M I N U T E S

SCOTTSDALE CITY COUNCIL

CITY COUNCIL MEETING

Tuesday, February 18, 2003

The Kiva
City Hall
Scottsdale, Arizona

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CALL TO ORDER (IN CITY HALL KIVA FORUM)

Mayor Manross called to order the Regular Meeting of the Scottsdale City Council on Tuesday, February 18, 2003 in the Kiva, City Hall, at 5:07 P.M.

ROLL CALL

Present:	Mayor Mary Manross Vice Mayor Ned O'Hearn Council Members David Ortega, Tom Silverman, Robert Littlefield, Wayne Ecton, and Cynthia Lukas
Also Present:	City Manager Jan Dolan City Attorney David Pennartz City Clerk Sonia Robertson

Pledge of Allegiance

Girl Scout Troop #383 from Zuni School led the audience in the Pledge of Allegiance.

Invocation

Mr. Darrell Crum, Minister of Small Groups from Scottsdale Bible Church, offered the invocation.

Presentation

Salt River Project Centennial Resolution

Bill Schrader, President of SRP, briefly presented the origin of SRP and its service to the community. On behalf of SRP, Mr. Schrader presented a framed resolution to Mayor Manross adopted on January 6, 2003 in appreciation of the city's partnership with SRP.

National Engineer's Week Proclamation

Mayor Manross presented Alex McLaren with a proclamation in recognition of National Engineer's Week observed from February 16 –22, 2003.

Information Update

Pima Freeway Noise Update

John Little, Transportation, presented a brief slide presentation that has been outlined below.

LOOP 101/PIMA FREEWAY CORRIDOR NOISE EVALUATION

PROJECT STATUS

- Initiated November 5, 2002
- Awarded to Michael Baker, Jr., Inc.
  - Phase I: noise measurements
  - Phase II: noise modeling
  - Phase III: mitigation alternatives

PHASE I: NOISE MEASUREMENTS

- Public survey December 2-18, 2002
- Public Outreach via website & project phone line
- ~ 550 responses
- 47 sites scheduled January 21-February 13, 2003
- Peak hours & days per citizen input
- Monitoring of noise, traffic volume, and meteorological conditions

PHASE II: NOISE MODELING

- To determine current condition “noise impact contour” for corridor
- To predict future noise impacts based on worst-case traffic volumes
- Accounts for geographical considerations
  - Freeway elevations
  - Land contours
  - Existing buffering, etc.
- Scheduled completion March 15th

PHASE III: MITIGATION ALTERNATIVES

- Analyze mitigation solutions (i.e., highway surfacing, noise barriers, land use management, etc.)
- Analyze design considerations (to be completed by summer 2003)
  - Decibel (dB) reduction
  - Cost
  - # benefited residential properties
  - Benefit/cost ratio
  - Maintenance
  - Aesthetics
  - Environmental impacts
  - Neighborhood acceptance

CONTRACT COST SAVINGS

- Contract total: $286,896
- Public Involvement: Fee + Other Direct Costs = $103,011
- Public involvement brought in-house
- Public involvement expenditures to date: $2,000 Actual $8,000 Projected

FREEWAY NOISE ADVISORY GROUP

- 20+ volunteers geographically representative
- For exchange and development of freeway noise knowledge
- Provide the City with valuable input and guidance

- 24-hour freeway noise profile
- Site selection & observation of noise measurements

REGIONAL FREEWAY SURFACING

- Former Gov. Hull announced plan December 18, 2002
- Rubberized asphalt on 115 freeway miles
- Includes 14 miles in Scottsdale
- Estimated up to 7.9 dB noise reduction
- Steps to accelerate ADOT's schedule (3 year plan to rubberize the freeway)
- Staged approach by fiscal year
- Complete in Summer 2006

Mr. Little noted that a few members of the citizen's advisory committee are in the audience tonight and wish to speak regarding noise mitigation.

Bob Willis, 8844 E. San Rafael Drive, thanked Mr. Little for promptly responding to the committee's queries and phone calls in a professional manner. He pointed out that there has been a definite reduction in noise from the freeway since installation of rubberized asphalt. He explained that a serious issue remains unresolved and suggested that the 8' sound wall located in his neighborhood be increased in height to 10' to mitigate noise from large trucks.

Mark Mexal, 8621 E. Carol Way, explained that his neighborhood is one of the few neighborhoods that received no sound wall to help mitigate the noise from the freeway. He applauded the efforts of the city and encouraged the city to move forward as quickly as possible. He pointed out that testing indicated readings as high as 70.4 decibels for 10-minute periods in areas along 87th Street. He explained that the rubberized asphalt will help mitigate the noise levels; however, cautioned that it may not be enough.

Public Comment

Bob Bagley, 6202 E. Catalina Drive, expressed concern that there are terms and conditions in the city's purchasing contracts that are eliminating large, high tech companies due to unlimited liability requests. He explained that no serious company would agree to these terms. He requested that the City review the policy and, perhaps, change it.

Deborah Andrade, 3707 N. Hayden Road, explained that she has a problem with the Trend Homes plan for the former Smitty's site. She stated her belief that the plan is not in the best interests of the seniors or citizens of Scottsdale. She compared that proposal to the proposal of the RED Group, while stating her support for the RED Group. She noted that the Trend plan does not have any handicap accessible housing. She stated that the city requires that 10% of all newly built housing be handicap accessible. She recommended that Council take a good look at what Trend Homes is offering.

Frank Boggs, 8255 E. Monte Vista Road, expressed his disapproval of the Trend Home plan for the former Smitty's site. He questioned the housing that is proposed and wondered if the 3-story design would be a fire hazard. He questioned why Council made the decision to go with the Trend plan. He felt that the senior center, senior housing, and the Stagebrush Theater would be compatible.

