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#### **CALL TO ORDER**

[Time: 00:00:05]

Mayor Lane: Well, good evening, everyone. It's very nice to you have. I would like to call to order the September 9, 2014 regular Council meeting. We will start with a roll call, please.

#### **ROLL CALL**

[Time: 00:00:11]

City Clerk Carolyn Jagger: Mayor Jim Lane.

Mayor Lane: Present.

Carolyn Jagger: Vice Mayor Guy Phillips.

Vice Mayor Phillips: Here.

Carolyn Jagger: Councilmembers Suzanne Klapp.

Councilwoman Klapp: Here.

Carolyn Jagger: Virginia Korte.

Councilmember Korte: Here.

Carolyn Jagger: Bob Littlefield.

Councilman Littlefield: Here.

Carolyn Jagger: Linda Milhaven.

Councilwoman Milhaven: Here.

Carolyn Jagger: Dennis Robbins.

Councilman Robbins: Here.

Clerk Jagger: Acting City Manager, Brian Biesemeyer.

Brian Biesemeyer: 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.

[Time: 00:00:37]

Mayor Lane: Thank you very much. A couple of orders of business. We have cards if you would like to speak on any of the items on the agenda. That's what the City Clerk is holding over her head. And if you'd like to give us some written comments, the yellow card is for that purpose and we would be reading those during the course of the meeting as they apply. This evening we have got Scottsdale police officers Dave Pubins and Jason Glenn who are here to assist you if you have any need for their service or at 11:00 in front of me here. And we've got the areas behind the Council dais that are restricted to the staff and Council access only and we do have rest rooms over here to my left, under that prominently displayed exit sign.

**PLEDGE OF ALLEGIANCE**

[Time: 00:01:34]

Mayor Lane: So that should cover that, and then this evening, we do have, we are honored to have and to welcome the Brownies of Troop 1662, with their leader Jenny Leung to lead us in the pledge. Ladies, if you would come forward and if you could, if you can stand, please do. And then follow them in the pledge.

Brownie Troop 1662: 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, ladies. If you would now turn that microphone around and if you could introduce yourself and maybe tell us what school you go to and what your favorite subject is.

Brownie Troop 1662: Hi, my name is Courtney, and I go to Grayhawk Elementary School. And my favorite subject is math. I'm Lori Anna Long and I go to Grayhawk Elementary and my favorite subject is math. I'm Isabel, I go to Grayhawk Elementary and my favorite subject is music. I'm Natalie Long and I go to Grayhawk Elementary School and my favorite subject is core knowledge. I'm Sydney Stuckey and I go to Grayhawk Elementary School and my favorite subject is reading. My name is Tessa Massey and I go to Grayhawk Elementary and my favorite subject is math. My name is Lauren Jennings, and I go to Grayhawk and my favorite subject is math. My name is Gabrielle and I go to Grayhawk Elementary School and my favorite subject is math. I go to Grayhawk Elementary School and my favorite subject is reading. My name is Lexi Long and I go to Grayhawk and my favorite subject is core knowledge. My name is Elle Davis and I go to Grayhawk Elementary School and my favorite subject is reading. I'm Summer Stuckey and I go to Grayhawk and my favorite subject is reading. I'm Sophia. I go to Grayhawk. My favorite subject is reading.

Mayor Lane: Thank you very much, ladies. It was very nice to have you here and you are certainly welcome to stay, if you are so inclined.

## **INVOCATION**

[Time: 00:04:46]

Mayor Lane: For tonight's invocation, I just want to do a little bit of call out and see if Rabbi Jeremy Schneider is here. Yes, Rabbi Schneider from Temple Kol Ami is here for our Invocation. So Rabbi, if you could come forward.

Rabbi Jeremy Schneider: Good evening, my name is Jeremy Schneider and I'm the Rabbi, and my favorite subject, sorry. It is an honor and a privilege to be invited to share blessings with this esteemed body and I would like to thank Mayor Lane for the invitation. Being here, witnessing this esteemed body do their work reminds me of one of my favorite jokes if you indulge me for a moment. Stop me by the way if you heard it. It says a priest, a minister and a rabbi, were speaking on a symposium on death and each of them were asked to consider one question. If you are lying in a

coffin and people are looking at you, what would you like them to say about you? The priest and the minister spoke first. They talked about how they like people looking at them would say they were good men, men of virtue, that they performed their tasks well and with integrity. It was the Rabbi's turn. I'm in a coffin and people are looking at me. What do I want them to say about me? I would like them to say, look, he's moving! Is this on?

So the most eternal source of all being, we ask your blessings upon this body, the City Councilmembers, that they recognize the Holy Spirit that you have put within each individual, within each and every human being. Each one of us, having been created in your image, each one of us, each one of your children, we ask your blessings upon this body to affirm the wisdom you bestowed upon our forbearers who foresaw the astuteness of debate by philosophical discourse with words and pens and not with swords. We must never forget that in this great nation, our political disputes are resolved with discussion and not with violence. Let us remember that we have been bestowed with a forum where we come together in a room, Democrats, Republicans, liberals, conservatives, Christians, Jews, Muslims, and Buddhists and atheists.

We love this country, we love this state, we love this city, voted recently best city to raise a family, by the way, mylife.com. May we all remember that each one of us were granted our own gifts and talents from supreme author of creation and all work that we can do, we can perform for the sake of blessing, not curse. For the sake of ourselves and for the sake of our community. For the improvement of our own personal lives and for the improvement of the lives of other human beings. We ask your guidance so that our work, our decisions, and our efforts shall be for good and not for selfishness. So that we may be inspired not own to be remembered, but for having done the holy work of making this world, this city, a better place as together we say amen. Thank you.

Mayor Lane: Thank you, Rabbi.

#### **PRESENTATIONS/INFORMATION UPDATES**

[Time: 00:09:09]

Mayor Lane: Our next order of business is then Presentations, 2014 Scottsdale Environmental Design Awards Presentation, Tim? Our Environmental Initiatives Manager is here to make a presentation.

[Time: 00:09:20]

Environmental Initiatives Manager Tim Conner: Thank you, sir. Good evening, my name is Tim Conner. I'm the manager of the Office of Environmental Initiatives, and I host monthly meetings for the Scottsdale section for the American Institute of Architects. I'm joined tonight with Steve Venker who is also a manager in the Planning and Development Services group, here at the city, Steve is the staff liaison and to the Historic Preservation Commission. It's our pleasure tonight to present the 2014 Scottsdale Environmental Design Awards or as we refer to it as SEDA. And before we get on to presenting the awards directly, I want to go through a brief presentation to provide you with just an overview of the purpose and also the process that was used to develop the project. Okay.

