

Next bill, House Bill 2288. In looking at our state legislative agenda, we had a provision that said support policies that reduce costly administrative burden, small and medium sized businesses and when I saw this bill, it jumped right up at me in that this bill would allow taxpayers who pay small percentages of P.P.T. each year, space out those payments. That way they are not paying every month and they can reduce the amount of payments to V.O.R. and in some cases annually instead of quarterly or, it just seemed like it fit with our legislative agenda pretty well and I would like to support

this bill.

[Time: 01:13:45]

Mayor Lane: Are you looking for an acceptance of that from this Council, or does it fall under our guidance, our guidance as far as you are concerned?

Brad Lundahl: Mayor, in my opinion, it falls under the guidelines of our legislative agenda, but I was hoping to get assurance that I was not straying too far away from this.

Mayor Lane: I guess what I would say, certainly it doesn't change the amount they pay but the number of times they might pay and that's a reduction in some of the regulatory process that I would subscribe to. Councilwoman Milhaven.

Councilwoman Milhaven: Maybe we need more information and ask the Treasurer the time cost of money. I think when we collect the taxes and the costs offset by the cost of, do you have a sense, Mr. Nichols of what the impact would be on the city?

City Treasurer Jeff Nichols: This impact would be very little because a small portion of our taxpayers pay the majority of the sales taxes to the city. So these people don't produce a whole lot of income for us.

Councilwoman Milhaven: Thank you.

Jeff Nichols: You're welcome.

Mayor Lane: Thank you, Councilwoman. There doesn't seem to be any other thought on it. So....

[Time: 01:15:01]

Brad Lundahl: I will just keep moving, Mayor. Next bill, I wanted to bring to you for information since there has been quite a bit of discussion about this bill at the legislature and the newspaper. It's House Bill 2547, the major event public safety reimbursement bill. Some people are saying this is the Super Bowl bill. What this does is it would allow partial reimbursement to a host city that hosts a major event and there's a specific definition of the bill of what a major event is, and would allow that city to recoup some of their public safety costs that go above and beyond what a normal event would be. So something like a Super Bowl where you have mega safety issues. It would allow that host city to recoup some of their costs. The bill did establish a fund of up to \$2 million, I believe, and it establishes an oversight committee and there's a process where the host city has to apply for reimbursement and show what they spent the money on. It's very detailed what the host city would have to do to get this reimbursement, but I thought it was important to bring this forward since, like I said, there has been quite a bit of discussion about the bill.

[Time: 01:16:21]

Mayor Lane: Well, Brad, this is, of course, the bill that the City of Glendale brought forward at \$3.5 or \$4 million. My question would be on the definition because certainly, we are a center of a lot of large events, and they may become security issues on the same level as, they may or may not. They are to some degree match up with what transpires at the Super Bowl. I'm presuming this fund is somewhat of a first come first serve, but given who put this together and for the reasons, I know it wasn't only for them, but what's what the origins of it are. Is there an opportunity if, in fact, we felt we were eligible to define a large event as one that could qualify or do we have any idea?

Brad Lundahl: Mayor, under my reading of the bill, and the specific language of what qualifies as a major event in looking at some of our major events, I didn't see anything that would match up to that at least, you know what I know is on our future agenda.

Mayor Lane: Is there anything else that occurred in the Valley or state that would qualify?

Brad Lundahl: Mayor, to my knowledge, no, but I didn't take every event into account but to my knowledge, there is not.

Mayor Lane: It depends how it's defined. Vice Mayor Korte.

[Time: 01:17:52]

Vice Mayor Korte: Thank you, Brad, in your notes you said it has a one-year sunset?

Brad Lundahl: Mayor, Vice Mayor Korte, I have been at the legislature all day. So, yes, there is a one-year sunset. This is essentially a pilot project. They want to look at it and see if it's successful and if so, maybe they will extend it, otherwise it will go away in a year after the Super Bowl.

Vice Mayor Korte: So clearly it's a Super Bowl bill. And major event, the event must exceed 14,000 attendees but there must be more strict criteria because 14,000 attendees that could be a D-backs game.

Brad Lundahl: Vice Mayor, you are correct and let me see if I can read the actual definition of a major event, it is a nationally or internationally recognized event in which the attendance exceeds 14,000 persons like you said and has live television coverage that's not exclusive to public television, the hosting of which is awarded through a formalized competitive process by site selection organization acting on behalf of the event.

Vice Mayor Korte: Thank you.

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

[Time: 01:19:14]

Councilman Littlefield: So a city, if this passed could get up to \$2 million for reimbursement for an event, right?

Brad Lundahl: You are correct.

Councilman Littlefield: Is there some, do they have some upper limit on how much they are going to allocate for this? Because, I mean, we could put in, we could put \$2 million request for the Super Bowl, and Barrett Jackson plus all the other cities that are going to be doing this.

Brad Lundahl: Mayor and Councilman Littlefield, I believe the way the bill is structured, it's a one-time insertion of money of \$2 million to the state treasurer, and that's it, after the \$2 million, there's nothing else.

Councilman Littlefield: So there's a \$2 million cap on all the requests then?

Brad Lundahl: That's correct.

Mayor Lane: Thank you, Councilman. Brad, if you want to continue.

[Time: 01:20:17]

Brad Lundahl: The next bill I wanted to bring was 1174, it was a strike everything amendment. It has to do with aviation registration and taxation. The bill was introduced to enhance or expand aviation fixed base operations around the state and, of course, Scottsdale has such operations. So that's why I was keying into this bill. The bill would have provided several different mechanisms to enhance these operations, such as incentives to, for people to base their aircraft here in Arizona. There were some modifications done to the licensing tax for aircraft and modifications to taxes on repairs of aircraft.

One of the big problems that the bill ran into was trying to find offsetting revenue to make the bill revenue neutral. There were several different proposals out there. Many iterations of the bill but it still came down to somebody has to pay for all of this, and they couldn't quite figure out how to make that work. The bill is still essentially a work in progress, however, if it were a cat, it would be on its ninth life. We expect there will be a stakeholder process over the interim where we can talk about this some more and I would like to be part of that, since I think something like this could ultimately benefit Scottsdale, but I would at least like to be part of that group. And, again, I will let Council know if this bill moves forward and what forms it takes in terms of providing funding for these incentives.

