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CALL TO ORDER

[Time: 00:00:01]

Mayor Lane: Good afternoon, everyone. Very nice to have you here. I would like to call to order our March 21st, 2017 city council meeting and we'll start with a roll call, please.

ROLL CALL

[Time: 00:00:13]

City Clerk Carolyn Jagger: Mayor Jim Lane.

Mayor Lane: Present.

City Clerk Carolyn Jagger: Vice Mayor Suzanne Klapp.

Vice Mayor Klapp: Here.

City Clerk Carolyn Jagger: Councilmembers Virginia Korte.

Councilmember Korte: Here.

City Clerk Carolyn Jagger: Kathy Littlefield.

Councilwoman Littlefield: Here.

City Clerk Carolyn Jagger: Linda Milhaven.

Councilwoman Milhaven: Here.

City Clerk Carolyn Jagger: Guy Phillips.

Councilman Phillips: Here.

City Clerk Carolyn Jagger: David Smith.

Councilman Smith: Present.

City Clerk Carolyn Jagger: City Manager Jim Thompson.

City Manager Jim Thompson: Here.

City Clerk Carolyn Jagger: City Attorney Bruce Washburn.

City Attorney Bruce Washburn: Here.

City Clerk Carolyn Jagger: City Treasurer Jeff Nichols.

City Treasurer Jeff Nichols: Here.

City Clerk Carolyn Jagger: City Auditor Sharron Walker.

City Auditor Sharron Walker: Here.

City Clerk Carolyn Jagger: And the Clerk is present.

Mayor Lane: Thank you. Just some items of business. We do have cards if would you like to speak for public comment and/or for any of the agenda items. That's the white cards the city clerk is holding up over her head to my right and for any written comments that you would like to have on the agenda items, those are the yellow cards she has in her hands right now. We will be reading those through the course of the proceedings.

We do have Scottsdale police officer, Jason Glenn and Anthony Wells to assist us and they are generally right there in place at about 11:00 in front of me here, if you have any need for their assistance. In the areas behind the council dais, it's reserved for council and staff. We have

facilities available for you that are under the exit sign to my left. If have you any difficulty hearing the proceedings of our meeting, there are hearing assisted headsets available. Please see the clerk's desk over here and her staff if you need to receive one of those for your use.

PLEDGE OF ALLEGIANCE

[Time: 00:01:40]

Mayor Lane: We'll start as we always do, with a Pledge of Allegiance, but this evening, we have Troop 147, and their scout master Richard Hinz here to give us the -- lead us in the pledge. If you would like to move up to the microphone and if you can, please rise.

Troop 147: 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: Now, gentlemen, if you want to turn the microphone around there at the base and face the audience, and one at a time if you could introduce yourself and tell us what school and what your favorite subject is.

Adrian Tucker: My name is Adrian Tucker, and I go to Arcadia high school and my favorite subject is science.

Diego Pavarra: My name is Diego Pavarra I go to Cicero prep and my favorite subject is math.

Aiden Hinz: My name is Aiden Hinz I go to St. Teresa and my favorite subject is math.

Angel Talvez: My name is Angel Talvez, I go to St. Teresa and my favorite subject is math.

Maxwell Birmingham: My name is Maxwell Birmingham, I go to St. Teresa Catholic school, and my favorite subject is literature.

Carson Herding: My name is Carson Herding, I go to St. Teresa Catholic school and my favorite subject is social studies.

Ashley Martin: My name is Ashley Martin, I go to St. Teresa and my favorite subject is math.

Matthew Goins: My name is Matthew Goins in a go to our lady of perpetual help in Scottsdale and my favorite subject is science.

Isaiah Talvez: I'm Isaiah Talvez, I go to St. Teresa Catholic school and my favorite subject is math.

Vi Sherman: My name is Vi Sherman. My favorite school subject is math and I go to St. Teresa Catholic school.

Nico Chucky: My name is Nico Chucky, I go to St. Joseph's school and my favorite subject is science.

Patrick Chucky: My name is Patrick Chucky and I go to St. Teresa Catholic school and my favorite subject is geography.

Michael Carl Rhodes: I'm Michael Carl Rhodes. I go to basis Phoenix and my favorite subject, I couldn't pick logic and Mandarin.

Justin Skinner: My name is Justin Skinner. I go to Arcadia high school and my favorite subject is history.

Tim Keating: I'm Tim Keating. I go to Arcadia high school and my favorite subject is history.

Mayor Lane: Thank you very much, gentlemen. Certainly glad to have you stay with us and you will probably earn another badge for courage or something. It would be nice to have you stay here, if not, please exit when you will.

INVOCATION

[Time: 00:05:00]

Mayor Lane: So our invocation this evening is by Pastor Josh Newton of the First Southern Baptist Church of Scottsdale. Pastor, if you will, welcome.

Pastor Josh Newton: Thank you. Let's pray. Dear lord, we thank you for such a beautiful day and the greatest city of Scottsdale. We pray that you continue to bless it. We pray for the Mayor and the councilmember and the Vice Mayor that as you continue to make decisions for the city, lord, would you give us wisdom that we would ask of you for wisdom and that you would continue to bless us with that. In Jesus' name amen.

Mayor Lane: Amen. Thank you, pastor.

MAYOR'S REPORT

[Time: 00:05:38]

Mayor Lane: Next order of business is something that we -- on an annual basis are able to announce and this year in particular is a nice development with a program that is funded through funds that are raised through the state of the city event that we have every year and this year we had a particularly good event all the way around, and we were able to, with sponsors and otherwise, not only have a great event and I might say celebrate my birthday, even though it wasn't planned that way, but anyhow, we were able to generate some good money for operation fix it. And if you are not familiar with that program, it's a program that is run by some city staff, but is essentially volunteer based, and is funded almost exclusively from the funds that we received from this fund-raiser, state of the city

event that we have each year.

And it is a joint effort with my office and with the city here, but also with Scottsdale business development forum group, and Mr. Mark Dwayne, if he's here, come for, for a presentation of a check for the proceeds and the net proceeds from that event to go to operation fix it. And I might -- I don't know is Michele here? Yes, Michele, please come forward as well.

Operation fix it, I would just say, just in a nut shell is a program that we developed -- actually, it was developed by code enforcement some years ago, but we re-energized and moved forward in a big way, by just this kind of thing when there was a real problem with the number of homes that folks were not able to keep up for a variety of reasons, either by virtue of age and/or financial incapacity, to even our neighborhoods and their homes in good shape. And so we were able to -- last year, we summoned 700 volunteers to work on 200 personal properties to make sure that they were put in good stead for their owners and for their surrounding neighborhoods.

But this is the presentation.

[Off microphone comments]

Mayor Lane: Truly, I have to say too, thanks to everyone who participated for the state of the city, my staff, and for everyone who worked on it, but also all of those who attended and sponsored tables at that event, which led to this kind of result. So thank you to all of them.

PRESENTATION

[Time: 00:11:14]

Mayor Lane: So with that said, we do have a presentation, an information update from our Scottsdale arts program, our Scottsdale Arts, I should say, and Neale Perl, the president and C.E.O. Mr. Perl, if you would like to come forward, please. Welcome.

Scottsdale Arts President and CEO Neale Perl: Good evening, Mr. Mayor, and City Councilmembers. As president of Scottsdale Arts, I always look forward to sharing with you our latest news on the diversity of cultural experiences we bring to our community. Thank you for this opportunity.

The last time I was in front of you, I shared a brief summary of our annual report which was filled with positive numbers, reflecting achievements and milestones in several different areas. I reported that overall attendance of Scottsdale arts events increased 18% which is remarkable for any arts or business in the valley. We have seen dramatic increase in the canal convergence. We see a need for outreach programs from the north to the south.

I'm proud to announce that this year's four-day canal convergence reached a record with over 80,000 attendees for this signature event. There was a 43% increase in attendance from 2016. As you can see, in four years, there's been a remarkable increase in the demand for this unique event. Canal

convergence generates excitement among our residents and tourists, driving economic growth, sales tax revenue, and cultural tourism.

Scottsdale public art brought a record number of international artistic partnerships, with artists from all over the world, including Belgium, Canada, France, Mexico, and Singapore. We organized events that connected the public to these acclaimed artists, including interactive activities where the public was able to participate in artist-led workshops. In addition to the thousands of people of all ages, posting their photos and impressions on social media, many artists also expressed how excited they were with their unique experience in Scottsdale.

I would especially like to thank the city council for providing the canal convergence matching grant back in November of 2015. By June of 2016, we raised \$100,000 from the community to match your challenge. We matched it dollar for dollar and were able to grow this event dramatically which also generated a great return on your investment on so many different levels. We appreciate those who attended the preview party, including Councilman Davis Smith, Councilman Guy Phillips and Vice Mayor Suzanne Klapp. Thank you all for your support.