In the fall of 2008, this was a Council discussion exploring the possible ways to encourage more commercial green building in Scottsdale. This discussion was championed by the late Councilman Tony Nelssen. He believed we might encourage high quality designs that would better respond to Scottsdale's character and desert environment. Council directed the Environmental Quality Advisory Board, or EQAB, to make recommendations of ways to encourage green and sustainable development in Scottsdale. Council also encouraged EQAB. to interact with other boards and commissions and development professionals to understand their views of green building and sustainable design. One of EQAB's goals is to have an awards program. This would be a proactive way to highlight the successful endeavors of Scottsdale's green development. They believed it would provide high quality, local examples of sustainable desert design.

For the purposes of this awards program, in 2010, the Environmental Quality Advisory Board partnered with the Development Review Board. The local chapter of the American Institute of Architects offered their services to develop professional awards and a professional awards program and the American Society of Landscape Architects provided their support and jury selection processes. This year's program was supported by several important sponsorships, the A.I.A. Phoenix metro chapter provided a Central Arizona Architectural Foundation grant for up to \$1,200 to help pay for the awards as well as other incidental costs of the program. Scottsdale northeast valley section of the A.I.A. offered their pro bono services to facilitate the process of the award. And the Taliesin Frank Lloyd Wright program designed the graphics.

[Time: 00:12:24]

First, the program's purpose is to encourage and recognize aesthetic that's pleasing for the Sonoran desert and Scottsdale's unique context. And it should have sustainable quality green. The committee established several criteria for the awards program. This year the projects needed to be constructed before January 1<sup>st</sup> of 2014, and the projects must be located in the City of Scottsdale, and the Scottsdale sensitive design principles were determined to be what would be used to judge the project's quality. The committee felt that a program should take place every two years and I'm happy to admit that today we are here celebrating the their cycle of this awards program. Additionally this year's wards committee established a new category. They titled it the Legacy Projects.

This category recognizes projects that are over 25 years in age. These projects are considered to be early notable example of the local quality desert design. And finally, the committee determined that a third party jury of five professionals should be used to judge the projects. In June of 2014, the jury met for a half-day session and selected seven projects as winners. For this year's seven winners are those Legacy Projects. Now, before the winners are announced, I would like to describe the awards being presented tonight. Again, the graphics were developed by the students and the teachers from the Taliesin. We will have a copper building plaque. The plaque is intended to be mounted on the exterior or the interior. Building in a prominent public space. The program committee wanted to emphasize their belief that successful green building projects required a team effort. And that concludes my portion of the presentation. I will now turn it over to Steve Venker.

[Time: 00:14:41]

Planning and Development Services Manager Steve Venker: Before I introduce the award winners, I have a brief description of green building that's incorporated into the design of these projects. Sorry. Wide roof overhangs and trees with broad canopies provide shade for the buildings and the outdoor gathering areas. Recessed windows allow natural daylighting within the buildings. Reduced water consumption techniques include rain water harvesting and drip irrigation and reduced energy consumption strategies and maximum insulation of walls and roofs. Conservation of resources includes salvage of native landscape plants, the use of recycled construction materials, regional construction materials and renewable resources. Mitigation of heat island effect is limited, limiting concrete paving and using trees and structured shade devices to cover paved areas. At this time, I would ask Mayor Lane and Vice Mayor Phillips to join Tim on the main floor of the Kiva to recognize tonight's winners.

The first award goes to Bicycle Haus, located in Scottsdale's downtown. A large insulated glass wall faces north to the street and captures views of surrounding mountains from the interior of the building. The simple shed building form provides shaded entry plaza. There's reclaimed use. Congratulations to the Bicycle Haus project team.

The second award goes to North Scottsdale Park and Ride. The owner is the City of Scottsdale. The architect is D.W.L. Architects and Planners Incorporated and the contractor is Balfour Beatty Construction. This responds to the natural and the built environments by using the colors of a variety of native plants as a pedestrian finding on the site this helps us to manage and filter rainwater. Solar panels on the shade canopy allow it to be a facility and may be a renewable energy facility for the city. Congratulations to the North Scottsdale Park and Ride team.

[Time: 00:18:04]

The next award goes to Simply Dentistry. The owner is Vicky Tran, D.D.S. The landscape architect is GBTwo Landscape Architecture. And the contractor is exteriors by Chad Robert. This project was the transformation of an inefficient outdated building into a state-of-the-art dental office with tranquil, sun light spaces for patients and staff by using common sense strategies. These principles were reinforced through the reuse of the existing structure and the repurposing of site items, while creating a patio space that serves as an attractive, edible landscape. Congratulations to the Simply Dentistry project team.

The remaining four awards this evening qualify for the new category of Legacy Awards. These projects are required to be over 25 years old and provide early examples of appropriate and aesthetically significant strategies, the designing in the Scottsdale desert environment.

The first Legacy Award goes to the Cattletrack Compound, the owner is Janie Ellis, and the architect and contractor is Janie's father, the late George Ellis Cattletrack Compound was primarily built by George Ellis in the mid-'30s and late '40s with ongoing changes through the 1990s and even today.

The Compound today is an interesting assembly of recycled construction materials, fully salvaged and relocated structures, including one built from Adobe that was fabricated locally. Characterized by the random placement and eclectic mix of residences and artist studios, Cattletrack Compound captures an authentic living character of living and working in early Scottsdale. It provides a seamless connection of the structures with outdoors, through a series of transitional and ever changing patio spaces with mature landscaping. The patio spaces have wood framework with shade screening that provided diffused lighting and strong shadows. Congratulations to Janie Ellis, owner of Cattletrack Compound.

The next Legacy Award goes to the Old Adobe Mission of Our Lady of Perpetual Help. It's owned by the Roman Catholic parish. The contractor of record is local parish members. The Old Adobe Mission Church was completed in 1933 and it's an interpretation of Spanish colonial revival style with a rectangular plan that seats 150 within the nave. It anchors the industry intersection with a single dome bell tower and the recessed arched entry. The walls are three Adobe bricks thick, and were made by local, made of local clay soils formed by future parishioners in a nearby Adobe pit. The western elevation utilizes minimized openings, deeply recessed into the walls that includes stained glass windows made from discarded glass from the St. Augustine's Cathedral from Tucson. The northern elevation is comprised of a deep arcade that provides comfortable space, while expressing the mass of the structure. Congratulations to the Old Adobe Mission Project team.

[Time: 00:22:48]

The next award goes to the Scottsdale Medical Pavilion. The owner is Susan Bunst. The architect is M & K Goodwin Ltd. Completed in 1977, and located south of the Scottsdale Memorial Osborn Hospital, this four-level medical office building has a unique wedge shape that is visually complimented by a cylindrical housing that houses the elevator. It provides a relatively cool circulation environment while lowering the air conditioning requirements significantly. Several components of the structure were cast on site, utilizing local gravel and the exposed concrete, thus reducing transportation energy and local indigenous color. Congratulations to the Scottsdale Medical Pavilion Project team.