Next one, this is Senate Bill 1413. This was actually part of Governor Brewer's State of the State address back in January. The bill originally would have eliminated the TPT on electricity used in manufacturing at both the state and the local level. We met with several legislators, explained to them our concerns about having our municipal TPT eliminated through this process and ultimately the bill was amended to essentially cut the cities out of the bill, but not all the way out. There are

provisions in the bill that allow City Council to opt in to eliminating that TPT tax at the local level. So, for example, if you have a large manufacturer that is looking at coming to your city, this is something you could offer to them saying, hey, we'll eliminate the TPT on electricity from manufacturing but the caveat of the bill, is at that point, the elimination has to apply to all manufacturing not just one. So it becomes very broad at that point. Also, if a city or town decides to eliminate that tax, it is irrevocable. At that point, you are in and the tax is gone.

[Time: 01:23:40]

Mayor Lane: Brad, if I might, originally, we were working with a figure that was estimated to be \$30 million, if I remember, from the Governor's office with regard to the state portion of this and subject to revenue sharing to the cities. But one of the bones of contention, I suppose was the fact that we did not really have an accurate number as to by definition, and frankly, as they were defining it then, very vaguely. We certainly understand that there was a redefinition of those large manufacturing firms and what was included in it, but it was a broader category by dollar amount or by usage or something, along that line, if I'm not mistaken, which reduced that number down from \$30 million.

I guess maybe, what I would ask you to do is share that number, and then if the Treasurer could weigh in, in fact, if you need to, as to what the impact is on a shared revenue basis, not just our portion of the city sales tax on utility but what our impact will be to us now in view of the fact that we have the \$2.5 million loss on the TPT adjustment from last year which will be in 2015. But what this might be, you know and how this will be impacting us as well. So if we have those numbers or if we have looked at them, I would like, I think it's would be important for us to know that.

Brad Lundahl: Yes, Mayor and those are great questions. We are seeking the latest numbers on what we think the impact of this bill may be. There's been several different estimates and I believe one was a \$1 million loss in shared revenue statewide. What that boils down to Scottsdale, maybe the Treasurer would be able to extrapolate that. They did change the definition of manufacturing and so that brought the scope of the bill down and did remove some of the other impacts to the bill as well. So it did come down quite a bit.

[Time: 01:25:43]

Mayor Lane: But it was still based on the highest users. There may be fewer of them, but the highest users were the ones that were exempted from it, is that correct?

Brad Lundahl: All manufacturers regardless of their size if they fit into a definition of what a manufacturer is would be in the bill.

Mayor Lane: Oh, I see. So if I'm manufacturing on a very.....

Brad Lundahl: Yeah, I think when the bill was first being discussed, it was only going to apply to a very select few of large manufacturers. Then when the bill was introduced, it applied to every sort of

manufacturer.

Mayor Lane: I remember that. But when we had the \$30 million number, they were talking about a definition that was fairly widely inclusive. And what I'm hearing from you know, it's still widely inclusive, but the number has dropped down from \$30 million of total shared tax revenue to \$1 million. Something had to have been redefined in there, unless I have this read wrong.

Brad Lundahl: Yeah, Mayor, I'm probably being the one that's confusing everything. The 30, and it was, I think, \$20 to \$30 million number that was being discussed was the loss of TPT total statewide. The million dollars number now is the loss of shared revenue statewide because of the bill.

Mayor Lane: Okay so the.....

Brad Lundahl: So it's a subset of the set.

[Time: 01:27:17]

Mayor Lane: So the 20 to \$30 million that was referred to before was the total amount of lost TPT in this category of manufacturing?

Brad Lundahl: Correct.

Mayor Lane: Gotcha. I know at the state League, that's the number we were working with and frankly, they were considering a much heavier impact but I think we probably misinterpreted the number then if it's only \$1 million, that's far different. I don't know, Jeff, if you have got a, you know, a breakout on that. I mean, that might be tough but nonetheless.

Jeff Nichols: At this point in time, no, I don't know. I don't know our percentage in relation to this tax, our share of the state shared revenues, however, if it's only \$1 million, it just, Phoenix is going to take the biggest hit and then Tucson and Mesa. We would lose a significant portion of revenue but it would probably be in the tens of thousands of dollars at most.

Mayor Lane: Well, in this particular case, it's based upon population, as it is on the allocation back against. But in this particular case, we probably are not a donor city, because we probably have less of this that's going on here. We probably have a net receiver of energy, if you will, of electrical power or sales tax that's been collected by others in other jurisdictions. So we probably fare better in this as far as an exchange in what we contribute, versus what we will be hit with now. That is just an observation. It's based upon retail and we have a reverse situation. In any case, \$1 million when you divide it up, all the jurisdictions of 6 million, it's less than a quarter of a million people. I can't imagine it's significant. And I have got one further question, I'm sorry, Brad and that was the opting in or the opting out. When does that decision have to be made?

Brad Lundahl: Mayor, that decision can be made any time after the effective date of this bill till anywhere in the future. There's no date certain.

Mayor Lane: So there's no assumption you are opting in. You have to either opt in....

Brad Lundahl: Yes, you are out until you are in.

Mayor Lane: Okay. Understand.

[Time: 01:29:45]

Brad Lundahl: Next bill, Senate Bill 1227, this bill would have prevented municipalities from adopting new energy efficiency building codes. The bill, Senate Bill 1227 did not get the votes it needed to get out of the Senate and essentially died there. The sponsors did try to do a strike everything amendment and bring it back to life today, however, that effort failed as well. So it's essentially dead at this point. I will let you know if this bill comes back. Right now it's died in both the House and the Senate, and, again, maybe a cat on its eighth life on this one.