We have been building canal convergence for a significant event for the region and in the current model has the current potential to grow to 100,000 attendees. As the days are extended and with increased funding, it the grow exponentially. We believe it's an exciting event for all of the city of Scottsdale to get behind.

And I would like to bring to your attention the educational impact. From pre-k to college, as well as seniors and lifelong learners one example of that is our new partnership with composer, author, and educator, Rob Cappalo. We now reach into north Scottsdale to residents at Vee, Sagewood and Mara Vio and tomorrow he will be working with students at the Scottsdale community college. This is one example of how we connect artists and musicians with our community for everyone's benefit. It's not just about the performance on stage or the art in the museum that mat -- the museum that matters. It's the creation between artist and community that makes an impact, a noticeable difference, and a high return on the city's investment.

We have also developed an exciting partnership with STARS. I think I need to go back. How do I do that? Let's see. I need some help with the screen. Anyone can give me help with the screen? We were right this. The wall. Next one, please. There we are. We have also -- oh, let's see.

We have also developed an exciting partnership with STARS. In this photo we see a group learning about a recent exhibition during a docent tour of SMoCA. STARS is committed to providing services to teens and adults with development and cognitive disabilities and aligns directly with our own program.

In south Scottsdale we are excited to work with Coronado high school students and granite reef seniors through an intergenerational art program. Students and seniors will work side by side with Joan Barren to create a mural for the school. In essence, a lasting visual postcard that affirms our commitment to sell Scottsdale. SMoCA brings the national and international art world to our

community. This year alone, we have shown seven exhibitions that have featured the work of 82 national and international artists and 14 world premiers of new art. In addition we held 56 programs for adults, deepening their understanding and appreciation of contemporary art.

There's the right slide. I'm pleased to report that we have sold out 17 performances at the Scottsdale center for the performing arts. These sold out shows include a diverse range of artists and ensembles from Roseanne Cash and our own Scottsdale Philharmonic. With modestly priced tickets of just \$5 and \$10 for students.

Our development efforts have also seen growth and forward momentum. February and March were very strong months for underwriting and individual gifts. And just two weeks ago, we held our first legacy society luncheon trailed by trustee emeritus Jim Brunner. The keynote speaker at this event was no other than renowned Broadway star and Scottsdale resident, Ann Reinking. She spoke about the impact that the arts make in her life and continue to make in the youth of today. Although this is a brand new program, since January, we have already doubled the number of estate gifts for Scottsdale arts.

In closing, I would like to, again, express my deep appreciation for your continued support at Scottsdale, we are always seeking excellence in all that we do. Our goal is to provide the highest level of service to the residents of and visitors to the city of Scottsdale. Always being an economic driver and enhancing the city as brand and reputation. Thank you again for the opportunity to share some highlights.

Mayor Lane: Thank you, Mr. Perl.

PUBLIC COMMENT

[Time: 00:19:14]

Mayor Lane: Our next order of business is for public comment, and public comment is reserved for citizens comments for non-agendized items with no official council item tape on these issues. Speakers are limited to three minutes each with a maximum of five speakers. There will be another opportunity for public comment at the end of the meeting. Right now, we do have three cards for three individuals to speak. And we'll start with Howard Myers.

Howard Myers: Thank you, Mayor and Council, Howard Myers, on East Horned Owl Trail. My subject is fiscal sustainability. Something that we are all focused on. I see the city's income is up, but it's not enough to meet expenses much less enough for maintenance and future pensions which are not even in the budget yet.

So what's wrong with this picture? Why is income up and yet we don't have enough money? This was all predicted during the general plan task discussions. It was proved that attracting any business to Scottsdale also generates a negative impact to the city financially, in addition to dramatically increasing traffic, a major concern of both residents and tourists. Unfortunately coming here tonight,

I experienced some of that and how it's growing. But the majority of task force members didn't want to believe what they heard because they were aligned with the chamber's vision of Scottsdale. We heard from experts. Do you support or refute it. Surprisingly they supported them and said that these things must be looked at by all cities and they said all cities in the valley are facing similar concerns and we know Phoenix is. They are in the news. Glendale we don't even talk about.

They also all said that Scottsdale should not be made from successful and the sustainable strategy of concentrating on attracting tourists and high-end residential residents. To depart from this strategy could wind up to be fatal because we had some very low tax rates, as you know. This is exactly what our analysis stressed. Unfortunately, it seems to be what we were doing also. The majority of the task force didn't believe the experts because it wasn't what they wanted to hear. Unfortunately, ignoring problems doesn't make them go away. It makes them a lot worse if you don't address them.

I'm asking you to do some serious analysis of the direction you are taking the city and in particular the impact on the city, both financially and the residents' quality of life with these decisions on where we are headed. Good decisions can only be made in the presence of knowledge and truth. It is way past time to consider all the impacts of your decision on the city, its residents and sustainability going into the future. Thank you.

[Time: 00:22:17]

Mayor Lane: Thank you, Mr. Myers. Next is Mark Meyers.

Mark Meyers: How does this work? Like that? My name is Mark Meyers. I'm here on behalf of the Arizona Music and Entertainment Hall of Fame. We're a nonprofit historical group. And we're having an induction ceremony on the 26th at 4:00 in the afternoon. What we do is recognize people that have made a difference in the culture, in the arts and music and entertainment and our inductees are people such as Waylon Jennings, Steven Spielberg and also people like Pat McMahon, Wallace and Ladmo. We have over 80 inductees. We have been doing this since 2002. We promote the arts. We are trying to encourage youth to get involved in music and entertainment and that's one of the reasons we exist.

So primarily, we're also looking for a home. We have a temporary performance venue, on Thomas and Hayden, called Pranksters Too. We have a number of display cases on that. Our display cases were built on a Boy Scout eagle project. I'm glad to see the boy scouts here. We also do performance fund-raisers that are high quality music, and it's very not only priced. You can learn about -- more about the history of our organization and the history of our inductees. Thank you very much for your time.

[Time: 00:24:14]

Mayor Lane: Thank you, Mr. Meyers. Next is Jason Alexander.

Jason Alexander: Jason Alexander, 9976 East Jasmine Drive, Scottsdale. I'm one of the leaders of

the No DDC community organization. And last week, we attended DDCs incorporated presentation at the Scottsdale city council it was a well-run meeting and respectful dialogue all around. There was no police and no limits on questions and no drama, other than Sam Campana, which called the no DDC community Nazis and demanded police presence. I'm uncomfortable to bring it up. And she is your contractor. So I would ask you to take that into consideration.

Also at the meeting, DDCs incorporated is planning to scale back some. Museum and tourism features for the gateway site. But it's important to distinguish that the project as a whole continues to be a massive works, Ms. Campana, and the treasurer did not attempt to deny this or say it wasn't true. The long list of exhibits from their November presentations and work studies. Here's just a whole list, you can see by all the bullet points. I showed you this last time I was here, just how many features and ancillary features they are planning to put into this project.

They also acknowledged their interest in the city's 80-acre, \$40 million parcel at 94th street and Bell Road this was Ms. Campana's invitation to the DDCs board to start their January board meeting with a visit to the site and to tour the site. There's no doubt that they have an interest in this parcel. So while, again, we are glad to hear that the museum futures appear to be getting smaller and they listened the to the community, we can't say enough that the project is going to be huge and our objections are not just about the site. They are about the misuse of the preserve funds and the increasing size of the city government that would result from this.

Now, one other core objection that DDCs completely failed to satisfy is the necessary changes to the preserve ordinance to support special operations. Once this ordinance is changed, there's nothing to stop further commercial development in the Preserve. Ms. Campana says the plan includes food. She was asked directly in the changes would result in the elimination of commercial protections for the Preserve and she relied, well, I think -- replied, well, I think that's fair to say.

The history of growth in Scottsdale, growth will continue. There has to be zoning to control growth and make it holistic growth. In two years, it's not unreasonable to expect concessionaires to be at browns ranch. I ask you to take those core consciousness' to mind and put this project to a public vote. Thank you.

Mayor Lane: Thank you, Mr. Alexander.

Councilwoman Milhaven: Excuse me, it's my understanding we can comment to correct fact.

Mayor Lane: Generally speaking we can speak if our name is used. As far as correction of fact, I would ask whether we have a response on this since it's not an agendized item.

City Attorney Bruce Washburn: Mayor, members of Council, the statute is very specific, you can only respond to personal attacks on the individual councilmember.

Mayor Lane: So that completes our public comment period.

Councilwoman Milhaven: Excuse me, insult to my person, not to personal attacks on anybody.

City Attorney Bruce Washburn: Yes, it's an attack on yourself.