Our final award this evening is for the First Church of Christ Scientist. The owner is First Church of Christ Scientist. The architect of record is T.S. Montgomery and the contractor of record is Chris G. Evans Incorporated. Completed in 1962, the structure is composed of burnt Adobe walls and concrete roof structure and decorative copper facie. It demonstrates an understanding of appropriate human and contextual scale. The interior of the sanctuary has a full height glass wall on the north and south which is protected by a stacked precast concrete unit grill. This prevents direct sun light from penetrating the interior space, while providing soft diffuse lighting and solid walls on the east and the west minimize the heat gain through the summer months. Congratulations First Church of Christ Scientist project team. That concludes our presentation for this evening. Congratulations to all the winners.

Mayor Lane: Well, congratulations to all recipients of that award. It was a great delight to see that kind of effort and those kind of buildings, Legacy or otherwise being recognized for those kind of traits.

So thank you.

[Time: 00:26:18]

Mayor Lane: One other announcement is that I'm pleased to announce that the Arizona Supreme Court has reappointed Judge Thomas L. LeClaire as a member of the Scottsdale Judicial Appointments Advisory Board for a three-year term beginning on October 1, 2014 and ending on October 1<sup>st</sup>, 2014. So congratulations to Judge LeClaire on that appointment or reappointment.

That brings us into Public Comment period of which I see there's none. So we will forgo any announcement on that, other than the fact that if there are public comments yet to be received, they can be heard at the end of this meeting.

### **MINUTES**

[Time: 00:27:02]

Mayor Lane: Meeting minutes. I would ask for a motion to approve the Regular Meeting minutes of August 18<sup>th</sup>, 2014.

Councilmember Korte: So moved.

Mayor Lane: It's been moved and.....

Councilwoman Klapp: Second.

Mayor Lane: And seconded. We are then ready to vote on the minutes. All those in favor, please indicate by aye and register your vote aye. The tally will be unanimous. And it is. Thank you very much.

### **CONSENT AGENDA**

[Time: 00:27:36]

Mayor Lane: We have consent items 1 through 16a.

And we do have a request to speak on item 9, and just so we have some idea as to, item 9 is Miziolek Wall Hardship Exception which is a request to adopt Resolution 9838 approving a hardship exemption from the environmentally sensitive lands ordinance requirement of a 15-foot setback for walls from the side property line located along the eastern boundary of the property with single family residential environmentally sensitive lands, R1-43/ESL. We do have a Mr. Arthur Landauer. Yes, if you would like to come forward.

[Time: 00:28:48]

Arthur Landauer: My name is Arthur Landauer. I live at the property immediately to the west of this property and this request, and the property in this request sits in a wash. So it is the lowest property on the street, and all the improvements under this request sit below the line of vision of any neighbor in the neighborhood. You cannot see the wall or any of the improvements within the neighborhood. The only way to see them is to actually go to the wall and the adjoining property walls and look over them. If you do that, the work you see is an improvement of the property. The prior owner left the property incomplete. The neighbors to the east had actually complained to the city about lack of weed control on this property. So when you look now, everything is an improvement to the property, an improvement to the property, I view it as an improvement to the neighborhood. So I ask that this request be approved.

Mayor Lane: Thank you, Mr. Landauer. Of course, that is the recommendation under consent, is to approve this, and that was an affirmation of that from a neighbor. So thank you for that. And seeing that there's no other comments with regard to any of the concept items, and no comments from the Council here. I would accept a motion to accept consent items 1 through 16a.

Councilmember Korte: Mayor, I move to accept consent items 1 through 16a.

Councilman Robbins: Second.

Mayor Lane: A motion has been made and seconded. I think we are ready to vote. All of those in favor of the consent items that have been moved and seconded, please register your aye. If you are here for the Consent items you are welcome to stay here with us. We will move on to the Regular Agenda item. If you choose to leave, please do it quietly.

## **REGULAR AGENDA**

### **ITEM 17 – CAKE NIGHTCLUB IN-LIEU PARKING CREDITS (2-IP-2014)**

[Time: 00:31:32]

Mayor Lane: We will move on to the Regular Agenda items, which are just items 17 and 18. And we'll start with item 17, the Cake Nightclub In-Lieu Parking Credits, 2-IP-2014. It's a request to participate in the in-lieu parking program. We don't have Mr. Grant here, but certainly we have Brad. Mr. Carr?

Senior Planner Dan Symer: Mayor, members of the Council, Dan Symer, Current Planning Services. I will be presenting on behalf of Brad today. The case before you is 2-IP-2014, it's a request for 10 in-lieu parking credits as required by code, any requests over five spaces requires approval of the City Council. The site is located on the northeast corner or the northwest corner of Indian Plaza and Saddle Bag Trail. Approximately 300 feet south of Camelback. The site is also located within approximately 400 daytime or as we would call them 24-hour parking spaces with an additional 327 night-time only spaces for a total of 726 spaces available in the night. These are night time only

request credits. So they will not be affecting the daytime parking. In addition, just to the south in the area, there's two additional parking lots for 105 spaces that are indicated as D.N.E. The blue line is within 600 feet. And now I will turn it over to the applicant for their presentation. Thank you.

[Time: 00:33:25]

Court Rich: Good evening, Mayor, members of the Council, for the record Court Rich from the Rose Law Group on behalf of the applicant, the owner of the Cake Nightclub. I wanted to start off by apologizing that the city has been sort of dragged into the middle of a landlord tenant dispute. We talked about this briefly last week but I appreciate to be back here today to talk about parking. This use has been the same use and I have a couple of sheets I can throw up here. Look, as it says there, this has been a bar use for a decade. The predecessors to this bar, you can see them over the years have been in operation. This was a bar called Pussycat Lounge and then a bar called P.C.L. for Short. And significantly investment was made by the applicants in fixing up and revitalizing the new location or the new ownership and operation. Here is the situation today, and as it has been for the last decade is that this owner and its predecessor had a lease for parking spaces that were as denoted on that slide that you see before you. That lease has been in place for a decade. They have operated along the lines of a lease that provided sufficient parking for a decade.

They found out just recently that through a technicality, that the city was no longer going to allow that existing lease to count technically, even though it was still in place to meet the parking requirements. So they came in to you and made an application to purchase ten in-lieu spaces or lease them for nighttime use. And here's the key, I think, when you are looking at this. This is not a new use. There's no impact on the area. It will change nothing. This use has been in use for a decade. We are simply rectifying a technicality with regard to parking. There will be no change to the traffic flow in the area. Again, it's the same use, the same footprint that's been going on for a decade, the same number of parking spots are still required. The same number of parking spots are still available. We are not taking up new spaces. We are not creating a new demand on parking in the downtown. This is the same operation that's been there for a decade, the exact same footprint again, the same idea, the same operation, and I'm sorry to keep saying, same, same, same, but I think it's an important point here.