Next bill is House Bill 2528. This is the sign walker bill and it would prohibit a municipality from adopting any regulations that would restrict a sign walker from using public sidewalks, walkways or pedestrian thoroughfares. It also provides enforcement by private civil action against municipality for violation of the bill. The bill was introduced by Representative Warren Peterson from Gilbert and the bill is moving. It has passed out of the House and will be heard in the Senate government committee this Thursday. I have not taken a position on the bill, because I know Council is going to be discussing the matter more tonight. So perhaps I will just move forward and we can come back to this later or I don't know how you would like to proceed on this, Mayor.

[Time: 01:31:26]

Mayor Lane: This right now has passed the House and is.....

Brad Lundahl: Yes, it's passed the House, and will be heard in committee this week.

Mayor Lane: Okay. In the Senate committee.

Brad Lundahl: Senate. Again, I have not taken a position on this bill.

Mayor Lane: Well, I have to say that I'm not sure exactly what impact this is going to have on the position that we already have. Do you see this having any significant change in the position as far as, that we have made as far as constitutionality, and application of the law for our right-of-ways?

City Attorney Bruce Washburn: Mayor and members of the Council, yes, if this bill is adopted, it would impact the way in which we would be able to enforce our existing ordinance unless the city took the position that because it's a charter city, the legislation does not control what we can do with our own right-of-way. And that's a position that, I was going to discuss this when we had the discussion later. That's a position for which there was a substantial support but you never know until the Court

of Appeals tells you, whether or not that it's a matter of strictly local concern and therefore as a charter city, we are not affected by the law.

[Time: 01:32:59]

Mayor Lane: If I might just further in inquiry on that, Mr. Washburn, it seems that we have had a situation where we received a court judgment that our positioning from the stand point of our control of right of way has been an established one, as a matter of course. Are we saying this would add more fuel to the other side then that, that position even from the standpoint of that ruling within the court, as far as our right of way and the use of our right of way would be superseded with this?

Bruce Washburn: Yes, again, leaving aside the issue of whether, because we are a charter city, we would not be controlled by this bill. If we were controlled by this bill, then the prior court ruling would not, basically this bill is designed to overcome that ruling, the prior court ruling was that our ordinance was a reasonable time, place and manner restriction and so this bill says you are not even able to have time, place and manner restrictions.

Mayor Lane: Fair enough then. I would think truly from the standpoint of control of our right-of-way and what we have had up until this point in time, we would be opposed to that. I don't know if the rest of Council has anything to say on this. Certainly whatever effort we can have. Now I will add one other caveat to that question and that is whether or not this is, well, let me leave it at that right now. Councilman Littlefield.

Councilman Littlefield: Well, I think actually this is going to be part of the discussion that we are going to have on the next item, as to what our position is going to be? So I guess that means that you have to stick around to listen to the next item.

Brad Lundahl: I would be happy to. Yes, that may be the best, that may give me what I need to know here in the next discussion.

Mayor Lane: Okay. Let's do that.

[Time: 01:35:01]

Brad Lundahl: So we will just move forward then. Next bill, it's kind of a fancy title but it means we might get some HURF money back, it's House Bill 2692. If you remember over the past several years there's been a shift of HURF money where it's been diverted away from cities, towns and counties and used to fund the department of public safety. This bill would shift it back the other way and allow the return of approximately \$119 million of HURF revenues back into the system of which cities would get \$36.4 million of that. The Senate, just to let you know, introduced their budget this morning. What I have heard, I haven't seen the provisions yet. What I heard, there's a \$30 million statewide of HURF reimbursement, instead of the \$119 million in this House version. So eventually the HURF battle will get decided in the budget but this bill does signify if we support this that we do like the idea of getting the full amount back and getting our HURF monies restored. This is Speaker Tobin's bill

and he was asking for support from this bill.

Next bill is another one that caught my eye, it's House Bill 2152. It would have essentially prohibited fire districts from annexing any city property unless there was approval by the city or the town Council. There had been examples when fire districts had annexed into parts of cities and started charging the city residents for fire service that they weren't receiving. This bill was an attempt to put an end to that, however, this bill died as well this week. So if it comes back to life, I will let you know, but right now this bill is dead.

1158, fireworks just keep coming back. This bill would, you go back in time, if you remember, cities and towns are allowed, are required to sell fireworks but we have the ability to ban the use of it. This bill would mandate that cities and towns in Maricopa County and Pima County have to allow the sale and use during New Year's and during 4th of July. In return, the 13 other counties get to ban fireworks all together, and ban the sale all together. So it's kind of a switcharoo of sorts and it is moving. The bill will be heard tomorrow in the Senate Military and Public Affairs Committee and I would ask that we oppose this bill.

The next bill was a water softener bill. It would have required new performance standards on residential water softeners beginning in 2017. Again, it looks like this bill is not going to make it either. It has received some lobbying efforts against it, and from what I'm hearing, the bill is not going to make it through the session.

Mayor Lane: Excuse me one second, Brad, Vice Mayor Korte.

[Time: 01:38:44]

Vice Mayor Korte: Thank you, Mayor. Given our recent support of our rebate program for this why would we be neutral on this, regardless if the bill is dead. We have a neutral position on here?

Brad Lundahl: Mayor, Vice Mayor, when I looked at the bill, it had several mandates in the bill, whereas our ordinance would be more of the incentive based and I wasn't quite sure if it rose to the level of provides enough comfort to the Council where we would want to support it. So at the time I listed it as neutral.

Vice Mayor Korte: Thank you.

Mayor Lane: Thank you, Vice Mayor. Please proceed Brad.

Brad Lundahl: One more bill, I promise. Last bill is 2343 this was a forest health management bill. Again this was part of our state legislative agenda. It would require the land commissioner and the state forester to essentially develop a plan to manage, better manage forests on our state trust lands. It would provide up to \$1.8 billion from the state general fund for forest management practices such as timber removal, treatments and other things in forest. The bill is still moving. It's sponsored by Representative Kavanaugh, and like I said, it fits pretty nicely into our state legislative agenda. I

would seek approval of that. With that Mayor and members of the Council, I would be happy to answer any questions and I promise not to use blum or slight again today.

Mayor Lane: Thank you very much, Brad, in spite of the changes. Vice Mayor Korte.