R. Lamar Whitmer, 8202 E. Virginia Avenue, explained that the Trend proposal for the former Smitty's site was the plan that had the least neighborhood support. He explained that it is disturbing that Council approved Trend as the developer and stated his belief that the decision is a breech of faith.

Lyle Wurtz, 6510 E. Palm Lane, expressed his belief that the placement of the senior center on the Smitty's site doesn't fit; however, it was seized upon as a way to rationalize the sale of the old center. He urged the city not to sell the old senior center site. He noted that no money has been spent by the city in the southern area of the city. He thanked the Council members who voted for the Trend proposal. He felt the housing component would help revitalize the area. He explained his only request is that the city doesn't build 3-story housing.

Minutes

REGULAR MEETINGS - January 21, 2003

COUNCILMAN ORTEGA MOVED TO APPROVE THE REGULAR MEETING MINUTES FOR JANUARY 21, 2003. COUNCILMAN SILVERMAN SECONDED THE MOTION WHICH CARRIED 7/0.

CONSENT AGENDA

1. Sugars Liquor license

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 6 (bar) State liquor license.
Location: 7624 E. Indian School Rd. Ste 113
Reference: 106-LL-2002
Staff Contact(s): Jeff Fisher, Plan and Permit Services Interim Director, 480-312-7619, jfisher@ScottsdaleAZ.gov

2. Pinata Nueva Liquor License

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) State liquor license.
Location: 14850 N. Frank Lloyd Wright Blvd.
Reference: 107-LL-2002
Staff Contact(s): Jeff Fisher, Plan and Permit Services Interim Director, 480-312-7619, jfisher@ScottsdaleAZ.gov

3. Pima & Via Dona R.O.W. Abandonment

Request: Adopt Resolution Number 6249 effectuating the approved abandonment of an internal cul-de-sac along the 87th Street alignment located immediately south of Via Dona Road.
Location: Southwest Corner of Pima & Via Dona Road
Reference: 3-AB-2001
Staff Contact(s): Cheryl Sumners, Senior Planner, 480-312-7834, csumners@ScottsdaleAZ.gov

4. Rezone of Scottsdale Bead Supply & Sale of a Vacant City Parcel – Continued to March 4, 2003.

Mayor Manross noted that this item would be continued to **March 3, 2003**.

5. Mirabel Village 2 Subdivision Replat

Request: approve a Replat of Lots 48, 49 and Tract "C" of the Mirabel Village 2 Subdivision.
Location: Cave Creek Rd & Stonehaven Dr
Reference: 2-PP-2000#2
Staff Contact(s): Kira Wauwie, Project Coordination Manager, 480-312-7061, kwauwie@ScottsdaleAZ.gov

6. Architectural Services Contract for Downtown Parking Structures.
Request: Authorize Architectural Services Contract No. 2003-022-COS with Dick & Fritsche Design Group in the amount of $798,021.00 for architectural design services for Downtown Parking Structures.
Staff Contact(s): Corey E. Lew, Project Manager, (480) 312-7769, clew@scottsdaleaz.gov

Councilman Silverman assured the downtown property owners that the city is moving forward with two parking garages (one by Fifth Avenue and one in Old Town).

7. Engineering Services Contract for design of 96th Street Improvements (Shea to Thunderbird) and initiate negotiations for the right-of-way/easements (ROW) needed for the 96th Street Improvements (Shea to Thunderbird) and set a maximum limit of $5,000 for the administrative purchase of ROW.
Request: Authorize Engineering Services Contract No. 2003-021-COS with Stantec Consulting Engineers in the amount of $428,789.00 for the engineering design of 96th Street Improvements (Shea to Thunderbird), and
Adopt Resolution No. 6253 authorizing the initiation of negotiations for the acquisition of 16 various parcels of ROW from nine property owners for the 96th St. Improvements project (Shea – Thunderbird Rd.), and setting a maximum limit of $5,000 for the administrative purchase of the necessary ROW.
Related Policies, References:
a. Cactus Corridor Equestrian Overlay District
b. Bond 2000 CIP Project
Staff Contact(s): Corey E. Lew, Project Manager, (480) 312-7769, clew@ci.scottsdale.az.us;
Rhonda Thomas, Right of Way Agent, (480) 312-7847, Rthomas@scottsdaleaz.gov

8. Consent to a Sublease between Boys and Girls Clubs of Scottsdale and VoiceStream PCS III, d.b.a. T-Mobile on Ground Lease Property at Scottsdale Ranch Park
Request: Adopt Resolution No. 6243 consenting to a sublease between the Boys and Girls Clubs of Scottsdale ("Club") and T-Mobile for the installation of low power, rooftop mounted, wireless communication equipment on the existing Club facility located at Scottsdale Ranch Park, 10400 East Via Linda Street.
Related Policies, References: Original Ground Lease Agreement No. 870366 dated April 4, 1988; Amended Ground Lease Agreement increasing land area from 1.57 acres to 1.66 acres dated April 30, 1990; Resolution No. 5689 amending Ground Lease Agreement increasing land area from 1.66 acres to 3.10 acres dated December 4, 2000; Resolution No. 6159 authorizing an amendment to Agreement No. 870366A allowing for additional non-recreational uses of the property dated October 7, 2002.

City of Scottsdale Zoning Ordinance, Section 5.402 A. 1., the R1-10 (Residential) District, Section 3.100 (PWSF Minor) and Section 7.200 H. The site received Development Review administrative approval on May 3, 2002 (Attachment No. 3).
Staff Contact(s): Ron King, Asset Management Coordinator, (480) 312-7042, rking@scottsdaleaz.gov
Don Penfield, Community Services Advisor, 480-312-7921, dpenfield@scottsdaleaz.gov

Norwood Sisson, 7431 E. Portland, explained his belief that this item is a gift to the Boys and Girls Club of Scottsdale. He expressed his belief that this represents an unconstitutional gift (Article 9, Section 7 of the AZ Constitution).