You received a letter last time we were here. We were on the Consent Agenda, right before, from the landlord of this spot, and as I mentioned, there's a landlord tenant dispute that's going on. There were some issues raised about permitting for building permits. And what I wanted to take you back to here is what your criteria is to analyze. I said this the last time we were here, that we will continue to deal with the city on building permit issues. They have a C of O, the city continues to do inspections and those issues will be solved. They will be solved and I know they will be solved because if they are not, the city will put the owner out of business. They are unrelated to parking and the criteria that your criteria says you need to look at.

The only criteria we can look at, when looking at whether or not to approve the in-lieu parking application. And I will go through the six criteria briefly. They are in your Council report from the staff. Number one is that you are supposed to look at new development or reinvestment,

redevelopment of the property. They are operating now a very successful operation that's bringing people to the area. It's doing better by all accounts than the predecessors that were there. So I think when you look at that first criteria, it's reinvestment, it's redevelopment. There's really no way to conclude otherwise.

The use of the property fosters the second criteria, fosters a pedestrian-oriented environment with an urban design and character and the use of public transit for the downtown transit service. Here I agree with what your staff has written, and, again your staff is recommending approval of this, that the nighttime use coincides with what's going on in the area. It helps to create a vibrant pedestrian-oriented area along with a mix of uses in the area.

The third issue is the property size and configuration. The property is the same size it's been for a decade. The configuration is the same it's been for a decade and proposal is just to, from a technical standpoint allow them to continue to be in business by meeting the parking requirements. The amount of public parking available in the area, and your staff just touched on that, in their presentation. Number five, the future opportunity to provide public parking in the area, and we look at number four and five, the last two, again, I focus on, this is no new impact to parking. This has been there for a decade. I'm sorry to keep going back to that, but that's what we are looking at. We are looking at no new impact. And then finally, open space in public realm areas are maintained and converted to open space in public realm.

We are not proposing to do away with any public open space and so I think by any of these criteria, and these are the criteria that you are supposed to look at, that you are allowed to look at, for this analysis, my hope is that you will look at those criteria, and you will certainly find this business owner that's invested a substantial sum in his business, and the same business that's been there for a decade and that you will allow them to continue them to do business here in the City of Scottsdale and not, you know, pull the rug out from under them on a technicality by essentially doing something that would -- that would put them out of business. So I'm happy to answer any questions that you have, and we have been working closely with staff on this issue and I'm sure they can answer questions too.

[Time: 00:40:00]

Mayor Lane: Thank you, Mr. Rich. Stand by on that. We do not have any requests to speak from the audience, but, they are all for another one. But I would like, because we have continued this one time, if either Dan and/or Randy might be able to speak toward the idea of what the issues are that irrespective of whether or not they are directly related to the criteria as has been described here right now, whether they do have potential impact on the criteria for approval.

Planning and Development Director Randy Grant: Mayor Lane, members of Council, Randy Grant, Planning and Development Services. The issues that Mr. Rich is referring to were in a letter that you received and those are outlined as permitting issues. There was some considerable debate during the construction activity of what types of permits were required for the construction activity that was taking place. There was a question raised about the non-conforming status of the use permit. And I believe there were issues raised about the, there were issues raised about whether or not live

entertainment is currently occurring. Again, these are issues that we have, that we have been informed of fairly recently. We are looking into them and we will take action on them. We don't feel at this time that it's necessarily related to the provision of in-lieu parking spaces. I will say that the politic has paid up to the present from the time they were opened for the amount of in-lieu parking spaces that would have been required for Council approval from the time they opened. They are not behind on payments or anything like that, but there are some questions outstanding about activities that have taken place on the proper relative to the improvements that were done.

Mayor Lane: Just one small follow-on. We have another question on this. You mentioned the fact that they have either caught up or current with the in-lieu parking fees being paid to the city at this point in time. Under what agreement are those payments being made?

Randy Grant: Well, that is simply the amount because at the time the business opened, we had believed that the remote lease that they were presenting was going to be adequate to provide for the number of spaces that they are requesting. That lease that Mr. Rich referred to was never executed or notarized. So we didn't find it to be binding upon the property owner or the leasee of the parking. We asked for them to provide us a lease on our new form that that required the property owner to accept and acknowledge that the parking was being leased against the property and not against the business. So that's a fairly long winded way of saying that we thought we would move to a solution of the property through the remote lease agreement because they were ready to open when we found out that we couldn't, because if we submit an application for in-lieu parking spaces we will let you open provided you pay for those spaces up until the time that Council acts on whether or not to approve them.

[Time: 00:43:34]

Mayor Lane: So really what we are looking for this item tonight, is an updated version, for the in-lieu parking fees and agreements is that essentially right?

Randy Grant: Yes, that's correct.

Mayor Lane: So in the meantime, there's no reason to think that we will stop accepting under the old agreement in until a new one is found?

Randy Grant: That's correct.

Mayor Lane: Okay. Thank you very much. Vice Mayor Phillips?

Vice Mayor Phillips: I move that we adopt Resolution 9834 approving a request to participate in the in-lieu parking program for ten in-lieu parking credits.

Councilman Littlefield: Second.

Mayor Lane: There's been a motion made and a second. Would the second like to speak to it? Is

that a no?

Councilman Littlefield: That's a no.

Mayor Lane: All right. We then have a motion on the table to accept it as it stands, that the Resolution 9834, motion made by Vice Mayor Phillips and seconded by Councilmember Littlefield. We are then ready to vote. Please indicate by aye, all of those opposed with a no. The motion fails for a lack of... I'm sorry, it fails 4-3. Councilman Littlefield, Councilmember Korte and Vice Mayor Phillips accepting. Yes, go ahead, please.

[Time: 00:45:10]

Councilwoman Milhaven: Mayor, I voted no because my preference would be to continue this item. So I would like to make a motion to continue this item to, do we need to put a specific date on it? Can I say we want to bring this back?

Mayor Lane: Mr. Washburn, is it possible for us to bring this back and continue it in spite of the fact that it's been approved? I'm sorry.

City Attorney Bruce Washburn: It's been defeated. Mayor, members of Council, no, usually once an item has been defeated then that resolves it. I should say that, you know, the Council has the ability of following its usual procedures for putting items on the agenda to, you know, again consider in-lieu parking for the same facility at another time. In other words the Council could always, you know, change its position on the matter if it's, if there's sufficient interest to get it back on the agenda. The fact that this particular item can't be continued doesn't mean that the Council couldn't act on granting in-lieu parking at a later time.