Vice Mayor Korte: I'm surprised you could repeat that, blum and slight. I want to congratulate you on SB1152, hopefully that will make its way through on to the Governor's desk. I believe it's, this whole transportation safety zone will have a very positive impact in our downtown entertainment district to create a much safer environment for our patrons. So congratulations on that.

Brad Lundahl: Thank you, Vice Mayor. There have been a lot of people, a lot of stakeholders working on that bill so I can't take too much credit because it's been a very, very much a joint effort. But thank you.

Mayor Lane: Thank you, Vice Mayor. Thank you, Brad. I think we are complete.

Brad Lundahl: Thank you, Mayor.

ITEM 25 – SIGN WALKER ORDINANCE

[Time: 01:41:41]

Mayor Lane: Now the one we have all been waiting for. The next item is item 25, the Sign Walker Ordinance and we have Mr. Washburn. Our City Attorney.

[Time: 01:41:48]

City Attorney Bruce Washburn: Thank you, Mayor. I and Chief Walther will both be presenting on this. I will talk a little bit about the legal parameters and then Chief Walther will talk about the enforcement aspects of it from the police department's point of view. Sorry, thank you. This is the existing state statute regarding sign walkers. As you can see, in Part A, it says municipalities may adopt reasonable, time, place and manner regulations relating to sign walkers. Interesting aspect is in Part B that does design sign walker as a person who wears, holds or balances a sign.

The question, is somebody who flips the sign around in the air a sign walker because it seems to me at the time that it's in the air, they are neither, wearing it, holding it or balancing it, but that's not an issue we had to address. But in any event, state law requires municipalities to allow sign walkers but it also says there can be reasonable time, place and manner restrictions. Scottsdale's ordinance, as it exists, basically says that we're not going to have sign walkers and that's defined term or a described term in the, on the city streets upon any street and the question that arises, well, is this consistent with the state law since the state law says that the cities have to allow sign walkers and my answer to that question is yes as we have just discussed a minute ago. Not only do I believe but the courts have held that banning sign walkers from the city street is a reasonable time, place and manner restriction. And I don't know why I'm having so much trouble getting things to move forward this court ruling

came about because in early 2007, a business owner was cited under the sign walker ordinance and the case was tried in City Court, Judge Blake found in favor of the city.

The case was then taken up on appeal to the Maricopa County Superior Court where Judge Downey ruled on the issue raised by the defendant as to whether the city's ordinance was unconstitutional under the 1st and 14th amendments. Judge Downey, as I said, was the Superior Court Judge and she was on the Superior Court at that time and she is now on the Arizona Court of Appeals. She agreed with Judge Blake, the City Court Judge, that the code provision sufficiently is narrowly drawn and does not ban all commercial speech and it's a time, place and manner restriction that demonstrates fit and the city's objectives to accomplish these goals.

[Time: 01:45:46]

The primary factor in Judge Downey's determination was that the whole idea about the sign walkers, actually, there were two reasons the city doesn't want to have sign walkers and one was the roadside clutter that they gave rise to, but also because there were serious concerns about the safety factor and Judge Downey, in her opinion, basically pointed out that the whole idea of having somebody standing there on the sidewalk right next to the street with the sign is to divert drivers to read the sign and the diversion of drivers is a safety hazard and there's no less restrictive way than banning them from standing right by the street in order to accomplish that purpose.

So using the constitutional standards, she determined that, in fact, it was a reasonable time, place and manner restriction. As a consequence, the city has continued to enforce its sign walker ordinance. As I said, Chief Walther is going to talk a little bit about the manner and the extent to which we enforce that. However, I should point out that when I say it's enforced, the city issues maybe on average three citations a year. It's not a heavy enforcement item, but it is still enforced and basically, the police, when they are looking to enforce the ordinance expect the sign walkers not to be in the city right-of-way or on the city sidewalk. They expect them to be on private property. And they are expect to have permission from the private property owner, otherwise there's a trespass issue. Also, the standard practice is to give warnings on the first offense rather than issue a citation immediately because compliance is, of course, our usual goal. I did want to point out that the sign walker ordinance does say that they are not to be on the street and the street is a designed term. It's not all city right-of-way or not all city property as a practical matter and as you can see from the way in which the ordinance is enforced, it's for all practical purposes they need to be on private property and not city property.

[Time: 01:47:53]

I want to discuss just briefly the matter that was alluded to by Mr. Lundahl, the statute that's going through the state legislature. That statute basically takes back the provision that says there can be a reasonable, time, place and manner restriction and says that municipalities cannot ban sign walkers from being on the sidewalks and the walkways and the traveled areas. That would directly, I believe, contradict the ordinance, our ordinance as it's currently enforced, where we do prohibit them from being on the city sidewalks. The, there is a strong argument as I referenced before, that because the

City of Scottsdale is a charter city, that the state law would not apply to the City of Scottsdale.

As you know, charter cities, the charter is their constitution, and under the Arizona charter, I'm sorry, under the Arizona constitution, the basic idea is with the matters that are strictly, local, municipal concern, the state laws do not affect municipalities. Municipalities have their own right to legislate in any matters that are covered by their charter and our charter specifically allows us to have, I'm sorry, specifically states that the city will have control over the use of its streets and rights of way. Those are the points that I wanted to make regarding the kind of legal parameters for the sign walker ordinance and now Chief Walther can address the manner in which the police department enforces it.

Mayor Lane: Excuse me one moment, Mr. Washburn, I think we have a question of you at this moment. Vice Mayor Korte.

[Time: 01:49:50]

Vice Mayor Korte: Thank you, Mayor. Mr. Washburn, if HB2528 becomes law, what would be our resource? Say tonight we decide to support our own code enforcement and maintain that, would be our resource if that new legislation passed and it was signed in law?