9. Corporate and Association Meetings Industry Research and Market Analysis
Request: As recommended by the Tourism Development Commission, Council is requested to:
A.) Adopt Resolution No. 6255 authorizing funds in the amount of $25,000 for the preparation of a Research and Market Analysis of the meetings industry.
B.) Approve Contract No. 2003-014-COS with Gerard Murphy and Associates for the preparation of that analysis.
Staff Contact(s): Kathy Carlisle O'Connor, Tourism Development Manager, Economic Vitality Department, (480) 312-7057, kcoconnor@scottsdaleAZ.gov

10. 2002-2003 "Signature Events"
Request: Authorize Event Promotion funds in the amount of $164,288 from the Bed Tax as recommended by the Tourism Development Commission (TDC) for the following 2002-2003 Signature Events:

Signature Event	Actual Recommended FY02-03	FY01-02
Arizona Sun Country Quarter Horse Show	$12,624	$15,780
Barrett-Jackson Classic Car Auction	$20,000	$25,000
National Festival of the West	$12,432	$15,540
IMG Men's and Women's Tennis Classic	$16,560	$20,700
Parada del Sol	$12,144	$15,180
Phoenix Open	$20,000	$25,000
Scottsdale Arabian Horse Show	$20,000	$25,000
Scottsdale Downtown Art Walks	$20,000	$25,000
Scottsdale Culinary Festival	$15,312	$19,140
Thunderbird Balloon Classic	$15,216	$19,020
TOTAL	**$164,288**	**$205,360**

Authorize and direct the Tourism Development Manager to execute, on behalf of the City, individual agreements with each approved Signature Event Producer substantially in the form of Exhibit A. (sample contract);
Adopt Resolution No. 6254 authorizing funding awards for 2002-2003 Signature Events and authorize the City to execute individual agreements with each event producer.
Staff Contact(s): Kathy Carlisle O'Connor, Tourism Development Manager, Economic Vitality Department. (480 312-7057, kcoconnor@scottsdaleAZ.gov

Councilman Ortega requested that the city give priority to banners promoting the city's signature events in the case of a conflict. Ms. Dolan explained that this request would require amending the city's sign ordinance. She assured Council that staff would bring something back to Council for its consideration regarding this request.

11. Approve Collection Agreement COS #2003-013-COS with and Accept $30,000 Financial Contribution from the Arizona Game and Fish Department to Support the McDowell Sonoran Preserve

Request: Approve Collection Agreement COS #2003-013-COS between Scottsdale and the Arizona Game and Fish Department (AG&F) authorizing acceptance of a $30,000 cash contribution from AG&F for the provision of shade ramadas and information kiosks at selected access areas or trail-heads supporting the McDowell Sonoran Preserve. This is a cash contribution, no matching funds are required.

Related Policies, References: *This action directly supports City Council Broad Goal B: Preserve the Character and Environment of Scottsdale, and a sub-goal under Goal B: Create learning opportunities in the Preserve.*

Staff Contact(s): Robert Cafarella, AICP, Director, 480-312-2577 (rcafarella@scottsdaleaz.gov)

COUNCILMAN ORTEGA MOVED TO APPROVE ITEMS 1-11 WITH THE CORRECTION FOR ITEM 4 AS NOTED. COUNCILMAN SILVERMAN SECONDED THE MOTION WHICH CARRIED 7/0.

Regular Agenda

12. Architectural Services contract for Streetscape Improvements along McDowell Road

Request: Authorize Architectural Services Contract No. 2003-026-COS with EDAW, Inc., in the amount of $ 580,442.00 for the design of streetscape improvements along McDowell Road from 64th Street to Pima Road.

Related Policies, References:

1991 McDowell Streetscape Guidelines

McDowell Corridor Improvements Master Plan

Staff Contact(s): Marek Urbanek, CPM Project Manager, 480-312-2563, murbanek@scottsdale.az.gov

Al Dreska presented the following information for Council's consideration.

McDowell Road Streetscape
Architectural Services Contract

- Design Guidelines originally approved by DRB in 1996.
  - Provide a comprehensive streetscape theme along McDowell Road.
  - Original Guidelines implemented from Granite Reef to Pima
- $6,229,000 CIP budgeted for Papago Streetscape Improvements.
- Streetscape Guidelines updated in 2002 and approved by DRB on February 6, 2003

Landscape Themes

Structured Xeric Theme
Traditional Resort Theme
Desert Oasis Theme
Character Elements

McDowell Road Streetscape Next Steps:

- Creation of construction drawings for streetscape utilizing approved design guidelines
- Issue construction bids
- Phased installation of improvements beginning late Summer/Fall 2003
- All new & existing developments along the corridor will be encouraged to design/redesign their frontage consistent with the McDowell Road Design Guidelines

McDowell Road Streetscape
Architectural Services Contract

- Solicitations for design services sent on December 12, 2002 to local firms.
- Ten submittals were received and 4 were interviewed.
- EDAW, Inc was unanimously selected by panel of 4 city staff.

Mr. Dreska explained that the contract is structured assuming that there may be some phasing of the construction. It provides for extensive coordination with adjoining property owners based on item number 13 and the direction Council will provide to staff.

Councilman O'Hearn explained the city must ensure that there is consistency between this work and what is planned for the Los Arcos site. Mr. Dreska stated that the updated guidelines are appropriate for the entire length of the roadway. An extensive high-quality streetscape that would provide some continuity is being proposed along the Los Arcos frontage. He noted that the city certainly has flexibility in how the work in the area is perceived and how the city proceeds to construction. The contract would aggressively pursue streetscape improvements in those areas where property owners are ready to work with the city and move forward specifically along McDowell Road between Hayden Road and Granite Reef. He stated that the city has the flexibility to revise schedules to pursue priorities as they may change.