Court Rich: Mayor, if I could just briefly. That was a motion to approve, not deny. So I believe, Mr. Washburn can correct me if I'm wrong. Certainly there could be another amendment or another motion that follows that could be either to deny or to continue.

Bruce Washburn: Usually we don't handle matters by having a motion, when there's, when there's only two possibilities, approve or deny, once it's been voted on, that's usually been considered to be the end of the matter. I mean, you know, I understand the point that it has not, it's probably not technically been denied. But it's not been our practice in the past.

Councilwoman Milhaven: So are you saying I can make a motion to agendize at a future date?

Bruce Washburn: Yes. You could agendize. You could make a motion to agendize at a future date. And if you have four votes.

Councilwoman Milhaven: In that case, I would like to agendize this at a future date and ask staff to bring it back after they finished their investigation of the open items.

Councilwoman Klapp: Second.

Mayor Lane: Do you want to speak towards the second?

Councilwoman Klapp: No. I think that would be fine, because then we can find out more details as been suggested by the motion. So I would approve that.

Mayor Lane: All right. The motion has been made and seconded as we continue this until the item has been determined of whether or not the impact of the items for the in-lieu parks lease agreement. No further comment on this and so I would say those in favor, please indicate by aye and those opposed with a nay. Aye. That motion is passed unanimously, and I would presume that we are still to take this, bring this item back for review of those items as has been indicated by the continuance.

Court Rich: Thank you.

**ITEM 18 – SIERRA HIGHLANDS REZONING (6-ZN-2014)**

[Time: 00:49:00]

Mayor Lane: That completes item 17 and moves us on to item 18, the Sierra Highlands Rezoning. And then we have Jesus Murillo.

[Time: 00:49:11]

Senior Planner Jesus Murillo: Yes, my name is Jesus Murillo, I'm a Planner here with the city and I will be presenting to you 6-ZN-2014, which is also on the Sierra Highlands. This is in conjunction with a plat. If this is approved, it will be presented in front of you in the future. The site is located on the North 85<sup>th</sup> and Black Mountain Road. There's been a rezoning case approved just to the north of it, known as Hawknest, The Desert Springs and The Boulders are located adjacent to the property. This is a closer look at the site. And as you can see, there's a good considerable wash that dissects the property in half flowing diagonally. The General Plan designates this as a rural neighborhood. Proposed rezoning will still continue to maintain and be in conformance with the General Plan designation.

So currently, the site is zoned R1-70-ESL. It has R1-43/ESL to the north and R1-43 to the south. The site is requesting to be rezoned from the R1-70/ESL to the R1-43. This is a site plan that has been proposed that will eventually, this site plan proposal with this case and will eventually be a preliminary plat for a final plat if the zoning case is approved. This is their proposed natural area open space plan and as you can see a majority of the dedicated N.A.O.S. will be in tracks and even that wash that we, that I discussed earlier will be protected within a tract itself.

So currently, there is a rezoning case that was approved on it, that allowed for 20 lots. This rezoning would allow the applicant to be able to put 25 parcels on it. The height will remain the same. The

required N.A.O.S., is 14 acres and they will be proposing 18.9. So currently the density allowed for this parcel, for this 40-acre parcel is .55 and the applicant is requesting a .63 dwelling units per acre. This case was heard before the planning commission on August 13<sup>th</sup> and the Planning commissioners recommended approval with the vote of 5-0. During that hearing, there were several neighbors that showed up, and that had, they expressed concerns with the improvement of 84<sup>th</sup> Street. And their concerns mainly centered around the paving. And since then staff has received about 40 emails which I believe the majority of them today and hopefully they were put in your packet in support of paving the street.

So we have some people are approved of the paving and some in support. And so we thought it was important that staff at least go over as to why that stipulation was required as part of the rezoning. And I will spare you reading you the entire slide but the main points on it are that all of our City Council adopted documents support the improvement, support improving 84<sup>th</sup> Street and as you can see by the middle points, most of the subdivision plats that have been approved in the area also allude to or were stipulated to paving 84<sup>th</sup> Street as well. Our Transportation Department and our Public Safety Department supports the paving of 84<sup>th</sup> Street. This project through its plat will dedicate a trail easement along 84<sup>th</sup> to continue to allow pedestrian access for hiking and, again, staff has received emails in support of it as well. This concludes staff's presentation. There is a member from each of our departments to answer any questions you might have.

Mayor Lane: Thank you, Jesus. We do have some, oh, I'm sorry. The applicant's representative, Mr. Berry.

[Time: 00:53:32]

John Berry: Mayor, members of the Council for your record, John Berry, 6750 East Camelback Road in Scottsdale. And it's a pleasure to be here representing David Kitnick who is the operator, founder and owner of Rosewood Homes and I have to admit for a number of years I have desired to represent Rosewood Homes because they have such a great representation. Why they would sully it with my reputation may be why it took so long to come to me. For the last four years they have won national quality awards that no other builder in the valley has won and I'm proud to say that Rosewood Homes is headquartered and based here in Scottsdale. By the way, Rosewood Homes is developing homes currently, luxury homes immediately south. So they know the area. They enjoy the area. They know what the demographics are. They sell very well in this area and they simply want to continue to provide luxury housing opportunities to new residents of Scottsdale.

Mayor and members of the Council, staff set forward the basics of the plan. I thank you for putting me last on the agenda, therefore I don't have to make a long presentation this evening. Staff identified really the paving of 84<sup>th</sup> Street. Your staff is supportive of the zoning request and the Planning Commission was unanimous in recommending to you that you approve this zoning request. It is the lowest density residential built in the area. I would like to make some additional comments after the neighbors have spoken. I would like to thank the neighbors for the time and effort that they put into this process. I get paid for this, they don't. They feel passionately about their neighborhood and they want to protect their neighborhood. We certainly understand that. I will

reserve the comments until after the neighbors have spoken.

Mayor Lane: Thank you. We do have some requests to speak on this subject. We start with David Schlenker.

[Time: 00:55:39]

David Schlenker: Mayor, members of the Council, my name is David Schlenker, I reside at 8506 E. Arroyo Seco Road in Scottsdale. I'm the current president of the Sand Flower Homeowners Association. My point in being here is to encourage the Council to positively consider the paving of 84th Street. The reason being that the Hawknest development, which you are informed of just a few minutes ago is a 33 resident development that will be completed and feed traffic down Hawknest. Sand Flower development borders Black Mountain Road and 84<sup>th</sup> Street. There's a way to get from 84th Street to the shopping areas along Scottsdale road and it's the shortest route. Currently people that live along 84th Street, all the people that live in Vista Viento and the Arroyo Seco Drive through the Sand Flower development. Those roads are relatively narrow. They are used for pedestrians, children may play in them, and the traffic is fairly congested especially when the cars are parked along the roadway.