Bruce Washburn: Assuming that it passes in its present form, I think the city needs to give serious consideration between the time it passes and the time it take takes effect, they have 90 days from the close of the legislative session until they become effective. Assuming there's no emergency clause and I don't believe there is in this one, I think that the city should give serious consideration to looking into filing a declaratory judgment action to get a court to tell us, you know, as I said a minute ago, you don't know until the court tells you whether or not it's a matter strictly local concern. You know, I have been reading up on the cases on that and almost every one of them says we can't define it but we will know it when we see it, what is a matter of strictly local concern. So it might be an effective strategy for us to file for a temporary restraining order, try to get in front of a judge fairly quickly and get a preliminary ruling on whether or not our, because we are a charter city, we would be able to maintain control of our own right-of-way and then if we could do that and quickly get a ruling on that, find out one way or the other, at least what that judge thought, we could determine what our strategy would be from there.

Vice Mayor Korte: Thank you. And my next question may be for Brad. Are there other cities and towns that are watching this? Is Arizona League of Cities and Towns watching this? What is the political landscape here?

Brad Lundahl: Vice Mayor Korte, there are other cities and towns looking at this, maybe not with the fervor that we are. The bill is for the most part directed right at Scottsdale and so everybody is kind of watching to see what our reaction is going to be. I think the League of Cities and Towns is waiting for us to decide what we are going to do before they weigh in on it because they are not getting a lot of discussion from the rest of their members.

Vice Mayor Korte: Thank you. Thank you, Mayor.

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

Councilman Littlefield: I think it, there's pretty much no chance that that bill won't pass the legislature?

Brad Lundahl: Mayor, Councilman Littlefield, it appears the bill is on a course for passage.

Councilman Littlefield: Thank you.

Mayor Lane: Thank you, Councilman. Thank you Mr. Washburn. Chief Walther, welcome.

[Time: 01:52:43]

Assistant Police Chief Jeffrey Walther: I appreciate the opportunity to speak with you today on just the enforcement end, Mr. Washburn handled the legalese so to speak of our ordinance and where we go from here. And so I want to talk briefly about how this came to the forefront to us and when it came to the forefront through Councilman Phillips through one of the business owners, there was some discussion about our enforcement of the ordinance over the seven years that it's been enforced and so I wanted to make sure that we had an opportunity to discuss that and where we have been to date.

From 2007 to present, there were 22 cases where sign walkers were cited. The vast majority of time our preference is to give warnings in this, which is why we have such a low number of citations. But in 19 of the 22 cases where the name of the sign walkers business was identified, 14 different businesses were cited. Four of the 14 sign walking businesses were cited more than once. It's of note at the bottom that Jet Media and Sign King of Arizona, they are different businesses but they are the same owner. So that gives you an idea of where we are in terms of enforcement on that angle since 2007.

Here's the summary of the statistics that we put together through our internal affairs division. 74% of the 19 cases involved citing the businesses and then the days related no those five cases 2007, 2008, and 2002 and 2014, which really prompted the discussion on this issue. The additional facts that in two of these five cases, the sign walker was found to be in possession of marijuana and was cited for that. And each of these cases they were warned before. They were enforcing it fairly and equally and there was potentially an issue with the business owner not informing employees that the previous citations had been upheld and that our ordinance this been upheld.

There was then some discussion regarding once we had an opportunity to look at the statistics and show that we were equally enforcing the law on all businesses, that somehow our practices, our enforcement practices were somehow discriminatory. And so we wanted to look at the age, gender, race, equation to those individuals that have been cited and I have those statistics for you here which shows a broad spectrum of the populous that is participating in the violation of the ordinance and the citations for those that we actually, have which is the breakdown is in front of you there.

So from the enforcement standpoint, and I will echo Mr. Washburn's comments earlier, that over seven years, we're averaging about three citations a year for that. And that's largely the result of the fact that we much prefer to give warnings. Now, we don't have number of warnings because we can get a call or an officer can stop by with a particular sign walker and advise them of the current ordinance and either gain willful compliance or they often leave. So we don't have the numbers of actual warnings that we have been giving. We only track the number of citations. So that gives you an idea of just the enforcement standpoint of where we have been over the last seven years. I think that's indicative of where to go. That's all I have.

Mayor Lane: Thank you, Chief. If could you stand by.

Chief Walther: Yes, sir.

Mayor Lane: We do have one request to speak but we will undoubtedly have other questions. The card to speak on this is Jim Torgeson.

[Time: 01:57:01]

Jim Torgeson: Mayor, Council, thanks for taking the time to speak with me. Before I get into the code, I am concerned because the only five people I know of that have been cited that work for me are me in 2007 and four people this year. No one else has brought a ticket to me that has ever worked for me, because my policy is that I would pay for it and our legal defense if they had one. So I'm concerned about that. I would love to know who it was, especially because if somebody is sitting there and getting cited unless it says they had pot on them, they should be fired instantly and I should know who that person is because it doesn't reflect me or the company that's hired me very well at all. But I am unaware of anything between 2007 and 2014 and have never, ever, seen anything of the citations. So if somebody is using my name or has somebody has gotten a ticket and not told me, I have nothing to say about it because I know nothing about that.

In regards to the, your code, what you brought up, there's on interesting way that it's been enforced since 2008. That way has been the back of the sidewalk, is where to enforce, it where everybody has been since that day. Not too many people observe that for the other companies that are working, but it's, if nothing else, it's 20 degrees cooler on the dirt than the concrete, so it was never much of an issue to, my guys would obviously stand back there anyways. In your definition, it calls it the street. And quote/unquote the street means all area dedicated to public use for public street purposes includes roadways, parkways, alleys and sidewalks. The parkway being between the back of the alley and the curb.

The four people cited this year were between 8 and 20 feet back from the end of the improvements. There was nobody on a sidewalk. Somebody standing in the street with me would be fired because I don't need the liability and I don't need to see somebody walking into a car. Quite simply, they weren't even close to where the, your definition, nor the way it's been enforced historically over the last seven years. They were not in either of those places so it does bother me that four people were

cited near, one of them was, I think it was 21.2 feet back from the curb, next to a for sale sign, which actually was probably private property because it's asking for a request for proposal from a private company.