Councilwoman Milhaven: On myself. Thank you.

Mayor Lane: Yeah, I'm sorry.

ADDED ITEMS

[Time: 00:28:37]

Mayor Lane: All right. Moving on to the rest of our business, I think it's reasonable to explain to folks why we do this. We have some added items in supporting material for item 14 and the council report and support materials for item number 15 have been added to the agenda less than ten days prior to the meeting and will require a separate vote to remain on the agenda. The reason we call for a special vote inside the ten-day period is to make sure that the added information is never on short notice and rather it is made available to the public and the council ten days prior to a meeting in.

This case we have two items that have had some added material to them and we will now -- what I would ask for is to accept the agenda or continue the added items to the April 4th council meeting. Do I have a motion?

Councilman Phillips: So moved.

Councilmember Korte: Mayor? Second.

Mayor Lane: Well there was an "or" in there so I would presume it would be so moved is to accept them as presented.

Councilman Phillips: Yes.

Mayor Lane: The motion has been made and seconded. We are ready to vote. All of those in favor, please register your vote. It's unanimous to accept them as presented here in our council report.

MINUTES

[Time: 00:29:56]

Mayor Lane: The next item is the minutes. And I would like to ask to approve the special meeting minutes of February 21st, 2017, and regular meeting minutes of February 21st, 2017 and the work study session minutes of February 28th, 2017, unless there as a request for an add, delete or correction.

Councilmember Korte: So moved.

Councilman Phillips: Second.

Mayor Lane: The motion has been made and seconded to approve the minutes. We are ready to vote. All of those in favor register your vote. All in favor, aye. It's unanimous then.

CONSENT AGENDA

[Time: 00:30:34]

Mayor Lane: The next order of business is our consent items 1 through 11. These are items that have been reviewed by the council and considered by staff as being items that only required our previous review for it and that's occurred. I have no cards of comment on it from anyone in the audience or any comments from members of council.

And if that's the case, then I would ask for a motion to approve the consent items 1 through 11.

Councilmember Korte: Mayor, I move to approve consent agenda items 1 through 11.

Councilwoman Littlefield: Second.

Mayor Lane: The motion has been made and seconded. I think we are ready to vote. All of those in favor, please indicate by aye. Nay if you oppose. It's unanimous on the consent.

Moving on to the regular agenda items, 12 through 18.

**ITEM 12 – SCOTTSDALE HEIGHTS ROADWAY EASEMENT ABANDONMENT (10-AB-2016)
ITEM 13 – SCOTTSDALE HEIGHTS NON-MAJOR GENERAL PLAN AMENDMENT AND REZONING
4-GP-2016 AND 9-ZN-2016)**

[Time: 00:31:30]

Mayor Lane: The first item of note is that we will -- we will be dealing with items 12 and 13. They will be presented together and speakers will be given one opportunity to address the council on one or both items. So those items 12 and 13, needless to say are related items and therefore they have been joined to go. So do we have -- and we do. It's good to see you.

Senior Planner Keith Neiderer: Good to see you, Mayor, members of the Council. This is case 4-GP-2016 and 9-ZN-2016 and 10-AB02016, also known as the Scottsdale Heights rezoning. The subject property is located at the southeast corner of Dove Valley Road and Scottsdale Road, as outlined in yellow on the aerial photograph on the screen. To the south is the summit at Scottsdale retail center. To the east is an undeveloped property with R-3 zoning on it. It's had that R-3 designation since 2006 and it entitled tore up to 90 multifamily units. To north is the patio homes or

townhomes within the Winfield community, and to the west is the Terravita master planned community.

Here's a closer aerial looking at the site, again, the site is outlined in yellow on the screen. The subject property, as well as the property to the east were once part of the Dick Van Dyke studios which were built in the 1960s and demolished in 1999. As you can see, there's still some scarring on both properties.

The current general plan designation on this property is commercial. And the proposal and the first portion of this request is for a non-major general plan development from commercial to urban neighborhoods, for 14 acres of a 15 and a half acre site, depend located at the southeast corner of dove valley and Scottsdale Road. The map on the screen depicts locations in northern Scottsdale, that are designated as urban neighborhoods on the general plan.

Although the 2001 general plan land use definition states that densities within this category are usually above 8 units to the acre, urban neighborhoods within this area of the city have been consistently implemented at a density below 8 to the acre and here are three examples. One in Legend Trails, one up near desert mountain, and the other one which was approved but undeveloped directly east of the site, known as Paloma.

This indicates the urban density. The request is similar to the density of the approved unapproved Paloma project is the east, right about here, which was approved by the city council back in 2006. Furthermore, the request is more dense than the developments designated as suburban neighborhoods in this area. The current zoning on the property is C-2, environmentally sensitive lands that is the central business district, the commercial district. And the request is to rezone the property to an R-3 medium density residential category.

This is the proposed site plan, if approved it would be stipulated to. It consists of 78 units, single story condominium duplex development. Main access will be from the north along Dove Valley Road with an emergency access out on to Scottsdale Road as well as for trash trucks. This will be 100-foot scenic corridor meeting the scenic corridor guidelines along Scottsdale Road. There will be a 40-foot buffered landscape area just south of -- between dove valley road and the wall of the development. A concrete path would connect the concrete path along Scottsdale Road to the east, through the Paloma development and to an existing multiuse path that's off the screen and to the east.

Just some development comparisons based on the current zoning and what's proposed this evening. The C-2 zoning would allow dwelling unit integrated into each business on the proper. The straight R-3 zoning would allow up to 12.93 dwelling units per acre and the developer is proposing 5.6 to the acre. Under C-2 zoning, over 465,000 square feet of floor area would be permitted. There is no commercial floor area proposed or allowed in the R-3 district. Building heights in a C-2 would be 36 feet above natural grade. The straight R-3 district would allow 30 feet above actual grade and 28 feet above actual great and 28 feet above finished floor and, again, they would all be single story. In the C-2 district, banks, restaurants, with or without drive-thrus, as well as hotels and retail and storage facilities are allowed by right. In the R-3, those uses are not permitted. It's just dwelling

units are allowed and finally the traffic counts would be substantially less with a 78 residential university as opposed to the maximum that could be built on a C-2 property.

The final request as part of this application is to abandon an existing roadway easement along the east side of Scottsdale Road. It is a 55-foot roadway easement, however, it overlaps the right-of-way lines. So the applicant is only looking to abandon the eastern 30 feet of that roadway easement. This easement has been in place since 1968, when it was dedicated to Maricopa County and the purpose is believed to be -- it was dedicated to be part of the desert scenic drive along Scottsdale Road which dates back to along that time. In the event is approved this evening, they will dedicate this as the natural space easement on the site.

This case has been active for quite some time, and there's been quite a bit of email and phone calls opened open the site and petitions by over 600 people. And there's been some letters of support received and most of the correspondence is in your packets. We did receive on Friday a letter from the greater Pinnacle Peak association that their letter of support, which is in the planning commission report has been removed. We have a letter that came in Friday and I emailed that to you yesterday afternoon.

That concludes staff's presentation. The applicant is here and I would be happy to answer any questions you may have.

Mayor Lane: Thank you, Keith. Stand by for the questions. We do have some testimony as well. But if Mr. Berry wants to come forward. Then please.

[Time: 00:39:49]

Applicant Representative John Berry: John Berry. And Mayor, I don't intend to use my full ten minutes an any time remaining, I would appreciate the ability to add additional time to my response to the public testimony.

Mayor, members of the Council, you know, usually I'm here asking for more. I'm asking for more density. I'm asking for more height. I'm asking for more traffic as a result of those things. And there's usually opposition to those requests. And I -- I'm here asking for less. I'm asking for less height, less density, and less traffic.

And there's opposition too. You will likely hear from this opposition, that we haven't gone far enough, that they really want more than just reducing traffic and down zoning this from commercial to residential. You may also hear that what we are proposing is out of character with the area, but, you know, as we consider the public testimony, a little bit of history and perspective would be beneficial. And that is that everybody who comes to this podium likely lives in a neighborhood that was rezoned and it was rezoned when somebody stood here and asked the council for more height, and more density and more traffic. And there were people that marched to the podium back then that lived on one house on three acres and one house on five acres, that showed up and said, you know, we don't want that on our 2 acres and 3 acres. It's out of character what you are proposing. They are going

to say that it was out of character. Terravita, Winfield, they are going to understand and ask you to understand that this is out of character but their projects were approved with rezonings for more, more density, more traffic.

That is the opposite of our request tonight, the absolute antithesis to our request. On the right is the plan committed to the DRB and on the right is our proposal today.