COUNCILMAN LITTLEFIELD MOVED TO AUTHORIZE ARCHITECTURAL SERVICES CONTRACT NO. 2003-026-COS WITH EDAW, INC., IN THE AMOUNT OF $580,442.00 FOR THE DESIGN OF STREETSCAPE IMPROVEMENTS ALONG MCDOWELL ROAD FROM 64TH STREET TO PIMA ROAD. COUNCILWOMAN LUKAS SECONDED THE MOTION WHICH CARRIED 7/0.

13. Consider options relating to Los Arcos

Request: At the request of Councilwoman Lukas discuss the potential of the City issuing a Request For Proposals (RFP) for development of the vacant Los Arcos site.

Related Policies, References:

- Council forms Los Arcos Redevelopment District 12/18/95
- Los Arcos Redevelopment Plan adopted 7/2/96
- Original Los Arcos Request for Proposals Issued 7/18/97
- Council Action on preferred Smith Group development option 2/5/02

Staff Contact(s): David Roderique, Economic Vitality General Manager, 480-312-7601, droderique@scottsdaleaz.gov

Dave Roderique introduced this item with a brief slide presentation as outlined below.

Los Arcos: Possible City Actions
Economic Vitality Dept.

Introduction / Purpose

- At the request of Councilwoman Lukas, discuss the potential for the City to issue a "Request for Proposals" (RFP) for the vacant Los Arcos site
- Focus on the RFP process and issues
- Also look at other alternatives and associated issues

The RFP Process/Timing

- Council direction on specific parameters -- RFP area, desired land uses, development guidelines, timing, City participation, etc. (4-8 weeks)
- Prepare RFP, send out nationally (4 weeks)
- Developer responses received (12-16 weeks)
- Staff evaluation of responses, short list, formal interviews/analysis, final staff recommendation, public input (6-8 weeks)
- Prepare Council Action/ hold meeting (4 weeks)

The RFP Process/Timing

Once City Council has chosen a developer (8-10 months to this point), the City authorizes an "exclusive right to negotiate" period. Future actions would include:

- Redevelopment Agreement
- Land acquisition (possible condemnation)
- City entitlements (zoning, DRB, permits)
- Construction

Options

- RFP the site
- Negotiate w/ property owner on an acceptable development plan
- Wait for market changes

RFP Process: Key Considerations

- Greater control over development
- Understand plans before committing to action
- May spur property owner to action
- Can be lengthy process
- Given economic conditions and site's history may not receive acceptable responses
- Financial considerations
- Issues relating to use of condemnation

Negotiate w/ Owner: Key Considerations

- Potentially the fastest mechanism
- Based on most recent proposal (power center)
  - Would require significant City assistance, but most or all of City's financial participation would be paid out of future, site-derived tax revenues
  - Mixed neighborhood support for uses
  - Shorter term development solution
  - Neighborhood impact issues

Wait for Market Changes: Key Considerations

- If site were made available at current market values, little or no incentives would be needed for most projects
- Could be many years before action
- Owner's motivations
- Uncertainty in terms of future uses

Options

- RFP the site
- Negotiate w/ property owner on an acceptable development plan
- Wait for market changes

Councilwoman Lukas explained that she placed this item on the agenda since it is her belief that now is the time for bold action. It was intended to elicit Mr. Ellman's best proposal for the site. If the proposal would have been insufficient or unreasonable, she explained that she was prepared to move forward by requesting plans from other developers and then following up by initiating steps to acquire the property.

She explained that she has been meeting with Mr. Ellman at City Hall for several weeks and has been encouraged by his willingness to have a dialog. She explained that she went into the discussions with an open mind and a willingness to cooperate for the good of the community.

She stated her belief that the proposal by Mr. Ellman is viable, reasonable, and worthy of consideration. She requested that Mr. Ellman step forward and present his current proposal.

Mr. Ellman thanked the residents of Scottsdale and various Council members for the opportunity to work through the development of Los Arcos. He noted that it has been a long journey since his company has been working on a development plan since purchasing the property in 1996.

He explained that his company is prepared to make a significant "write-down" ($25 million) on their investment on Los Arcos through their current proposal. He noted that his company has accepted the fact that there would be no up front money associated with the development, no city issued bonds, no guarantees would be provided by the city, and the city would be at no financial risk. He explained that once his company has presented their development and financial proposal, they would request that Council approve the plan and authorize staff to expedite a development agreement.

Mr. Ellman explained that the tenants his company has chosen for the site would require no subsidy from the city from their general fund. Any subsidy for development would come solely from the merits of the development.

He pointed out that when the project began, the residents asked for grocery, general merchandise, home improvement, and specialty retail. He stated that his plan incorporates all of these uses. More importantly, the plan incorporates a very high quality of design. He expressed hope that the redevelopment will serve as an economic engine for the area.

Sam Toporek presented the Ellman Company site plan and development proposal. His presentation has been outlined below.

He pointed out that the plan took advantage of the natural slope on the site to maximize usage while keeping the plan esthetically pleasing. He stated that the slope allowed the architect to design a parking garage to serve the tenants while taking advantage of the slope to hide the elevation. He explained that approximately 560,000 sq. ft. of development is planned.

Los Arcos Town Center

Major Tenant Lineup:

Lowe's Home Improvement Store on the north side of the site (134,000 sq ft + 27,000 sq ft of garden center)

Garden Center	Paint
Tools	Heating and Cooling
Hardware	Home Décor
Building Supplies	Flooring
Lumber	

Wal*Mart Super Center on the south end of the site (200,000 sq ft + 15,000 sq ft garden center)

Grocery	Sporting Goods
Pharmacy	Flowers and Gifts
Housewares	Jewelry
Clothing	Auto Service
Toys	

Sam's Club next to Wal-Mart (36,000 sq ft)

Electronics	Appliances
Music	Tires
Books	Automotive
General Merchandise	

Mr. Toporek explained that the plan also includes three shop buildings on the corner totaling approximately 36,000 sq. ft. He noted these buildings would house businesses such as jewelry sales, coffee shop, clothing, etc. Along the perimeter of Scottsdale Road and McDowell, the plan provides a pedestrian area with intense landscaping, shade structures, etc. At the southwest corner of the site, Sam's Club will operate a gas station. He noted that a second pad would be available for a food/beverage user.