So it's the enforcement and the understanding of what is enforced, is definitely understood completely. I spoke with the assistant police chief on Friday who when we discussed behind the sidewalk had felt what they had been doing for quite some time. That doesn't mean that that's the law because I'm sure he doesn't dictate that. But most certainly, it's never been, as every single ticket, which I just got to see them today, every police report says not in the City of Scottsdale. Illegal in the City of Scottsdale. The officer's voice to my ears first time that I talked him on the phone, not in the City of Scottsdale. Those are far different than anything we have discussed here and it's far different from your definition and your definition of roadway.

Mayor Lane: Mr. Torgeson, please wrap it up. Your time has expired.

Jim Torgeson: I would say that you have some room to discuss the planner in which things are done. I do see things that are out there that are unsafe and I think the average person can figure out what is safe. It would be in direct violation with what you have written, your decisions to fight that as a charter city is yours, but.....

Mayor Lane: Thank you very much, Mr. Torgeson.

Jim Torgeson: Thank you.

Mayor Lane: That's the sum total of the requests to speak on this subject. And we have time if there are questions of either the chief or the city attorney. Councilman Phillips.

[Time: 02:01:42]

Councilmember Phillips: Well, thank you, Mayor. I guess the City Attorney, if you could put our Scottsdale ordinance back up. The revised code. I want the public to understand we got a lot of emails saying don't allow sign walkers in Scottsdale and thanks for standing up for small businesses and that. This really isn't about us allowing sign walkers in Scottsdale. It's about how we go about regulating them. The new House Bill 2528, which passed 57 and nothing in the House is going to go to the Senate and, you know, unless it's a Dewey Truman moment, it's going to pass in the Senate. We will have to allow them on the public right-of-way.

Now, because Scottsdale is a charter city, we say, well, we have the right to say what we want to do in our city. And I think that's our attorney's position and that will be the deciding position for us this evening. But in order for us to do that, we are probably going to end up in litigation and we will just be spending hundreds of thousands of dollars in taxpayer money going through that practice over the next couple of years.

So what I'm thinking and proposing to do is to find a way to go along with what the state says and at

the same time, maintain our quality of life here in Scottsdale. So what I would like to propose to the Council is, I think the sixth line down, where it says exhibition, event or entertainment, after that line, I would like to include the words without first obtaining a special use permit. This permit would include a signed acknowledge of the safety issues such as a sign walker must be working for a legitimate business. It must carry contact info of the advertiser at all times. They must remain off the medians and for staff to set a size and height of the sign and the sign walker must be in control of their sign at all times. Spinning and flipping is not to be considered in control. Violation of these safety requirements may result in forfeiture of the S.U.P. citation or both.

I think this would allow not only to comply with the state once this passes, it will also maintain our quality of life here in Scottsdale and it will also give a better direction to our police officers. I think sometimes they weren't sure of which direction to go when they approached a sign walker. This will give them exactly, they know exactly what to do when they see one. So I would like to hear some feedback from the Council on that.

Mayor Lane: Thank you, Councilman. Councilman Robbins.

[Time: 02:04:46]

Councilman Robbins: Thank you, Mayor. So I too got a lot of emails from citizens as well and I didn't get any that said they wanted to relax this ordinance. Every single one said they wanted to keep it as it was or, actually restrict the activity further. And so it got me thinking about, you know where this came from and why we have this as a city and because a lot of people raise the issue of, you know, the aesthetics of city, and how nice it is to live in Scottsdale and one of those things is because of our sign ordinance.

I look back at what our, the original purpose of our sign ordinance was back when we originally passed it in the '70s and it's very similar to the way it is now, but it's very much more succinct, and the purpose of this sign ordinance is to protect the private property values in the City of Scottsdale preserve the beauty and the unique character of the community. To protect the general public, to protect pedestrians and motorists and to promote public safety, welfare, convenience and enjoyment of travel and free flow of traffic. So if you look at the court case that we had in the Court of Appeals when this came up in '07 and '08, the court focused on the safety aspect of this and those of White House have run for City Council know that there's the safety triangle at every intersection where even we are not allowed to place political signs as well because it gets in the way of traffic.

And that's what the court focused on primarily about the fact that the whole purpose of the sign is to distract the driver and to have them look over at those signs. And that's its essence in that the court said that banning this type of activity was completely within the right of the city. And so that's why it upheld the city writing that citation. And we also said that the state carried its burden of proving that the city code directly advanced the city's interest in promoting safety and reducing visual blight.

It's the visual blight of the sign walkers and also the safety that goes with it. And I find it funny, hypocritical that the state legislature that complains about the federal government not enforcing its

border, the federal government getting into the healthcare business, the federal government getting into education and the state saying to stay out of the state's business and yet it turns around and wants to regulate our right of way in the City of Scottsdale. So I think that it's good that we are a charter city and that we should be able to regulate our own right of way. So I think the fact that Scottsdale passed one of the most restrictive sign ordinances in the country at the time and that we are still trying to uphold those values, we should not make any changes other than those that would further restrict the sign walkers and it's my view and I know we will have to counsel legal Council on this but if this passes in the state legislature, we should be able to enforce our public right of way. Thank you.

Mayor Lane: Thank you, Councilman. Councilman Littlefield.

[Time: 02:08:09]

Councilman Littlefield: Yeah, I really don't see how issuing these guys a permit would improve the situation. I like our ordinance just as it is and frankly, Councilman Robbins is right, the guys down at the legislature are constantly mucking in our business, which they shouldn't do and I think this would be a good time to, since they are probably going to pass this thing, is to stand up to that and so, in fact, my preference would be not to change our ordinance, but to leave as it is, and if they do pass this law, as it appears they will, let's challenge them on it. That would be, in fact, I would even go so far as to make that as a motion.

Councilwoman Klapp: I second.

Mayor Lane: The motion has been made to keep the ordinance as is, and enforce it as we have been, and.....

Councilman Littlefield: Direct the City Attorney to defend it if the state passes that law.

Mayor Lane: Okay. Okay. Understood. And, of course, in the meantime, although futile, it may be opposing the law. The second, Councilwoman, Klapp, you would like to speak towards it?