What we heard when we were first informed about this development, is that 84th Street would be completed and we were excited to hear that because it will take some of the pressure off of the traffic that goes through Sand Flower, and frankly I don't think those I don't think those roads were designed for the amount of development, with the Hawknest, with the 33 homes. In addition to that, I think all of the neighbors that live along the street would probably positively comment that the 84th Street paving will assist in alleviating the burden of traffic. As far as the pavement, we were excited when we heard about it. We have great respect for the builder. We think it will be a positive addition to the neighborhood and we are excited to see that development completed. That concludes my remarks. Thank you.

Mayor Lane: Thank you Mr. Schlenker. Anne Hilton.

[Time: 00:58:12]

Anne Hilton: My name is Anne Hilton. I live on East Cavalry Drive which is the Vista Viento subdivision. Probably the most currently affected subdivision by the paving of 84th. And so I wanted to ground you where we have been on this particular issue and I have a very rudimentary map. Do I have that right side up? The issue we have is the paving of 84<sup>th</sup>, although as I wanted to describe for you, we understand that we probably are not going to win on that particular point. So the, the issue, or the area we're talking about is right here. 84<sup>th</sup> is currently dirt and it's currently not traveled, unless on occasion a four-wheel drive or a motorcycle will try to go down it, but it is a very rough road and has huge washes through it. Vista Viento is right here. Our gate is where the pavement stops. We went to the original development meeting and said please don't pave. We attended the Planning Council and it was determined at that meeting that it was not within their jurisdiction. So we asked, so how do we bring our issue forward. So the compromise was to create

a cul-de-sac there. The Transportation Department was not supportive of that.

So Paul Basha met us at our house. We were not really a mob but we definitely out numbered him. He explained his department's position, which we understand and he later called me and indicated that the City Attorney indicates it's not within your jurisdiction to waive paving or designate this a park either. So given that, if that's all true and I assume that it is, then our position is that we would, well, our only other option is to oppose a rezoning all together, which is not what we want. We are not asking for that. We are not a community that says we don't want other development. So our only opportunity we see is to ask the Council to stipulate traffic calming and stipulate a four-way stop at the end here of 84<sup>th</sup>. I won't go into it all, because I think I have run out of time, but I will say I am a Vista Viento person who never goes through Sand Flower because I understand it is your neighborhood and I would say if you have that same problem, it's only going to now come and impact us. So all we are doing is creating a north-south route from Westland up to Stagecoach and maybe we need traffic calming in Sand Flower. Thank you.

Mayor Lane: Thank you, Ms. Hilton. Steve Harper, Hooper?

[Time: 01:02:05]

Steve Hooper: Thank you, Mayor, and thank you, Council. Steve Hooper, h-o-o-p-e-r. I live on East Cavalry. I'm also in the Vista Viento and I also don't drive through Sand Flower out of respect of Sand Flower. It's really not the quickest way. It's quicker to go around it. When we met with Mr. Basha, he was nice enough to come out and meet with us, which I really appreciate and on a Sunday, and that said a lot about the City of Scottsdale and how good that was that he would come out on a Sunday to talk to us and address us. But the, real quick, one of the things that bothered me, we were talking about the amount of traffic that would come through. If you go north on Pima and that's pretty fast traffic up there, way north on Pima, as it gets up towards Cave Creek Road, and then you turn left, that's how you get into Cave Creek.

But if you build a short cut, they will come. And I said, there's going to be a significant increase in traffic coming down and Mr. Schlenker is correct, they were not roads bill for high traffic. They are small roads. Unless all the roads are going to be redone, especially in Sand Flower, people will cut flew, because, cut through, because they will now have a way. People will no longer go all the way up Pima to Cave Creek and turn left. They will now turn left on Black Mountain Road. They will turn right on 84<sup>th</sup> Street. I asked Mr. Basha, how did they come to that assessment. He said, no, we don't see it that way. I said what research was done and unfortunately, he said none.

So I did a little research myself, and I looked at numerous projects that involved adding roads, adding, widening roads and every one of them came to the same conclusions that if you take a three-lane highway, and increase it by 10%, traffic increases by 10%, nothing changes. If you add a road, more traffic will come on it. So it's nice to think that, does the ordinance, the policy, the guidelines of the city say roads tangent to developments have to be asphalt, if I understand that's the rule and that's what we are dealing with, then it will be asphalt. I think it's naive to think that only the people that live in that neighborhood will now turn left on Black Mountain, right on 84<sup>th</sup> and go into the

neighborhood. Everybody who is going to Cave Creek, not everybody, obviously, but many, many, many, many people who are going, and we see it now, cutting down Hawknest and cutting through, will now turn left on Black Mountain and will turn right on 84<sup>th</sup> and race down. They are not turning off on any roads. They know straight ahead is Stage Coach Pass. They will race downhill. It's all downhill, stage coach pass and they will go down to Carefree and Cave Creek. That's going to happen. All we ask is that that be considered for the traffic calming reason. We can put legitimate, strict traffic calming in there that will help.

Mayor Lane: Thank you, Mr. Hooper.

Steve Hooper: Thank you.

Mayor Lane: Lynne Sullivan.

[Time: 01:05:40]

Lynne Sullivan: Good evening, Mr. Mayor and Council. I'm Lynne Sullivan. I live in Sand Flower on 81<sup>st</sup> street. I haven't done any research about what roads do what and what percentage goes where, but I have done my own research. I'm in the yard a lot. I live on 81<sup>st</sup> street and I know we get an awful lot of cut through traffic as it is. We're not a gated community. Vista Viento is a much smaller community, love my neighbors. They are gated. They don't live my nightmare. I can tell you one car that completely totaled right at the edge of my property because 81<sup>st</sup> street is dangerous, as it is today, it's dangerous. So I would request that you would consider 84th Street as much as I love the desert, and paving it will change the texture of the desert and I will miss that. I would like you to support 84th Street being completed as it was originally planned and paved. I think we will all be a lot safer because of it.

Mayor Lane: Next and final is Tim Smith.

[Time: 01:07:03]

Tim Smith: Mr. Mayor and City Council, my name is Tim Smith. I live at 8257 East Arroyo Hondo Road. It's also part of Sand Flower. You heard have a couple of us from Sand Flower today. I'm here to support the Sierra Highlands project that we are talking about and the rezoning, as long as 84th Street gets paved. I agree with a lot that has been said already, from the other Sand Flower people that have talked today. You know, Sand Flower is the biggest community in the area. It's 100 homes. All the rest of these communities are quite a bit smaller. Sand Flower is also the only community that's not gated. All the rest of these places are gated.