He briefly described the parking garage as well as the tenants it is intended to service. He pointed out that the garage is on the same level as McDowell Road and can be accessed from several points.

As a comparison, Mr. Toporek explained that the tallest building designed on the site is between 15-20 feet while the buildings that previously existed were between 50-60 feet. He stressed that the proposed total square footage (approx. 560,000) compares to the square footage of former Los Arcos Mall (a little over 600,000).

Bob Kaufman continued the presentation. He explained that previous plans that were proposed were challenged due to up front financial risk on the part of the city, which has been eliminated by this plan.

Los Arcos Town Center
A Public-Private Partnership

- City to retain 100% of its property tax allocation.

- Scottsdale Unified School District to retain 100% of its property tax allocation.

- City to retain 100% of its share of annual State Sales Tax revenue sharing.

- The City of Scottsdale's 1.4% sales tax (the "Total Taxes") is divided into two components: (1) the dedicated portion, being 0.2% for the Sonoran Mountain Preserve and 0.2% for transportation (the "Dedicated Taxes"), and (2) the non-dedicated portion, being 1.0% (the "Non-Dedicated Taxes" or "Non-Dedicated Tax").

TOTAL TAXES – 1.4%

The City of Scottsdale financial commitment will be limited to:

- Directing that an allocated portion of the McDowell Road improvement fund (not to exceed $1.1 million) be spent on adjacent offsite improvements and perimeter landscaping;

  - Returning to the Developer 49% of the Total Taxes (being 69% of the Non-Dedicated Taxes) that are collected on all Los Arcos construction;

- Beginning with the first operating year following completion of construction of the first retail user, and for the next 39 operating years (for a total of 40 years of this project or other acceptable uses), returning to the Developer 49% of the Total Taxes (being 69% of the Non-Dedicated Taxes) that are collected each year from all sales on the Los Arcos property up to a maximum net present value benefit to the Developer of $41,750,000; and

TAX ALLOCATION

- If the Non-Dedicated Tax rate increases from 1% to a greater percentage then the above sharing allocations shall also apply to the increased percentage.

Process:

- The City staff to work with the Developer towards completing a Letter of Intent based upon this proposal as expeditiously as possible with the goal of having a final Development Agreement approved within 60 days.

- The City to provide expedited consideration of all requests for permits, etc.

Los Arcos Town Center

- No height waivers or rezoning requests. Special Use Permit consideration for "big boxes" to be expedited.

- The Developer to expedite development and construction of the property as quickly as is commercially reasonable after approval of a Redevelopment Agreement by the City.

Benefits:

- Los Arcos sales tax projections forecast that Scottsdale will receive approximately $106,000,000 over 40 years for mountain preservation and transportation.

- During the same 40 year period, it is forecasted that Scottsdale will receive an additional approximate $82,000,000 in non-dedicated sales taxes.

- Increased property tax collections which will directly benefit the Scottsdale Unified School District.

- No condemnation required.

- Wide support from local residents and businesses.

  - Addresses concerns expressed by McDowell Road auto dealers.

- Cornerstone development to serve as the catalyst for additional area-wide redevelopment and private investment.

- All buildings on the site to be designed and constructed with upgraded facades and landscaping.

- Town Center plan mitigates height of largest buildings and provides attractive pedestrian linkages and spaces.

- The parking structure will be designed to provide parking to the retail uses and will be aesthetically attractive.

- Ownership of the parking structure and adjacent parking areas to be transferred to the City.

- The Developer to include, in addition to the 3 major anchors, approximately 40,000 sq. ft. of neighborhood retail and specialty shops.

- A "win-win" for Scottsdale and the Los Arcos neighborhoods.

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Councilman Littlefield questioned if the $1.1 million from the city's streetscape fund was included in the calculation of the $41.75 million net present value. He also questioned the internal rate of return that was used in the calculations. Mr. Ellman explained that the return would be generated exclusively from sales taxes. Mr. Ellman then verified that the model used an 8% discount rate.

In response to questions from Councilwoman Lukas, Mr. Roderique explained that the concept is based on the pro-forma submitted by the Ellman Company. The expectation over the 40-year period is that the

facilities would generate a net present value benefit of $31.75 million based on standard sizes of the facilities, estimated revenues per sq. foot, and so on. If there were a significantly higher return through the stores, the city would share an additional $10 million over the 40-year period. In summary, if the developer and the project does far better than anticipated, they would share in some of the benefit.

Mayor Manross opened public testimony.

Donna OKeefe, 8557 E. Garfield Street, explained that she has lived in the area for 25 years and has seen the area change from a prosperous, desirable place to live to a run down area with no prospects for good shopping. She felt that the closing of Los Arcos was the catalyst that started the decline. She stated her belief that new energy has been given to the discussions. She pointed out that Mr. Ellman's editorial in today's paper sounded very promising; therefore, she stated her support of the plan.

Rick Kidder, 7343 Scottsdale Mall, spoke as a representative of the Scottsdale Area Chamber of Commerce. He stated his belief that there isn't anyone in the city that doesn't want to see the Los Arcos saga come to a positive end. He stressed that it is the Chamber's belief that the actions of the previous Council led to the vacant land due to their lack of support for the hockey arena. He noted that Mr. Ellman has the right to place any project he wants on the site providing that it meets zoning requirements. He explained that the Chamber has never felt that an unreasonable subsidy would be appropriate for a simple power center. All previous city subsidies carried certain conditions that ensured that the investment would generate a substantial return on investment for the city. He questioned if the city has determined what the impact the proposed anchor stores would have on the surrounding small businesses. He wondered what the city would have gained if surrounding stores close due to the project. He stressed that no project now is considerably better than the wrong project for 40 years worth of tax subsidies.