What are the community benefits associated with going from this commercial to this residential? Let me name a few. 94% less potential traffic. 100% increase in open space. 55% more open space along Scottsdale Road. The Scottsdale Road scenic corridor is enhanced and less height from three stories allowed to agreeing to one story. And at the south end of this proposal, an acre and a half. An acre and a half of usable and meaningful public open space for the Dick Van Dyke interpretive celebration trail.

But is our request out of context? This is Scottsdale, four-lane arterial. And to the south is a shopping center. And 300 feet away from this property is a gas station. Immediately next door, sharing a boundary with us is the exact same density that we are proposing right next door.

Now, in conclusion Mayor, members of council, we are not asking for more. We are not asking for more density. We are not asking for more height, and more traffic. We are asking for less density, less height and less traffic. Some neighbors still want us to reduce the density that we have come forward with tonight. They want us to reduce the density, and further density for the residential.

Mayor, members of council, I think you know me well enough that if we could reduce the density, we would, but we can't. We have already made substantial changes to the project and to the density from its original filing. Originally, they were stacked condominium and now duplexes that are single family. We decreased the density by 37%. We reduced the height from our original filing by 50%. All one story. And we increased the width of the Dick Van Dyke interpretive trail by 155% to make it a more usable public amenity.

Finally, Mayor, members of the council, I want you to look out here this evening and ask yourself, if the application tonight, the reason I was standing here was to ask for more, which is usually the case, and if we were asking to take the approved zoning for what you are asking to approve tonight to take it to the commercial zoning that's approved today, we wanted to make that change. We wanted to go from one story to three story. We wanted more density and intensity. And we wanted to take the traffic from 518 trips a day to almost 9,000 trips a day. What would the reaction be in this Kiva?

Mayor, members of the council, we respectfully request that you approve this this evening and I'm happy to answer any questions and I would like to reserve four minutes for my response to public comment.

[Time: 00:46:05]

Mayor Lane: Thank Mr. Berry. We will do just that. We will start with the request to speak from

Cindy Lee.

Cindy Lee: Good evening Mayor, City Councilmembers. My name is Cindy Lee. I live at 8508 East Hackamore Drive Scottsdale. The applicant for Scottsdale Heights cites as precedent for approving the cases before you today, the 2006 city council approval of Dove Valley residential, known to us as Paloma, to the west of the proposed Scottsdale Heights.

Oops, sorry. These are the Scottsdale city councilmembers who voted in 2006 to approve that non-major general plan amendment. At that hearing Councilmember Tony Nelssen articulated his concern over using the commercial use. His activism for preserving desert life in north Scottsdale is well established. Quoting from the city council meeting minutes, on December 11th, 2016, for item 21, Dove Valley residential requests for non-major general plan and zoning map amendments, quote, councilman Nelssen stated his only concern is the elimination of commercial use in an area of city with very little commercial property. And then skipping down a bit. Mr. Grant said the back portion of the parcel is good for residential and the ability to provide some C-2 on the frontage portion on the west side of this parcel is important. Responding to councilman Nelssen, Mr. Grant pointed out connections between the residential parcel and shopping areas to the west and the south. Mr. Grant explained there are no other parcels designated as urban neighborhoods in the area, end quote.

The requests creating Paloma were approved by the city council in 2016, with an understanding that the other parcel to the west would remain C-2. Leaving the site commercial was deemed important. It does not seem right to disregard the understanding acknowledged in 2006 that leaving commercial use and zoning in this suburban resort villages area was important. It seems neither consistent or appropriate now to use the 2006 approval based on this understanding to justify the 2017 requests to eliminate the commercial use in favor of more urban neighborhoods, land use. The general plan reflects the long range guiding principles, thoughtful planning, and vision for how the city and the voters wanted Scottsdale to evolve over time.

Mayor Lane: Ms. Lee, if could you wrap up, I would appreciate it. Your time has expired.

Cindy Lee: Okay. As noted in the general plan, resort villages fall within and are a special feature of the suburban desert character type. I ask the council to consider voting not to approve today the request for a non-major general plan amendment. Thank you.

[Time: 00:50:26]

Mayor Lane: Thank you, Ms. Lee. Next would be Emily rose.

Emily Rose: I live at 7305 East Cypress Street. I would like to read the following letter in the record. To whom it may concern.

In our role as neighborhood leaders in Estancia and Privada, we worked with Michael Lieb on the redevelopment of the Pinnacle Peak patio site in north Scottsdale. Redevelopment of such a sensitive site required ongoing communication between the developer and the surrounding property

owners to ensure that the proposed project would both meet the needs of the developer, but also be compatible to and integrate well with the preexisting neighborhoods. This case, although a down zoning from commercial to residential was particularly sensitive because our neighborhoods share a border with the Pinnacle Peak patio site. You can see the similarity to the site we are discussing tonight on the graphic on the screen.

Throughout the zoning and redevelopment process, with Michael and his development team, we found him and the team to be honest, competent, knowledgeable, open to discussion and extremely accessible. Michael's goal was to build a community that would enhance our existing neighborhoods and maintain the quality of life and community that we desired in this area.

To accomplish this goal it was necessary to have ongoing productive communication between the neighbors and the developer and for both sides to clearly articulate their concerns and issues. We found Michael and his team very open to listening to our issues and then working on providing responsive changes to their proposal.

Although zoning decision was completed quite some time ago, Michael continues to check in with us and to work to ensure that the construction and the completed project meet expectations. He's demonstrated to us that he truly does mean what he says and he stay was the project until completion in order to make sure that both his and the neighborhood's expectations are met. Sincerely Jim Davis, Estancia.

Mayor Lane: If I might ask, you gave a different address than on the card. If we could correct that with the clerk.

Emily Rose: Yes.

[Time: 00:52:57]

Mayor Lane: Mr. Don Buch.

Don Buch: Don Buch, 6572 East Sleepy Owl in Scottsdale. Let me come a little closer. I would like to stress three points. What we are talking about today is as we speak, a 15 and a half acre site. The staff report repeatedly and consistently refers to it as such. So does the planning department, so did the draft resolution and the ordinance per the legal department. Per the county assessor's office, this is what the site looks like. The area marked in red. But in your package, it is suggested that the site looks like this. I would suggest this second man is a figment of someone's imagination. The site has never been subdivided as this suggests and why should anyone care? Because rezoning a site that exceeds 15 acres as per the county assessor, this is exceeding 15 acres, it requires a two-thirds vote of council where less than 15 acres only a simple majority would be injured. I trust you will abide by the current regulations when you vote today.

Point number two, you have been presented a project narrative, prepared by or for the developer. It states, quote, the commercial zoning on this property is no longer a viable land use. It is not even

attractive for commercial use. Some alternative facts might prove informative. Fact one, contiguous to the site, encompasses more than 322,000 square feet of retail space, and is 98% occupied. Fact two, the staff report does not mention the Scottsdale Westland center just north of this site. It encompasses more than 74,000 square feet of commercial space and it's 97% occupied. Fact number three, Ms. Bitter Smith, the community relations reports that Mr. Lieb has two potential commercial buyers for this site, so much for no commercial demand.

My third point, finally let me refer you to page 8 of the staff report. In short, the net present value of a project depicts how much value a project gives to the city. The designation shows a net present value of \$2 million, while the proposed urban neighborhoods shows a negative net present value of \$135,000. It is difficult to comprehend why any of you would vote to forgo the \$2 million gain to our city, and then choose, instead, to have our city observe the \$135,000 net cost of assisting a developer in maximizing his profit, while he builds a project with the -- which the community, the people who elected you, strongly objects to. Thank you.

[Time: 00:56:32]

Mayor Lane: Thank you, Mr. Buch. Next will be Jim Johnson.

Jim Johnson: Good evening Council, Jim Johnson, 7422 east Camino Rayo De Luz, Scottsdale. I'm here to speak against this proposed development. I believe there's a higher principle at stake here and that is are we working with developer who are respectful of the community and honor the efforts that we have made to keep the area consistently rural and at peace with the desert? The residents moved to this area because of that and they are looking for partners in the developers who will respect that same -- and be as good of care takers as they are.

This is a really ugly proposal on the table right now. It's tiny lots. It's urban homes and access ways instead of streets and minimal amenity. It's neither rural or suburban which is consistent in the area. Despite what was said we have not had active engagement with the developer. We met in open houses. We saw the first proposal, which we found completely disingenuous. We knew that would never be accepted and lo and behold, he ends up at 78 units the same as Paloma. We met directly with him to try to engage, can you build it with less density. Can we work on a different design? We were told he can't make any money with less density.