What we observe is what we have heard earlier today as well or this evening, is that a number of homes use our neighborhood in Sand Flower as a cut through to go east-west, basically people from the communities which are just east of Sand Flower community to go through and get to Scottsdale road. It does add a lot of excess traffic, but when these two developments are built, I think the first one is called the Andalusia, Hawknest development and the Sierra Highlands, when these two are

built, there will be a lot more cut through traffic, I believe, in our neighborhood. For those reasons, I support this project, but I also want the requirement to stick that that road is paved, 84th Street is paved and it's completed all the way through to Black Mountain Road. Thank you.

Mayor Lane: Thank you, Mr. Smith. That completes the testimony on this. Mr. Berry, if you want to take a couple of minutes if there are issues you would like to address.

[Time: 01:08:44]

John Berry: Mayor, members of the Council. Certainly a new factor that was not present at the Planning Commission was the representation of the Sand Flower neighborhood advocating for the full paving of 84th Street. And as I understand it, there's a requirement of the subdivision ordinance that it must be paved. We met with folks from Anne and her folks after the Planning Commission and said, you know, what about some traffic calming? And I took a moment to ask Mr. Schlenker whether he thought that that would be acceptable to the Sand Flower folks if we studied putting in some traffic calming there and he said he was okay with that. Is that affirmative? Lawyers are used to putting words in other people's mouths. I want to ensure that it's accurate. He's saying yes.

With that, Mayor and members of the Council, Rosewood and Mr. Kitnick, they are part of this existing neighborhood. He would like to continue to be a good neighbor and do what he can. With that in mind, we had some brief conversations with your Transportation staff about the opportunity for traffic calming and if the Council is amenable, we would be willing to contribute towards traffic calming in the area and be stipulated to that as part of this case. If that is the desire of the Council, I have got some suggested language or points that I would be happy to read into the record. If that's not the pleasure of the Council, I will as usual will be quiet and sit down. If you are interested in a traffic calming compromise or suggestion for the neighborhood, I would be happy to go through that. Whatever the pleasure is.

Mayor Lane: Mr. Berry, why don't you stand by with that. Could be an issue for us. Councilman Robbins?

[Time: 01:10:25]

Councilman Robbins: I wanted to ask Mr. Basha if he could come up and speak to, since it sounds like we are going down the road of possibly traffic calming could you give us what those options are and explain to the Council what could be implemented here to make it more safe and slow down that traffic?

Transportation Director Paul Basha: Mayor Lane, Councilman Robbins, my name is Paul Basha, Transportation Director for the citizens of Scottsdale. Yes, it was very, very nice to meet with Anne Hilton and her neighborhoods at her home. As the Council is well aware, we do have a neighborhood traffic management policy and program and we would certainly be willing to utilize that policy to develop, well, to meet with the neighbors throughout the vicinity, including Sand Flower, and Vista Viento and develop potential traffic calming improvements for 84th Street that satisfied the concerns

of all the area residents. And we would certainly be willing to accept any contributions from the developer of this property.

Councilman Robbins: So what do those usually entail? I wouldn't, it would be up to the neighbors obviously? Are they landscape islands? Are they speed tables? What is usually implemented in a neighborhood like this?

Paul Basha: It's any of those items. It's a cooperative effort with the neighborhoods, with the Transportation Department and also with the Fire Department. So I would not presuppose any particular device. It's a collaborative effort.

Councilman Robbins: So a meeting at Sue's house then? Thank you.

[Time: 01:12:06]

Mayor Lane: Thank you, Councilman. Mr. Basha, you know when we talk about traffic calming and that, we generally have a process of analysis on that type of thing. I certainly think that any contribution that would be offered by the developer in this case would probably be something that we would at least want to inject into the overall program here. But in order to maintain consistency with our Transportation Master Plan and, frankly, the policies and the procedures we have in place with regard to the analysis of need, and then much less what might be, what method might be utilized for traffic calming, are we talking about a situation where obviously it's, if it's paved, as is required under the Transportation Master Plan for the area, and for this developer, that we subsequently analyze with the neighbors whether or not this is, whatever the traffic calming might be suggested or needed? In other words, to go through a normal process that we would rather than just to do it before we have any considerations for it?

Paul Basha: I'm sorry, Mayor Lane, we do have a policy and a process and that does include going before the Transportation Commission, and we would need to present it to the Transportation Commission and that would include an analysis. Typically the street would have to exist before we could consider traffic calming, but in this particular instance, we could begin the process prior to the construction of this street. We would not conclude the process until after the street is constructed.

Mayor Lane: And, of course, all the along the way, whatever the timing might be, the neighbors would be involved and their input and their desire?

Paul Basha: Absolutely, Mayor Lane.

Mayor Lane: As well as the circumstances of speed and/or use of the roadway?

Paul Basha: Correct. Yeah.

Mayor Lane: Okay. Well, with that in mind, I don't have any other requests to speak right now, but Mr. Berry, yeah, if you would like to consider under those circumstances, as we more or less have

outlined just now, that there would be available contribution on behalf of this developer?

[Time: 01:14:24]

John Berry: Mayor, members of the Council, in prior discussions with staff, they have mentioned that the cost of traffic calming typically for this type of situation would run anywhere in the low end from \$25,000 up to about \$75,000. And we have said that we would participate up to 50% of that. So maximum of \$35,000 and typically just so you know, with the Neighborhood Transportation Management Policy, there's a fund that the city has that pays for these traffic calming in neighborhoods. So as I said, Mr. Kitnick would be delighted to help out with that process. So if there is a stipulation, we're happy to be, to go 50%, up to \$35,000, of course, in conformance with the city's existing policy, and that policy that was put together was put together after a lot of long nights in front of the City Council over neighbors getting up and talking about whether they want speed tables or speed humps and roundabouts.

We developed a policy that details how it ensures neighborhood participation, it public hearings, the whole nine yards. I would encourage that that would be the policy for the traffic calming. The only other thing for the record, if we could get some confirmation from the staff. This effort that we are engaging in and one of my favorite saying is no good deed goes unpunished. I don't want this to be used against us. We are ready to go forward with our plat, literally this month and we don't want this traffic calming effort to delay our improvement plans, our D.R.B. approval, our plat approvals and those types of things. So with the understanding that this process is extraneous to the typical platting improvement plan process, if we can get that acknowledged, that's great and then we would pay that money at the time the certificate of occupancy for a home.

Mayor Lane: Mr. Basha, is there any difficulty with attending to it that way?

Paul Basha: Mayor Lane, from our perspective, no, that's perfectly acceptable. I would like to hear Bruce Washburn's comments on that, though, first.

Mayor Lane: Sorry.

Bruce Washburn: Well, let me make sure I understand. We are working on, we are going to be working from an oral commitment from Mr. Berry on behalf of his client to not actually make it a stipulation?

John Berry: No, Mayor, members the Council, Mr. Washburn, no, it would be a stipulation. I think we want it as a stipulation. I know the neighbors want it as a stipulation. So it would be a stipulation and, again, I've got kind of the highlights of it, but it would be a stipulation.