Darlene Petersen, 7327 E. Wilshire Drive, explained that it is encouraging to have some positive action going on in the southern part of the city for a change. She stated that all the residents in the southern part of the city want the property to "spring to life again". She reminded everyone that there was a shopping center proposed on the site before the hockey rink was proposed. She questioned why Scottsdale would promote something up north and not in the southern part of the city. She felt it would be better for citizens in the southern part of the city to spend their money in their neighborhood rather than on the Indian reservation. She submitted 600 signatures on petitions encouraging the Council to move forward with the proposed plan. She read a letter into record from the owner of the Papago Plaza Shopping Center in support of the plan. She stated her belief that it is time to move forward and provide the shopping the residents of the area would like to have.

Virginia Korte, 7343 Scottsdale Mall, spoke as a vested property owner across the road from the Los Arcos site. She felt that the issue with the current proposal is the scope and magnitude of the public subsidy. If the public funds were supporting a project that would be a true economic driver for the area, then she would support a $41.75 million subsidy. She stated her belief that the power center would drain the existing business core of the area. She noted that she has spoken with five auto dealers in the area who do not feel this plan would be an economic driver for the area. She urged Council to speak with the auto dealers.

Norwood Sisson, 7431 E. Portland, explained that Mr. Ellman is entitled to build anything he wants on the property that meets the current zoning requirements; however, he isn't entitled to a subsidy. He cautioned the city that he would challenge the subsidy in court since he felt it would represent an unconstitutional gift.

Bob Mayhew, 7231 E. Latham, stated his belief that it is time for the city to do something on the Los Arcos site. He felt it is wrong for the citizens to spend so much money in other parts of the city when they could be shopping in the southern part of the city if this project were built. He urged Council to move forward since he felt the citizens support the proposal.

Cindy Hodges, 7019 E. Cypress, stated opposition for locating a Wal-Mart on the site since she felt it would adversely impact the Fry's Grocery Store in the area. She explained that she works at Fry's and does not support Wal-Mart's corporate policy or their employee benefits.

Kristen Slater, 11506 E. Raintree Drive, explained that she also works at Fry's and opposes the proposed Wal-Mart. She also expressed concern that the proposed Wal-Mart would decrease property values. She didn't see any comparison to the $25 million loss Mr. Ellman explained he would take with the loss of the small businesses in the area if Wal-Mart is built on the site.

Hazel Watkins, 7538 E. Taylor, explained that she supported the arena proposal; however, realized that it is time to move on. She stated her support of the latest proposal since she felt the stores are a good idea since the citizens in the area need a place to shop. She questioned if the city doesn't intend to subsidize the project, why the city would subsidize other projects. She also questioned why the citizens of south Scottsdale should protect Fry's or Basha's. She stated her opinion that Basha's parking lot is a mess.

Sharon Morgan, 7304 E. McKinley St., explained that, in the past, she requested that Council support a project that would support and maintain the neighborhood's quality of life. She described the various changes that she has seen in the southern part of the city. She expressed her belief that the dirt pile on the Los Arcos site is an open wound while expressing her opinion that it is time to heal. She stated that the currently proposed project is a project that the citizens have been requesting for six years.

Don Kolb, 7682 E. Pleasant Run, read a written statement he had submitted to Council. Given the state of the present day, the target bar and goal structure of the city's potential has been measurably raised. He stated his opinion that with continued patience, a more encompassing project can be developed.

Lyle Wurtz, 6510 E. Palm Lane, reminded everyone his belief that the demise of the Los Arcos Mall was a deliberate plan to get public money. He cautioned everyone to be careful to ensure that this doesn't happen again. He felt that there should be no subsidies for this project. He questioned how the city could give away profits on the project for the next 40 years. He inquired what assurances the city has that the Ellman Company has contracts with the proposed anchor stores. He stated opposition to the possible RFP since it has the potential to cost the city more money to purchase the property. He disapproved of a single Council member meeting with the Ellman Company since he felt all Council members should be involved in the meetings.

Jane Fallek, 6633 E. Second Street, thanked Councilwoman Lukas for her dedication to the Los Arcos project. She stated her belief that the city can't wait another 4-5 years for development on the site. She asked Council not to delay any longer.

Rev. Tom Jelinek, 7425 E. Culver St., explained that the Osco Drug in the Los Arcos area recently closed. He urged the Ellman Company to include a pharmacy on the site. He expressed his desire to see a plan approved for the site that would harmonize well with the church campus while allowing for parking, visibility, and access. He stated that he looks forward to renewing conversations with the Ellman Company and the city.

Mike Horn, 7224 E. McDowell Road, spoke as a representative of Bill Heard Chevrolet. He submitted signatures of support for the proposed plan from 150+ employees working in auto dealerships along Scottsdale Road and McDowell within a ½ mile radius of the intersection. He explained that he wants to see Council move forward and take a serious look at the proposal.

Mayor Manross closed public testimony.

In response to questions from Councilman Littlefield, Mr. Roderique explained that the percentage of sales tax split would remain the same; however, there is a possibility that the developer would receive an additional $10 million if the center does better than predicted. He further clarified that the figures would be based on the pro forma that has been submitted by the Ellman Company. The year-by-year revenue expectations were calculated per square foot. Since the information was provided earlier today, Council has not yet received copies.

Mr. Roderique responded to additional questions from Councilman Littlefield. He explained that at this point in time, the city does not have a firm figure as to the cost of the infrastructure for the plan. If Council directs staff to move forward, the departments would be working together to determine the infrastructure costs. He noted that, generally, the infrastructure is in place since the Los Arcos Mall had approximately the same square footage as the proposed plan.