There's a Taylor Morrison development called the enclave, single family homes curved roads and lots big enough to support a pool. The parcel was just 2 acres larger, but the unit density is less than one half that proposed at Scottsdale heights. Despite what it always says that we are just afraid of change, there was no fighting on that rezoning and no fighting on that redevelopment. It was accepted by the community as well and good for the development of the area. So I think the idea is that we need to focus on the developer to truly getting engaged, truly listening and not just ticking off the box that says, yes, I met with the local community.

Now ten years ago when the parcel to the east was rezoned, it was noted by the council how important it would be to keep this last parcel commercial. So what has changed in the area needs

more commercial space and this is the best possible, maybe the last possible space in the area. It will keep tax dollars in Scottsdale instead of going to the surrounding cities. In addition, I think a commercial developer will be more incentivized to work with the local community to make sure they are happy. The developers have to live with the decision. They can't take their money and leave. We walk to the Summit all the time, and we go to the restaurants and the shops. Additional commercial development would make it that much more convenient for us. We would be in walking distance of more restaurants and shopping and other services that we can enjoy. Thank you.

[Time: 00:59:55]

Mayor Lane: Thank you, Mr. Johnson. Next is David Gordon.

David Gordon: Good evening, I'm David Gordon, I live on 72nd Way in Scottsdale in the development known as Winfield. You have likely heard that is in your package that the Winfield community supports the proposed development rezoning change and general plan amendment. Please don't believe all you hear regarding the support of the Winfield community. There has been no community-wide survey taken to assess the position of all Winfield homeowners with respect to this proposed development. The statement of supposed support from Winfield is based upon a vote by 25 residents less than 5% of the total homeowners and the emergency board meeting on November 22nd, 2016, at which homeowners were incorrectly told that the proposal is merely a zoning change and the city's development review board will be the deciding factor with regards to the housing density, road placement, et cetera.

In fact, the petition I originated shortly before that generated 39th residents signing. Neither, certainly are overwhelming numbers, but certainly the opposed exceed the support. Reason for opposition include the density of development being significantly greater than existing nearby communities with design being out of character and compared to nearby communities and the perceived adverse impact of the increased traffic. Now, I salute Mr. Berry for his arguments but the reality is we don't -- we're not reducing things. We are -- existing neighborhoods have none of the items. So anything that he talks about is an increase from what we have now. Other petitions were circulated in the neighborhoods, they were in aggregate between the ones we just mentioned, there were 522 people opposed. Traffic, inappropriateness for the area and density.

In December, I addressed an email and attachment to Mayor Lane and the councilmembers, at least one councilmember wrote back that the urban-style density of the proposed project they did not support it at the 5.6 dwelling units at that location. Any new development must fit in the surrounding -- with the surrounding neighborhoods and uses. I thank that councilperson for their timely response.

As noted the Paloma project immediately to the east was approved in 2006, for comparable density. To date, that site has not been developed at all. But it's being used as an argument for this project. I would urge the council to postpone approving a project like the Scottsdale heights project until it sees how the existing approved zoning and approved project for Paloma, how that turns out. Thank you very much.

[Time: 01:03:44]

Mayor Lane: Thank you, Mr. Gorton. Next is Mike -- I believe it's Fiflis.

Mike Fiflis: That is fine Mayor. Mike Fiflis. Mayor, members of the council, I live at 7454 East Camino Rayo De Luz. I live what would be a few houses away from what would be the Paloma development. I'm here to make my objection to approving the zoning change. My largest concern is the bait and switch tactics that the developers have used particularly on the Paloma development that you are being asked to change the zoning on. I have lived at my house since before the Paloma development was brought to council before the zoning change. We were promised with a nice plan that there be a nice development there, with so many units. It was brought to council.

Council approved it and lo and behold the property was sold after the zoning approval, and there is now a proposed plan whatever, much more dense, much less attractive, and now observing the heights that were agreed to by the rezoning developer and I think the community was feeling like a bait and switch. The same advisor was involved, that is involved in the current zoning application. So I ask you to be aware of that and be leery.

The R-3 zoning allows a broad use from duplexes to apartment buildings. We now have -- we have two 15-acre parcels that are potentially going to be open to apartment units if they get merged together, we will have a massive apartment unit development right next door to us. And that's a huge concern of ours. It will decimate property values, surrounding the Paloma parcel and the developer's parcel. There's million dollars homes. There's homes that are worth several million dollars. The apartments will destroy those values.

If you do approve it, I would ask you to stick with the developer with what they promised. Single family, short heights. They did submit a declaration of use restrictions. You may have seen that. Frankly, as an attorney, I will tell you it's worthless. It calls for a 50% vote of unit owners. Once the declarance is out of the picture or if the declarance around the declarant voting and the unit owners, 51% voting and there's certainly all kinds of legal mechanisms to avoid that. The day after you approve the zoning, they are going to change that. So I suggest that you put some -- put some restrictions in place. Require whatever you do that it -- that the zoning change evaporates when the owner changes, that it's only ownership properties involved and no long-term rentals or if there are long-term rentals -- no short-term rentals only long-term rentals by someone who only owns one unit so we don't have an apartment building come in next to us. And that is what technical solutions put in their report and I think you should stick it to them and put those conditions on there and not allow them to switch developers and bait and switch us again. Thank you.

[Time: 01:07:33]

Mayor Lane: Thank you Mr. Fiflis. Next would be Howard Myers.

Howard Myers: Thank you, Howard Myers on Horned Owl Trail. My subdivision was built with less

houses that was allowed and was not changed and zoned. This property should never be changed from its current commercial use. The property to the east, that was rezoned a couple of years ago should never have been changed either. That was a big mistake because we need more commercial. Don't make the same mistake again and also don't use the first bad decision to justify a second bad decision.

This is the only place in this area in north Scottsdale that has urban-type densities and because of the property that was zoned before and this one those are the only two. And it really does not fit the character of the area, and the surrounding development. This change is so bad and by all standards it should be a major amendment, but the staff allowed it minor amendment. Once it's zoned R-3, anything can be built this as previous speakers have told you.

Stipulations are pretty much useless, as soon as you flip the property, they are useless. The city needs more retail to increase its income as the budget is already in trouble. We talked about that before. You need additional income. Many of you believe the applied economics study in 2010 that claimed the north doesn't pay for itself. I know the Mayor said that often because we don't have enough retail up there. If you believe that, how can you now rezone this retail for residential? Retail basically generated income from the city and residential generates a negative income or a loss to the city. So you will be essentially forcing us to endure a loss.

The staff's own land use model as somebody already showed, showed a net positive gain of \$2 million, if it's commercial and a loss of \$135,000 if it's residential. We believe those figures are wrong. We believe the loss is higher than what they say. So it's a big loss to the city, to possibly add retail instead of changing the use to commercial or to residential.

This is also the perfect site for additional commercial, because it's right next to the summit which is a successful shopping center. And the way you work things up, there you put everything in the same place so people only have no go one place to get things done. So it's the perfect place for the summit. There were concerns expressed about that and it was assured to them that this property that you are talking about now would never be rezoned from commercial. You think you can't predict the future or ever do that, the one thing you can say is it's better to have a positive gain to the city than a negative gain. The general plan correctly identified this property as appropriate and desirable to commercial because it makes all the sense in the world and the trips that he quotes are kind of ridiculous because once you go there. You go for one thing and you get a lot of things done all at once. You don't have separate trips.

This is not what's best for the applicant but what's best for the city and that's what should be your priority. What is best for the city and not increase the profits. Changing it to high residential, it will have a negative impact to the city. It's your decision.

[Time: 01:11:11]

Mayor Lane: Thank you, Mr. Myers. Next would be Steve Haney.

Steve Haney: Steve Haney, I'm a full-time resident at 6112 East Calle De Pompes. More commercial in this area is absolutely not necessary. The proposal for high-end, for sale product is compatible with the area, and will maintain or enhance property values. And less traffic on Scottsdale Road is definitely a positive gain. So I urge council to support this project. Thanks.

[Time: 01:12:13]

Mayor Lane: Thank you, Mr. Haney. Next is Suzanne Dreher.

Suzanne Dreher: My name is Suzanne Dreher and I have an office at 4350 East Camelback. I'm here on behalf of the Winfield owners community association to read this letter into the record.

March 17, 2017. To Mayor Jim lane and members of the city council. Winfield is a planned community of 511 homes, directly north of this proposed project. Our homeowners living directly along dove valley road and the property boundary of this vacant land represent those residents, most directly affected by development of this property, between Winfield and the commercial -- the summit commercial center. These residents also use dove valley road to enter and exit the Winfield community and their homes.

This approximately 30 acres of vacant land, between Winfield and the summit commercial center was split and sold as two. Approximately equal 15-acre parcels, both of which were zoned commercial C-2 ESL. Several years ago, the eastern approximately 15-acre parcel was rezoned to R-3 ESL with a site plan for 78 single family, single story homes with most buildings containing two units. This was approved by the planning commission, the city council and the development review board as a major general plan amendment and this plan still could be built today.