[Time: 02:09:30]

Councilwoman Klapp: Yeah, I agree with what Councilman Robbins says of all the issues that the legislature is dealing with at this moment, they have to take time to write this ordinance, to write this law, that would be directed right at Scottsdale for a few instances that have occurred in Scottsdale. And I see this as just an attempt, an end run around our entire sign ordinance and I believe that we should be able to defend our ordinance, this Council has always stated in our discussions regarding the legislation, that we believe in home rule. We are a charter city. We should stand up for that now and make it clear that we don't like the fact that there's an attempted end run around our sign ordinance. I know there's some people who, and I agree also, the emails I got from the citizens is the citizens didn't want any clangs in the ordinance. They like our ordinance. They are not happy about sign walkers. They believe they are a distraction. That's not my opinion. That's their opinion.

They believe they are a distraction and that Scottsdale should not allow anything other than what we presently have in our code. From the perspective of this particular argue. I'm very firmly behind defending it to the extent that we can defend it.

Mayor Lane: Thank you, Councilwoman. I concur completely. I think we have a sign ordinance that we have made some changes in how we enforce that. I'm not sure. But one thing I would stress is to consistently enforce it as best as we can. That would be the only thing that I would go towards at all, but the fact remains, I like the rest have not received anything other than a desire to stand strong on the idea of how our ordinance has been enforced and frankly how it's read and the way it's read. But I would say that we need to, we need to determine whether it is roadway, sidewalk or otherwise, and whether it's the right of way entirely and has to be on private property. I know the statement has been made to be on private property but I think that's an important aspect.

I have to say truly, I don't know why we would be thinking about any kind of changing view of what the state is considering right now and the way of this statute or this bill that's in front of us, 2528 because it's all going to bank upon that and as we fairly well determined, it's likely that it is. It's on the pathway, as Brad has indicated, the pathway to passage. So really, it's going to be up to us to respond to that and I think that's already been laid out earlier in the conversation and I think that's, I certainly agree with it and frankly, that's within the motion that has been seconded. So I will concur with that. Councilman Robbins.

[Time: 02:12:35]

Councilman Robbins: I have a question for Mr. Washburn about the motion. But is that going to limit us in our future endeavors as far as what kind of course we will take because we are basically making a motion before the new state law becomes effective or passes. We don't know what it will look like. It could change the next House or Senate vote, whichever it has to go through. So I just don't want to limit us by this vote if we need to do something different in the future.

Bruce Washburn: Let me remind you, this is just direction to staff. It's not a final binding legal action on the part of Council.

Councilman Robbins: Okay. That answers my question.

Mayor Lane: Thank you, Councilman. Councilman Phillips.

[Time: 02:13:18]

Councilmember Phillips: I can see where this is going and unfortunately, I think it's sad because, you know, like I said earlier, we are not going to get rid of sign walkers. Okay? We have them now. And whether we keep our ordinance or whether we get rid of the ordinance, we are still going to have them. They are not going to go anywhere. That doesn't make a difference. What makes a difference is where they are going to be. If you listen to what I had written here, it's more restrictive on what they can do, how they can do it, when they can do it. I don't understand why we don't want

to try to comply with state law and make a stricter ordinance, but that's what Council wants to do then go for it.

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

[Time: 02:14:08]

Vice Mayor Korte: Thank you, Mayor. Councilmember Robbins provided me a valuable historical perspective of our sign ordinance. It reminded me that, and I remember when that sign ordinance was passed back in the '70s, it was innovative. It was out of the box. It was controversial. Look at what the important factor it has made for Scottsdale in creating our sense of place and the fact that we don't have any billboards and we don't have signage intruding into visual spaces. I think that's really important and I think it lends to our quality of life. I would, and as Dennis Robbins suggested. I would also support further restrictions for sign walkers.

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

Councilman Littlefield: Well, in answer to Councilman Phillips question, why would we not want to obey state laws because sometimes it's wrong. And they really, you know, we had this fight over and over again over the 12 years I have been here regarding signs, sign walkers, whatever, and we have always been reluctant to push the environment too much for fear that we might get a court decision that we didn't like, but, you know, it works the other way too. You made the point that other cities are looking at what we do. I think this is a good opportunity to challenge this. What the state is trying to do I don't agree with. If I were down there, I would vote against it, but clearly it's going to pass. So and I believe that law that is going to pass is inconsistent with what we want and inconsistent with what the majority of Scottsdale residents want. And so I say, let's stand up for the Scottsdale resident and if they do pass that, let's challenge them. Let's do what we are supposed to do and that's all I'm saying. And that's why my resolution was fairly simple, which is just not change current law at the moment, our current ordinance, and direct the City Attorney that if they pass this, let's challenge it.

Mayor Lane: Thank you, Councilman. Councilman Phillips.

[Time: 02:16:37]

Councilmember Phillips: My proposal was more restrictive. Trying to defend ourselves I think is a waste of taxpayer money, when we have a perfectly legitimate way to fix this problem, to solve it, and make a happy medium for both. I think it's unfortunate that we don't want to open our eyes a little and, you know, try to find a way that will work out for everybody. So, you know, like I said early, it will not get rid of the sign walkers. You have them outside now. We see them driving up and down all the time. We keep what we have and you are going to see the same ones. My proposal, you would have seen less.

Mayor Lane: Thank you, Councilman. Councilwoman Milhaven.

[Time: 02:17:36]

Councilwoman Milhaven: Thank you, Mayor. Mr. Washburn, could you repeat again. You shared what the process would be to challenge it. It sounded like it was a filing and a judgment. Can you describe what that would be and approximately what you think the cost would be?

Bruce Washburn: I need to go back and research this to make sure that I'm on the right path, but my plan right now is to file what's called a declaratory judgment action right after the law passes, asking the court to, and it would be against the state and asking the court to rule on whether or not it's a matter of truly local concern and therefore the statute does not apply to us. My plan would be to do it internally, which is using the city's attorneys so we won be paying outside Council fees. So hopefully it won be that expensive. I would need to see whether we would need to get some expert witnesses in on the hazards associated with this kind of activity or whether the evidence we produced in the original case back in 2008 would be sufficient. I might have some expert costs. I have a budget for that. So I would be able to cover it out of that.