Councilman Ortega questioned if the city has ever had a 40-year deal with business. Mr. Roderique confirmed that the city has never entered into a participation agreement that long. The longest in the city's history was for a maximum of 30 years.

Mr. Roderique explained for Councilman Ortega that it is very difficult to estimate the impact that Wal-Mart would have on other sales in the area. Clearly, the stores would have some impact on the adjacent businesses. Some of the sales would come from sales currently going to other communities, while some would be generated from visitors, etc. He noted that he has had no indication as to Wal-Mart's plans for its Chaparral store if they locate on the Los Arcos site. He explained that, typically, they tend to replace their older regular stores with the super centers.

Councilman Ortega questioned the status of the white paper that was requested by Council to provide information on whether a policy should be adopted to outline a policy for incentives. Mr. Roderique explained that consideration of a policy has not yet been placed on Council's agenda. He noted that it was provided as a white paper; however, if Council desires, it can be placed on a future workstudy agenda. Mr. Roderique explained that the city has an Economic Vitality Strategy that was adopted by the Council; however, there is not a specific policy that relates to any financial investments that the city may make at this time. Those issues are handled on a case-by-case basis rather than through a policy.

Mayor reminded everyone that this action item is simply to give direction to staff to move forward. This would be a work in progress and action wouldn't be legally binding.

Councilwoman Lukas explained that the history of the site has created a lack of confidence and mistrust. She stated her belief that city should move forward collectively. She explained that she has scrutinized the proposal from each and every angle. While it is not perfect, she stated her belief that it is reasonable financially and viable economically. She stressed that the city can insist that the project is high quality, that there would be neighborhood services, and that parking be available for use by the church, etc.

Councilwoman Lukas listed the complications associated with the proposal as: 1) the legislature is currently entertaining a bill that would take away condemnation powers from the city in redevelopment

areas, 2) the Wal-Mart is the economic engine that makes the project an economic reality, 3) there are risks involved with the RFP process, 4) the city and developer must face the cold, hard economic reality, and 5) Los Arcos has always been a special case with unique circumstances.

She stressed that she has always felt any project on the Los Arcos site would require a subsidy. It has been a matter of agreeing on a reasonable amount and a good deal for the city. She stated that she has never questioned that this part of the city deserves a city investment.

Councilwoman Lukas explained her belief that, if done right, this center could be a step forward for the area. Los Arcos is by no means the only project that the city should look to in order to stimulate investment. It is only a part of a comprehensive strategy that the city must have to revitalize and renew this part of the city.

Councilman Silverman addressed the comment that Wal-Mart forces other businesses to close. He explained his belief that it is not the city's place to guarantee that a business would stay open. The economy operates as a free market system. He pointed out that a lot of people have left the neighborhood over the last few years. He stated his opinion that the project would be the start of revitalization in the area. He felt that the city must move ahead.

Councilman Ecton agreed that the free market system would determine which businesses would remain open. The well-run businesses would survive by upgrading their services and products. He stated his belief that the city must revitalize this area as soon as possible. He explained that he doesn't look at the project as a subsidy but rather as a partnership between the city and a private enterprise. He stated his belief that this project would help the city in so many ways.

Councilman Ortega explained that the negotiations started a year ago. He described the various plans that were submitted and the amount of public investment that was requested. He explained that no up front money is being requested with the current plan since the city was firm that no up front money would be provided by the city.

Councilman Ortega stressed that the city had an appraisal completed for the site. The appraisal valued the property at $22 million with the parking being worth an additional $11 million. The appraisal also indicated that the Ellman Company has a standing offer from the three boxes that desire to locate on the site for $34 million. He pointed out that the amount the big boxes are offering equals the appraised value of the land so there is a break even. He then stressed that the stores at the Fashion Square have lease clauses in their contracts that would prohibit them from relocating within five miles of the mall.

Councilman O'Hearn questioned the cost of construction for the project. Mr. Toporek estimated the costs at $36 million including soft costs.

In response to additional questions from Councilman O'Hearn, Mr. Toporek explained that his company anticipates that the cost of the buildings will be roughly $5-7 per foot in excess of what they would otherwise construct. He clarified that the stores typically purchase their own electrical, air conditioning equipment, lighting fixtures, etc. and their general contractors install the components. The base price would be $35-40 per foot range; however, does not take into account the cost the retailers are investing in the buildings.

Mr. Toporek explained that the Ellman Company has an allowance for pedestrian amenities, streetscape, and landscape improvement of $2.5 million just in the pedestrian link and frontages. He pointed out that

this amount is considerably more than they would normally allow for site improvements. Shop buildings are typically constructed for $60-65 per square foot; however, their budget is $90-95 per square foot.

Councilman O'Hearn questioned the projected income generated from the proposed project. Mr. Toporek estimated the rate of return at 6.53%. Normally, the percentage would be about four times that amount.

Councilman O'Hearn addressed some of the comments that have been made regarding the proposed project. He pointed out that the subsidy that is currently being requested would be over a 40-year period. He reminded everyone that, in the past, the city has considered subsidies in upwards of $400 million on the same site. He stated that although the site is important, it is not necessarily a signature site. He questioned the amount of tax dollars that are currently being generated from the site ($0), therefore, explained that the city would be increasing revenue by allowing the project to move forward. Under the proposal, taxes would go towards transportation, the preserve, etc. He pointed out that sharing the tax revenues would not constitute a complete giveaway.

Councilman O'Hearn agreed that the Los Arcos site is conceived as a physical wound in the city. More importantly, it is a psychological wound dividing the city. He stated his opinion that it is time to begin the healing process.

He clarified that if the city sent out an RFP (Request for Proposal), it would be on another person's property. He expressed doubt that any developer would respond if they knew the existing terms and conditions. He pointed out that the action would also sentence the city to many years of legal dispute.