Bruce Washburn: Okay. So you would be basically reading the stipulation into the record?

John Berry: I wish it were that good, that I had it fully fleshed out. I can certainly give the basics of it, yes, sir.

Mayor Lane: I think, pardon me if I'm wrong on this, Mr. Berry, but I think what the concern might be is that somehow or other, the project itself doesn't get hung up on some undetermined extent of work with the traffic calming and that, is that essentially what it is? That no good deed goes unpunished?

John Berry: Yes, I think we all got that from Mr. Basha who said that that was accurate.

[Time: 01:17:41]

Bruce Washburn: Mayor, my concern is the same one we always have, that when the Council approves something, especially something like this, which, where there's an ordinance involved, where we are talking about approving zoning. We like to have the record very clear on what exactly does the Council approve because once you have adopted the resolution, approving the ordinance, you know, that's the record of what got approved. So I would much prefer if we could actually have firm language. It makes me very uncomfortable.

Mayor Lane: I understand.

Bruce Washburn: To say we will write a stipulation after the Council approves.

John Berry: Okay. I have some language here that staff has presented or suggested and it's, I will adopt it a little bit or adapt it a little bit and it's a couple of sentences long, if you would indulge me, if it's okay.

Mayor Lane: Is it readable to put on the screen?

John Berry: Well, it's kind of like Let's Make a Deal. There are four different choices for me.

Mayor Lane: Okay.

John Berry: It's entitled stipulation number 10, traffic calming improvements. Prior to issuance and staff has, you know, let me just put this up here. I think this works. Can you read that?

Mayor Lane: You will have to flatten it out a bit.

John Berry: All right. So let's, we can read along. Traffic calming improvements prior to issuance of final certificate of occupancy, for the development, city staff and the area residents will cooperate to develop a traffic calming plan for North 84th Street adjacent to the site. The process to develop and approve the traffic calming devices shall be consistent with the city's Neighborhood Traffic Management Policy and program, which is what Mr. Basha referred to the developer should be responsible for 50% of the construction cost for any approved traffic plan up to \$35,000. The traffic calming element will be considered independent of the subdivision approval process. We are very comfortable with that if the Council is comfortable with that.

Mayor Lane: Okay. So Mr. Washburn, does that meet .....

Paul Basha: Mr. Mayor, if I may. I want to be certain that the maximum amount will be \$35,000, essentially half of the total cost of \$70,000. Not half of \$35,000.

Mayor Lane: Is it clear that way? I notice somebody has written in the \$70,000.

John Berry: If we could have the City Attorney make this clear. I know having two lawyers make this clear is oxymoronic. I know Mr. Washburn can interpret the clear desires of the Council.

Mayor Lane: Mr. Washburn, with that vote of confidence.

[Time: 01:20:35]

Bruce Washburn: Well, Mr. Basha just said what his understanding is of that language. Mr. Berry has not disagreed and I think that's sufficiently clear. We will implement it.

Mayor Lane: All right. Very good.

John Berry: I apologize to add to the halo effect for Mr. Basha, but I was stunned, not stunned, it doesn't surprise me at all that Mr. Basha would do that, but on a Sunday evening, to have one of your senior level staff members go, this is a Sunday evening, drive up to north Scottsdale and spend I don't know how long it was with neighbors who feel very passionate about their neighborhood, and clearly they may or may not have agreed but he was an outstanding representative of the city, you know it's a pleasure to have employees represent us in the city.

Mayor Lane: Much agreed. We are in the process of building a monument to him.

John Berry: We will contribute up to \$35,000.

Mayor Lane: Thank you Mr. Berry, and thank you Mr. Basha and Mr. Washburn. We have questions or either a motion. Vice Mayor Phillips?

Vice Mayor Phillips: Thank you, Mayor. And I hate to put a monkey wrench in the works but I have seen this before. When you say the final C. of O., that could be 50 years from now. You know, you don't know that all of these houses will be built and sold and I have seen people being the last person to build a home and have their home held up, because the stipulation wasn't made.

John Berry: Mayor, Councilman Phillips, my bad. The clear intent, we had conversations with my client that the final C. of O. for the first house. There was no intent to be tricky unlike my usual self. That was what we intended from the get-go. If Mr. Washburn could add that, that would be great.

Vice Mayor Phillips: That would be great, thank you.

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

[Time: 01:22:33]

Councilman Robbins: Let me also ask a question. It all dealt with the traffic calming issue. Did we tip to the fact that 84<sup>th</sup>, did we stipulate to the fact that 84<sup>th</sup> was going to be paved? I know that's the intent but I didn't see that at all in the stipulation.

Bruce Washburn: That's already in the stipulation. So if you approve the ordinance and add the stipulation that will be included.

Councilman Robbins: Oh, it was? I thought that was removed from the original case. It's in the case itself?

Bruce Washburn: Yes.

John Berry: Mayor, members the Council, Councilman Robbins, it is stipulation number 5 under infrastructure and dedication. So it's there.

Councilman Robbins: Okay. So then it's different. Because we were looking at the staff report, it said it was not included, but you are saying in the actual stipulations that 84<sup>th</sup> is to be paved. I mean, they are just inconsistent.

Jesus Murillo: Mayor Lane and Councilman Robbins, the stipulations did not change from the Planning Commission hearing and the Planning Commission hearing did include it. It's included in the packet as you see it today.

Councilman Robbins: I just wanted to be sure. I guess with that, I will make a motion to approve. I will ask the Council to adopt Resolution 4168 approving the zoning map amendment from single family residential, R1-70/ESL to R1-43/ESL and it's consistent with the adopted General Plan.

Mayor Lane: A motion has been made and seconded. Would the second like to speak to it at all? Mr. Washburn?

Bruce Washburn: I just want to make sure I heard correctly that it was, you moved to approve our adopt Ordinance 4168? I thought I heard resolution.

Councilman Robbins: You may have heard resolution.

Bruce Washburn: Sorry to be hyper-technical.

Councilman Robbins: Oh, Ordinance, Ordinance 4168. And then also to include the revised, the amended stipulations.

Bruce Washburn: The stipulation number 10.

Mayor Lane: Very good. So the motion has been made and now clarified and seconded. Seeing there's no further comments on this, we are now ready to vote. All those in favor, please indicate by aye and register your vote. Aye. The tally is unanimous. 7-0. Thank you very much, Mr. Berry. That completes our Regular Agenda items. We have no public comment items. We do not have any petitions.

**ADJOURNMENT**

[Time: 01:25:23]

Mayor Lane: And unless we have any Mayor or Council items, I will accept a motion to adjourn.

Councilwoman Klapp: Motion to adjourn.

Mayor Lane: Seconded somewhere. We are adjourned. Thank you very much.