Councilwoman Milhaven: Significantly less than hundreds of thousands of dollars?

Bruce Washburn: That would be my intention, yes.

Councilwoman Milhaven: Thank you, sir.

Mayor Lane: Thank you, Councilmember. Vice Mayor Korte.

Vice Mayor Korte: A question for Brad. I think you are getting a clear message from our Council tonight. What is the possibility of generating additional support amongst other cities or other entities to lobby?

[Time: 02:19:29]

Brad Lundahl: Vice Mayor Korte, yes, I think I have the direction I needed. Now the League of Cities and Towns I think will be able to weigh in and oppose the bills, and bring in more cities. What the extent is hard to I say. We are running out of time because the bill will be in committee this week. Our time frame is limited but we can get some more cities to weigh in as well.

Mayor Lane: Thank you, Vice Mayor. Councilman Phillips?

Councilmember Phillips: Thank you, Mayor. The hundreds of thousands of dollars I was talking about is going to be when we get sued when we couldn't comply with House Bill 2528.

Mayor Lane: Thank you, Councilman. We have a motion and a second on the table. I realize it's a guidance issue, but just to establish it formally, I will go ahead and call for the vote on that. So I think we are ready to vote on that original motion. And those in favor please indicate by aye and register

your vote and those opposed with a nay. The motion passes 6-1 with Councilman Phillips opposing. Thank you very much, both gentlemen for their presentations.

ITEM 26 – MONTHLY FINANCIAL UPDATE

[Time: 02:20:57]

Mayor Lane: Last regular agenda item is item 26, the Monthly Financial Update. We have Mr. Nichols here in front of us, our City Treasurer. Welcome.

[Time: 02:21:09]

City Treasurer Jeff Nichols: Mayor, members of Council, I will start off the presentation, monthly financial update as of February 28th, 2014, again, the bottom line, the bottom left-hand corner, sources, General Fund operating sources, we are looking good year-to-date. You will see later in the presentation that the month of February wasn't quite as robust as some of the earlier months this fiscal year but we are doing well.

In the sales tax, the 1% general sales tax category we have a \$1.7 million favorable variance. That variance is being driven by a couple of things, increased car sales but we also have increased car sales due to two new dealerships within our city limits and that's a new Mercedes dealership and a Lexus dealership by north Scottsdale Road. I checked with staff today and so far to date, this fiscal year, those two entities have produced about \$300,000 in sales tax revenue for the city.

That's good news look further down the line and you see a miscellaneous line about midpoint in this file, \$1 million favorable variance for 27%. That's related to the sale of two pieces of property, the main reason we are seeing that variance. This was some land up on north, I say north Scottsdale Road, it is north Scottsdale but just south of downtown area. We saw some vacant land and it's also the Bellevue property that we recently sold and got about \$182,000 for. That accounted for nearly half of that favorable variance. You look down again at building permits, 69%, 4.2 million favorable variance. We have a lot of information related to that now. The majority of that, about 2.5 to \$3 million is being driven by multifamily housing permits. We have over, I think it was over 3400 multifamily housing starts this fiscal year and the revenues related to that are driving this increase. We don't see that same level of activity or we are not projecting it in fiscal year '14/15. We feel that the market will sit and wait and see how the people react to these units and if they do well, they may position themselves out in the future but right now, they think it's going to slow down after this burst of activity if you will in the multihousing market.

As I talk to you all before the 81% variance and interest earnings, it's just a timing issue. We do an accrual at the end of the year where we market-to-market if you will, and those earnings will be much more in line with what we budgeted for this fiscal year and maybe a little bit less than what we budgeted.

Drilling down to the 1% sales tax category, you see the major drivers there. The small retail stores,

slight favorable variance of \$300,000 and one of the biggest ones related to auto sales I mentioned earlier were up about \$400,000 or 5% favorable variance and then down in the category of construction, \$600,000 or 11% favorable variance and that's being driven by the permit side, the construction materials that are being used to build those units. Year-over-year change, February compared to February of 2013, we are at 5.8%, down a little bit. I would like to share that overall, in this category, we're right around 8% in total fiscal year-to-date, compared to last fiscal year-to-date. So the period July through February last fiscal year, this fiscal year we are up about 8% in this category.

General Fund operating budget per uses. Vice Mayor you asked, we have 18 pay periods through the end of February. So we are one pay period ahead. So you will see significant differences between the salary, wages, the overtime, and then the other costs related to payroll, FICA, retirement, contractual commodity, capital outlay. We are seeing what we think are timing issues. The Police departments have not received, again, they are not behind. They haven't received the invoices from the Maricopa County jail. We have a couple of contracts within our, in our information systems department, that they are negotiating. They haven't pulled the triggers on there.

I don't believe that we will enjoy all of this variance, this positive variance when we get to the end of the fiscal year, they probably will be some of it that is left over. And if you look by department or by division, our fiscal year-to-date, you can see we are enjoying favorable variances across the board, Public Safety Police, the small unfavorable variances being driven by overtime and the overtime is about \$800,000 more than has been budgeted year-to-date. The Fire department, I'm happy to note is that variance continues to shrink. They are only about \$120,000 over in their overtime year-to-date and hopefully as we go through the following months with the addition of staff, that variance will totally go away and you won't see the variance in the overtime figure at the end of the fiscal year.

So bottom line, over the fiscal year-to-date through February, we are enjoying about a \$10.5 million favorable variance when we look budget to actual in our sources and uses, our revenues and our expenses, and with that, I would be happy to take any questions you may have.

Mayor Lane: Well, thank you, Mr. Nichols. I appreciate the presentation and it's very good news. I don't see any questions here in the Council. So I think that speaks for its self, very thorough and very complete and all items completed along the way that completes the regular agenda items. We have no further public comment cards. We have no petitions. Do we have any Mayor or Council items from any of the Councilmembers?

ADJOURNMENT

[Time: 02:28:01]

Mayor Lane: And then I would accept the motion to adjourn. Moved and seconded. All those in favor indicate by aye. We are adjourned. Thank you, everybody.