Councilman Littlefield pointed out that the city has proved it is a lousy developer and has bought its way out of various disasters. He felt the current proposal is as good as it is going to get, therefore, he felt the city should move forward.

Councilman Ortega explained that he is uncomfortable with the 40-year term. He expressed a desire to continue to negotiate the percentage of the subsidy as well as the term.

Mayor Manross explained that she has always tried to be very up front about the process and the city's negotiations with the property owner. She stated that she has also had discussions with Mr. Ellman and his partners. She expressed her belief that the entire Council has tried to address their concerns and guide the development proposal. She stated her belief that discussions of an RFP process encouraged the developer to initiate discussions. She noted that the city reserves the right to pursue an RFP if the city cannot reach an agreement on a redevelopment plan for the site.

COUNCILWOMAN LUKAS <u>MOVED</u> TO DIRECT STAFF TO NEGOTIATE A REDEVELOPMENT AGREEMENT FOR LOS ARCOS WITH THE ELLMAN COMPANY AND BRING IT BACK FOR COUNCIL CONSIDERATION AS QUICKLY AS POSSIBLE UNDER THE FOLLOWING GENERAL PARAMETERS: 1) THE DEVELOPMENT SHALL BE A VERY HIGH QUALITY RETAIL CENTER, ANCHORED BY WALMART, SAMS, AND LOWE'S, AND CONTAINING APPROX. 40,000 SQ. FT. OF ADDITIONAL NEIGHBORHOOD RETAIL SERVICES; 2) IT SHALL CONTAIN SIGINFICANT AMENTITIES, UPGRADED FACADES AND LANDSCAPING, HIGH QUALITY MATERIALS, AND OTHER UPGRADED FEATURES; 3) IT SHALL BE BUILT WITHIN THE EXISTING ZONING GUIDELINES MEANING NO VARIANCES FOR SUCH THINGS AS HEIGHT OR SETACKS, AND SPECIAL CONSIDERATION SHALL BE GIVEN TO ADJACENT NEIGHBORHOODS; 4) CITY SHALL EXPEDITE ALL NECESSARY APPROALS, AND THE DEVELOPER SHALL OPEN THE ENTIRE FACILITY INCLUDING THE PUBLICLY OWNED PORTIONS OF THE PROJECT AS SOON AS POSSIBLE, BY A DATE TO BE SET OUT IN THE

DEVELOPMENT AGREEMENT; 5) THE CITY WILL FINANCIALLY PARTICIPATE IN THIS TRANSACTION BY SHARING 49% OF THE TOTAL SALES TAX RECEIVED FROM THE SITE WITH THE DEVELOPER FOR A PERIOD OF UP TO 40 YEARS (FOR THE ORIGINAL USES AND COMPARABLE REPLACEMENT USES) UP TO A MAXIMUM OF $31.75 MILLION PLUS INTEREST, AND MAY QUALIFY FOR AN ADDITONAL $10.0 MILLION PLUS INTEREST IF PROJECT SUCCESS EXCEEDS PROJECTED SALES LEVELS. THIS SHARING IS ON A PERFORMANCE BASIS ONLY AND THERE ARE NO GUARANTEES FROM THE CITY THAT THE DEVELOPER WILL EVER BE ABLE TO RECOUP THIS AMOUNT. THERE IS NO UPFRONT CONTRIBUTION FROM THE CITY FOR THIS PROJECT, AND THE CITY WILL RECEIVE 100% OF ALL OTHER TAX REVENUES SUCH AS PROPERTY TAX AT NORMAL RATES. THE CITY'S DEDICATED SALES TAX FUNDS FOR PRESERVATION AND TRANSPORTATION ARE FULLY PROTECTED; 6) IN EXCHANGE FOR ITS PARTICIPATION, THE CITY WILL RECEIVE TITLE TO THE LAND THAT THE PARKING IS LOCATED ON AND TO THE PARKING GARAGE WITH DEVELOPER OR MAJOR TENANTS TO OPERATE AND MAINTAIN. TENANTS WILL HAVE A PARKING EASEMENT; 7) THE CITY WILL OWN AND CAN DEVELOP APPROXIMATELY 3 ACRE PARCEL EAST OF 74TH STREET SUBJECT TO AN OBLIGATION TO PROVIDE PARKING FOR ELLMAN'S PROJECT. COUNCILMAN SILVERMAN SECONDED THE MOTION.

COUNCILMAN ORTEGA MOVED TO AMEND BULLET POINT NUMBER 5 IN THE ORIGINAL MOTION TO READ, "THE CITY WILL FINANCIALLY PARTICIPATE IN THE TRANSACTION BY SHARING AN AMOUNT THAT MAY BE LESS THAN 49% OF THE TOTAL SALES TAX FROM THE SITE FOR A PERIOD OF LESS THAN 40 YEARS. THE MOTION DIED FOR LACK OF A SECOND.

THE ORIGINAL MOTION CARRIED 7/0.

Public Comment

Joan White, 7840 E. Crestwood Way, explained that she has spent several years of her life chasing around the transportation issue. She expressed her belief that MAG (Maricopa Association of Government) is buying support from the smaller communities for street improvements. This would result in the city losing control of street improvements.

City Manager's Report - None

Mayor and Council Items - None

Adjournment

With no further business to discuss, Mayor Manross adjourned the meeting at 8:43 P.M.

SUBMITTED BY:

_____

Ann Eyerly, Council Recorder

REVIEWED BY:

_____

Sonia Robertson, City Clerk

C E R T I F I C A T E

I hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Regular City Council Meeting of the City Council of Scottsdale, Arizona held on the 18th day of February 2003.

I further certify that the meeting was duly called and held, and that a quorum was present.

DATED this _____ day of February 2003.

_____
SONIA ROBERTSON
City Clerk