Now we have this western approximately 15-acre parcel along dove valley and Scottsdale Road, applying for the same change in zoning for commercial C-2 ESL to R-3 ESL with a site plan for the same number of units. 78 single family homes, single story, and 39 buildings with two units per building. This represents the same density as already approved for the eastern abutting parcel.

Over the past ten years, the Winfield board of directors has been presenting the five different proposed plans for this property. 36 to 38-foot high buildings not including roof top utilities. One plan for 168 apartments and 12 buildings. And this plan for 78 single family, single story homes called Scottsdale heights.

Of the five proposed mans, presented over the last ten years for this parcel, Winfield board of directors believes this latest plan for Scottsdale heights will have the east impact on our residents and on the desert foothills scenic drive and has voted to support this proposed general plan amendment for gp2016, the proposed zoning change, 9-ZN-2016, from commercial C-2 ESL to residential R-3 ESL and the proposed roadway easement abandonment 10-AB-2016.

Finally, the current intersection of dove valley and Scottsdale Roads is a disaster waiting to happen with whatever is finally approved for this vacant land. The Winfield board of directors is asking the

city council to request work on this intersection to include proper turn lanes in each direction, along with traffic lights to ensure the safety of residents entering and existing on Dove Valley Road. And this is signed the board of directors. Thank you.

Mayor Lane: Thank you, Ms. Dreher. Now that completes the testimony to speak on this item. So Mr. Berry, if you would like to come back in response for the allotted time.

[Time: 01:16:28]

Applicant Representative John Berry: Mayor, members of the Council, there was reference to approximately 500 and some odd petition signatures that are included in your packet which is part of the reason why it's so lengthy. It's no wonder they got 500 signatures on their petitions. Here's some of the petition language, furthermore, the requested zoning change to R-3 would not preclude the property from being developed as apartments following approval of entitlements. It has no mention that it eliminates commercial and 94% reduction in traffic and all one-story homes instead of three-story office, and providing more open space and larger scenic corridor. That petition was an online petition was very effective, I have to admit, because you can see that discussion about apartments finds itself in a sampling of the comments, things like "slum landlord apartments," apartment, apartment, apartment. And then the concepts of traffic. They didn't talk about the potential reduction in traffic.

Again a sampling of responses from the people who signed it, again, electronically on the Internet is there's going to be all sorts of traffic problems and traffic congestion. Additionally, we just -- others took a quick look at the signatures and you got a bunch of anonymous. And then these are all the additional municipalities, locations outside of the city of the Scottsdale of individuals who signed those petitions.

Is this out of character? That's the underlying theme. Is it really out of character? I would note that the Winfield homeowners association directly to the north, the only one directly impacted by this proposal, their board of directors, as recently as four days ago, sent you the letter that was read into the record, directly next door, the same zoning, the same density. To the south, commercial, with a gas station 300 feet away. Fronting on a four-lane arterial.

Let's talk about the area and the character of the area. Let's compare our proposal with the Terravita subdivision, literally right across the street because people experience character if they are fortunate enough to go through the gates over here or the gates in Terravita, they will experience those inside the location but for the rest of it, we experience it along Scottsdale Road. Let's comparison and contrast those two, Terravita and our proposal to each other. Here Terravita and our proposal. It's open space with six view corridors. No buildings on it with nine view corridors through the site. Now here we are to do a little bit more comparison to the two, again our proposal, the existing Terravita, it's parcel h, literally across the street. The Terravita has an allowed height at 30 feet. We are at 28 feet. The average scenic corridor is 104 over here and 133 feet on this side of the road. They have these three red lots -- these are three lots that are actually inside the scenic corridor. We have no homes inside the scenic corridor.

If you look to the right or you look to the left, what are you going to experience as the character? The average home size in this parcel h is 1805 square feet. You heard about property values. Our average home size is 2200 square feet. That's a 22% difference. We are a larger only than across the street. The minimum home size, 1409 square feet in Terravita and our minimum home size is 2,000 square feet. That's almost a 40% difference, larger homes over here. What about price per square foot? Recent sales at Terravita at parcel h, \$242. We are conservative at \$275 a square foot for these homes.

Character, is experienced only when you go through the gate or when you are driving along Scottsdale Road and for most of us, it's driving along Scottsdale Road. This is going north on Scottsdale Road, to the right is Winfield. You see these one-story structures right here? Those are duplexes and triplexes. They are not single family lots. Those are duplexes and triplexes. Can you tell the difference between that and now you are going southbound looking at that Terravita subdivision parcel h with these one story homes that are lower density? Can you tell the difference? I think not.

Mayor, members of council with all due respect to folks, it's a down zoning. It improves the situation. It's not out of character. If anything, the development immediately across the street is out of character with what we are proposing on our side of the street. Mayor, members of the council, I'm happy to answer any questions you may have.

Mayor Lane: Thank you, Mr. Berry and thank you for all the testimony given by all the individuals who participated in that and thank you to staff. Thank you for the presentation as well. So to the council we have these two items joined to go which is item 12, the Scottsdale heights roadway easement abandonment, and Scottsdale heights non-major general plan amendment and rezoning. The 4-GP-2016 and 9-ZN-2016.

You heard the staff presentation, the applicant's presentation and response and the testimony of the public. Do we have any questions of either the staff, the applicant, or in response to some of the testimony that's been given? Let's start with Councilman Smith.

[Time: 01:22:56]

Councilman Smith: Thank you, Mayor. I think my questions are to staff and maybe Mr. Berry can amplify if it's better for him to answer. The first question is just one of economics. We see in the report a certain of NAOS space or open space, I think at one point in the report it said the open space required 4.8 and the -- or they provided open space is 5.2, versus the required of 4.8. My question just simply is: Are these calculated against the 15.6-acre site or only against the 14-acre or so site?

Senior Planner Keith Niederer: Mayor Lane, Councilman Smith, the slope analysis that -- the NAOS analysis is done off the slope analysis for the property and I believe that the slope analysis included the entire property, the entire 15 acres.

Councilman Smith: Keith, some people may not know what a slope analysis is. Can you explain for them?

Senior Planner Keith Niederer: Yes, councilman Smith, the environmentally sensitive lands ordinance created in 1991 and modified since breaks down the required amount of natural area open space which is the area that we leave natural or revegetated to look to a natural state is based on the slope of that property and it's broken down into different categories, 0 to 2%, 2 to 5% and 5 to 10% and each of those categories require a certain percentage of natural open space and when you add all of these different sloped categories together, it comes out to that natural area open space requirement. Now, the open space figure, you also see on that table in the staff report, that's based on the R-3 district. That's why the numbers are different.

Councilman Smith: I think you lost me.

Senior Planner Keith Niederer: There's a natural area open space requirement for the site which is based on the slope analysis and then there's also just a general open space requirement, which doesn't have to be natural. It would be the amenity area, or other landscaped areas outside of the NAOS, and that's dictated by the requirement of the R-3 zoning district.

Councilman Smith: So a related question, I guess, where I'm coming to, is in calculating the allowed -- I'm sorry, in calculating the provided space, this project provides x amount of open space, this project provides x amount of NAOS. Is that provided number including the walkway down here, the path, the Dick Van Dyke area, whatever you call that?

Senior Planner Keith Niederer: Mayor Lane, Councilman Smith, yes, it does.

[Time: 01:26:24]

Councilman Smith: The second question, unrelated, we talked some about some of the -- some of the speakers talked about the loss of commercial space and idea of the location of this is the proximity to the location, a few years ago, we had a land use study that was done that predicted what the commercial space requirement of north Scottsdale, if you would be at build out. And can you tell me where we stand on that? How much did that predict we would need? How much available land do we have left?

And from looking around, it looks like you are waiting for somebody that can answer that.

Keith Niederer: Yes, that is correct, Councilman.

Taylor Reynolds with the long range planning division will be able to shed some light on that.

Councilman Smith: So Taylor, basically the question is, what was the land use study saying we need for commercial space and how much do we now have? And how much would we have after this 14 acres or 15 acres or whatever is removed.

Senior Planner Taylor Reynolds: Councilman Smith, so the study stated that 144 acres would need to be absorbed. We have 306 acres north of deer valley road. So if you negate 14 acres from that, that's about 2 -- sorry, 292 acres. So --

Councilman Smith: I'm not sure. You have how many undeveloped acres.

Senior Planner Taylor Reynolds: Excuse me, we have 67 undeveloped commercial acres currently.

Councilman Smith: And the requirement according to the land use study will be that we somehow find 144 acres?

Senior Planner Taylor Reynolds: That is correct.

Councilman Smith: And tonight we are being asked to reduce the 66 down to 52? Is that correct?

Senior Planner Taylor Reynolds: That's correct.

[Time: 01:28:43]

Councilman Smith: Third question and I don't know to whom the staff this is directed, but there is a comment, I think on page 4 of the staff report that says any -- it's talking about the things that give rise to a general -- a major plan amendment, and one comment is made that the area of change is often a factor. And the statement is made that a change in land use of 15 acres or more is typically considered a major plan amendment. Can someone explain to me where the word "typically" was arrived and I ask that in the context of looking at the general plan and it says quite directly, that a change in land use designation that includes the following gross acreage of 15 acres or more is a major plan amendment. It does not say typically what is meant by the word typically?

Senior Planner Taylor Reynolds: Excuse me. I am trying -- hold on one second.

Planning and Development Services Director Randy Grant: Mayor Lane, Councilman Smith, I think in the staff report, that's kind of being used rhetorically. The general plan says 15 acres. With density, within some of the categories in the general plan, such as the difference between an urban and a suburban zone, it's typically 1 to 8 units to the acre. There's some flexibility in that. The 15 acres is pretty well defined.

Councilman Smith: So it's not typically? It would be a general plan amendment. Speaking to that question of whether the unit per acre make it major or minor, there is, again, in the general plan a chart of what constitutes a major general plan amendment and it says that if you are going from commercial, which is what this is, to an urban designation, it is not major, but if you are going to suburban it is major; is that correct?

Planning and Development Services Director Randy Grant: That's correct.

Councilman Smith: And suburban is generally 1 to 8 houses per acre, also correct?

Senior Planner Taylor Reynolds: Also correct.

Councilman Smith: And this seems to fit into the bracket of 1 to 8 houses in that it will be 5.6 dwelling units per acre.

Senior Planner Taylor Reynolds: That is correct, but councilman Smith, the general plan also goes on to say that they are usually more than 8 units per acre. As Keith presented in the -- his presentation, just showing generally within this area of the city, city council has consistently seen urban neighborhoods slightly less than 8 units per acre, in looking at the densities that were provided on, I think it was slide five or six of staff's presentation.

Councilman Smith: I hear what you are saying and I think what you are telling me is it's been our practice to consider them urban since I have been on the council for only two years, I don't go much on practice.

Senior Planner Taylor Reynolds: That is correct.

[Time: 01:32:34]

Councilman Smith: I just go on what the citizens voted for. I think maybe I don't have any other questions -- well, I do have one other question. The site to the east of this, the one that we have now called Paloma, the comment was made by several people, that when this went through it, was a major plan amendment, not minor.

Senior Planner Keith Niederer: No.

Councilman Smith: Is that because it exceeded the 15 acres or because it was considered urban or for what reason was it considered major and this is minor?

Senior Planner Keith Niederer: Mayor Lane, Councilman Smith, that case number was 15-GP-2005, and that was actually a non-major general plan amendment. That's the urban neighborhoods and so the urban neighborhoods was allowed at that density below eight units to the acre.

Councilman Smith: Then just for the record, the letter from the Winfield folks stands corrected. They called it a major plan amendment. It apparently was not a major plan amendment.

[Time: 01:33:52]

Applicant Representative John Berry: Mayor, I'm sorry to interrupt you Councilman. May I give you some additional information on the subjects you identified, particularly as to the commercial demand?

Councilman Smith: Sure. I have reserved the rest of my time to resort.

Applicant Representative John Berry: Mayor, Councilman Smith, I just want to give you some more information to you have a basis for -- some additional information on what staff provided you. As part of your application -- or part of your staff report, I know it was voluminous. It was over 200 pages, many of them were the online petitions that we talked about. In that packet we had a retail analysis of the north Scottsdale market that was prepared by Elliott Pollack and Company. They looked at not just a general plan analysis but they looked at a real world practical analysis of what is the situation for the retail market up there. It was not a -- it was not a planning exercise. This was a real world market analysis of what's out there. I think we would all agree that Mr. Pollack's company was clearly the platinum consultant in this issue.

Let me just read you a couple of things from his -- from his conclusions of the north Scottsdale retail market. A review of the market concludes that over 1.8 million square feet of retail space is located within the four mile market area surrounding the intersection of Scottsdale and Dove Valley roads. The market area has a 14.3% vacancy rate. That's 60% higher than the average greater Phoenix vacancy rate. Within the market area is approximately 260,000 square feet of vacant commercial space. For example, El Pedregal, just very close by to the north, a 32% vacancy rate. Scottsdale north marketplace, one mile south that's anchored by the A.J.'s has a 44% vacancy rate. Stage coach village has a 39% vacancy rate and the shops at dove valley average have a 34% vacancy rate.

So it's nice to have the ethereal concept of how much retail do we need in a general plan document or a general plan analysis but in the real world, we have got over 1.8 million square feet of retail space within the mark area, and large and great, very high vacancy rates that exist in buildings that are empty today. Thank you.

One other quick thing on the major general plan amendment. Voter approved general plan amendment does have a provision that gives authority to the city staff to determine what is and is not a major general plan amendment.

[Time: 01:36:48]

Councilman Smith: My summary comments on this I think it's clear in the general plan, what a major general plan amendment is, the 15 acres. And I -- in the sense, I applaud the creativity in making a park on the south end of the acreage so that it comes in for a rezoning of only 14 acres. But in reality as staff said, some of the statistical achievements, the open space, the NAOS numbers all of that sort of thing are achieved only by including that park or whatever we call it in the calculation.

You can't have it both ways. You can't say I want to approve my project for 14 acres and I have a lot of open space and the way I will do that is by incorporating the rest of the acreage that brings it up to 15. It's either 15 or 14. I think it's being too cute by half here in trying to pretend that this is not a major general plan project.

And also, I mean, there are four criteria for major general plan. One of them is the size, the 15 acres.

The other one is whether it's going from a category of special to urban and we are avoiding that by simply saying we are not going to urban. We are going to suburban or whichever way it is. But we are choosing our category carefully.

I am concerned as many people are about the deletion of commercial acreage. As staff said our only bought and land use plan study, done in 2013. So the ink is not yet dry on it, said that we would need by 2030 -- not tomorrow, not yesterday, not by next month, but after we are out of the recessionary period and the build out has occurred, by 2030, we will need 144 acres of commercial to support the residential needs of this northern Scottsdale community. And we have 67. And after tonight, if we approve this, we will have 52.

And the dilemma will occur down the road. At some point down the road when it turns out that everybody does need a grocery store, a barber shop, whatever the facilities might be, we'll have to find a piece of residential property, grit our teeth and convert it back into -- not back into commercial, but convert it to commercial. And it's not going to be a pretty picture. Nobody likes doing that. They didn't like that the last time we did that up north.

We have the ability to plan properly for the development of north Scottsdale. And the proper planning is not to take this commercial piece out of -- out of use or out of existence. It is arguably the most ideal piece of commercial property for development in all of north Scottsdale. It's adjacent to a shopping center now it. Fronts on to Scottsdale Road, a major road. And why we would convert that to residential, simply because -- I don't know why.

I am concerned about the loss of commercial acreage. I'm concerned about, as it's expressed in the staff reports itself, there's a negative net present value to converting this to residential. I'm not persuaded that we will have less traffic. It may be true that this particular site has less traffic. It would have less traffic still if we just built a wall around it. People are going to shop somewhere. If they don't shop here, they'll shop elsewhere. But they are going to shop. And we have to provide those opportunities for the full development of the community. I think I would almost argue that we will have more traffic if we don't have the feasibility and the capability for people to shop in a logical location. They will drive further south or further north or further east or west.

I think it's important too and it's not anything we can put in writing but frequently we have to remind ourselves. This council and previous councils make promises to citizens, sometimes to quiet them down, to get them to acquiesce, to get them to agree and then we let a few years pass and then we hope nobody remembers the promise. As a couple of speakers have mentioned tonight, it was promised when the Paloma site was approved, that this site would remain commercial. And that will be my recommendation. Thank you Mayor.

Mayor Lane: Councilwoman Milhaven.

[Time: 01:42:20]

Councilwoman Milhaven: I would look to make a recommendation to adopt, resolution 10680, and

adopt resolution 10681, approving a non-major general plan amendment to the Scottsdale general plan 2001 conceptual land use map from commercial to urban neighborhoods and adopt ordinance number 4292 approving a zoning district map amendment from central business district, environmentally sensitive lands, to medium density residential environmentally sensitive lands and I would like to make some brief comments.

Vice Mayor Klapp: I would like to second it.

Mayor Lane: Thank you.

Councilwoman Milhaven: I heard the speakers talk about the activity. I have been up and driven all around and looked at the comparable neighborhoods in terms of density, and when I look at sensitivity, I think the landscaping buffer, we won't know what's inside. I mean, in fact, you drive by the summit shopping center and if you didn't -- if you are not looking up the driveway, if you are driving by, you wouldn't know there's a commercial center in there.

The neighbors were concerned that the shopping center wanted a bigger sign because they wanted people to know the shopping center was there. I think that speaks to the aesthetic of the area, in terms of folks won't be able to see what's there.

In terms of sensitivity to the area, usually what we hear is the impact of traffic and what I have learned sitting in this seat, commercial development creates more car trips than residential in terms of sensitivity to the area, I think this residential use has far less impact in terms of traffic. Folks may personally see it differently, but I have to rely on the report of experts and the experience of experts that tell us otherwise, and so I see this zoning is -- will have a lesser impact if there are were developed commercially. In talking with folks in the area I know folks would rather see fewer homes but the answer is yes or no commercial or this density. I have to think it is preferable to a commercial zoning.

I do want to also comment on a couple of other things. Someone suggests we put restrictions on there that restrict the ownership rights. We are not allowed to do that. We are not allowed to limit it to one owner or another.

And then another comment, someone else made a comment that after we are done here, people can do whatever they want. The stipulations don't matter, when, in fact, the stipulations are legally binding on any owner of the property if they want to change this plan and do anything differently than what we are talking about tonight, they need to come back for future council action. So we can rely on the stipulations are in the case.

And no worries. There's a vacant supermarket site up the road so future needs for supermarket, we have that. So I believe that allowing this rezoning will reduce the impact to the area.

Mayor Lane: Vice Mayor.

[Time: 01:45:30]

Vice Mayor Klapp: The most immediate neighbors impacts are the Winfield people and they have said that this is far preferable to them to not have commercial on this lot. They would rather have residential and if I lived there, I would agree with them. I think that it's an improvement in the area to down zone from commercial to residential on this particular site.

There's been some suggestions and discussion about commercial in the north and I know from being in -- a retailer in the north, I can tell you from personal experience, there's vacancy rates in the north are far higher than in surrounding areas. There are a number of commercial shopping centers that have large vacancy rates that have been noted and the argument to -- to say that the council? 2006 promises it would remain commercial, that council in 2006 did not anticipate a recession that took place about three years later, that devastated the retail commercial industry in the north. So it's time in 2006, when things were booming and money was flowing into the city like crazy, yes, there was a lot of desire to build more commercial in the north. We had a later realization after the recession hit that we could no longer anticipate such great growth in the commercial industry and the northern part of the city. And I think that the 2006 council couldn't have foreseen any of, that and nor could they bind this council to approve zoning on this property, just because they thought it would be great for commercial in 2006. So my feeling is this is a good use of the property.

The immediate neighbors that are most impacted believe that this is the best use of the property and it's already been -- it's been presented, all the benefits of moving from commercial to residential on the property. It looks like a good project to me and that's why I support it.

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

[Time: 01:47:42]

Councilman Phillips: Thank you, Mayor. I was going to say with all the boy scouts here, maybe they are working on their eagle badge or something. I couldn't believe they are sitting through this but they left. So it kind of proves that point.

I'm kind of surprised by this whole conversation. And the reason for that is I have talked to a lot of residents up there. I'm up there all the time. I have a business and I have a lot of customers up there. And it -- it's always been residential and not commercial. And to hear this big argument about how we don't want the residential, we want commercial, it's kind of shocking to me.

And, you know, when you go on the north side of Pinnacle Peak, that shopping center, there just south of it where we used to have rawhide, sad to see that go is all retail now. And you might think it's pretty. I don't really think it's pretty. It's a bunch of big box stores. I had coffee there at the egg and Joe, which was pretty good and still that's more retail. It's not full. Just south of that and I was just there today.

I came from Carefree and drove down, just south of that, I almost drove into the median because right over the bridge, is Silverstone and they are building some God awful amount of multifamily housing.

It's four or five stories. Probably Howard knows and there's hundreds of them. There aspect hundreds of them. Who approved that? You know? And so when I see someone wants to build homes, I want to see them build homes because these multifamily family housing is marching north. Look at how close it is. We are up to Pinnacle Peak already. This could have easily been another one.

We don't know what was going to come in the future, and to me, this project is better than what could come. And that's way was most worried about. So I'm very shocked to hear that people are -- would rather have the commercial there. I'm up there all the time. If you go to Alma School and Dynamite, that's a 10-acre commercial property that's never been developed. You have a Circle K and a Wells Fargo and a gas station. There's no commercial interest up north because they know the commercial developers know that they are not going to get the business. And just north of Suzanne's -- is that the summit?

Vice Mayor Klapp: No.

Councilman Phillips: And north of that, there's another commercial development. How did you let this lap? These will never get filled. So to me, I'm just shocked that you wouldn't want to see houses here. It's just -- you know, I think we should. And there's one on Pima and Dynamite, just east of Pima. That thing probably went into bankruptcy. That never got going.

Some the other developments, and then you have to worry about if you allow this commercial and you are talking about well in 2030 and the future, you know, we will need all of this more commercial. Well, what I have always heard and what I have always felt and always thought is that when you bring in more commercial, that brings in more people. Because they say now I have the gas stations. Now I have the shopping. Now I have everything. I can live up here.

You want to leave it as rural as possible and if you live up there, you are more than happy to drive 5 miles to the store because you want to keep it residential and you want to keep it rural. You don't want the march of commercial development up north, which just brings more traffic and more people. So I don't understand the thinking at all.

And then look at Pima and Dynamite. There was the 10-acre residential parcel there that a certain council voted to change to commercial. And now there's going to be a gas station there. So to hear anybody from that, who votes for that say that they don't want to change commercial to residential, it's like, well, you know, tit for tat. So I feel that really, better than what could be. I think this is a good project.

I'm not real thrilled with the density of, it but let's take what we can get because I don't want to see multifamily housing there. I don't want to see a QT gas station there. And I think we -- sometimes you need what we can get. I know Mr. Lieb is a local developer and he has a good product. He's not a developer from Florida making money for stakeholders. He cares about the area and he cares about his product, and he will be here until the end. And I'm willing to bet that he will build this in -- in the end, in -- and Mr. Berry pointed this out, I go all through Winfield which I think is a great

development.

Terravita is pretty darn dense. When you look at the thing and it says what density it is. It sure seems a lot more than that, because it's house to house to house, because there's no property in between those. I don't know who voted for that a long time ago, but that's a huge development. This is a little one. So I'm inclined to vote for this for these reasons.

I also exit Dove Valley when I go to Winfield and we need turnouts there and if these residents are going to use that, we definitely need it. I would hate to see another street light there, but we definitely need the turnouts. I don't know in the applicant or the city can work with that or if that can become part of the project to make sure that that happens because we don't want to see it built and then not have it.

And as far as uses and restrictions go, it's definitely up to the applicant but I would hike to see them include silver homes and 24-hour rentals like air BNB put open the restrictions so that people up north don't have to worry about that either. And I think that would make it palatable for everybody. I guess that's all I have to say about this. Thank you very much.

Mayor Lane: Thank you, Councilman. Councilwoman Littlefield.

[Time: 01:54:16]

Councilwoman Littlefield: Thank you, Mayor. Well, I think David read my notes because he basically said all the things that were in my notes.

This is a hard project for me, because I like the reduction in density. Like the project itself. I have no problem with the design of the buildings of the homes and all of that. I do have a little bit of problem about the egress and ingress, is that enough and I would like that to be double looked at to make sure that we don't need another roadway there.

But the biggest concern that I have with this project is not the project itself. It's how it was handled. We received so many conflicting notices on yes, we approve it. No we don't approve it. It is not approved by this and it is approved by that. A assume the latest email we got was the GPPA does not support this project, minefield, may or may not support this project, depending, according to what we just heard up here tonight.

And a lot of residents in the area do not want this and they prefer commercial for whatever reason. I don't think the homework has been done here. It sounds to me like there's a great deal of misinformation, turmoil and unhappy folks that need to be -- have this project discussed with and have some solutions made so that we don't have this kind of uproar. I don't see the need for this up there.

The other thing that I really am concerned about and I'm just going to lay it out there and I don't mean to be rude and I apologize if I sound rude but I don't like the fact that it looks to me like the general plan is trying to be worked around here. And they are finding ways to do it by cutting down the size

of the project. If it's a 15-acre-sized parcel, it's a major general plan amenity. There has to be a really, really strong reason not to, and there's not here. I don't like this perceived attempt to work around the rules and the regulations of the citizen approved general plan that we are all supposed to be working under right now. I don't like that. And I don't think it's necessary, nor wanted. Because if we do it for one parcel, for one application, what's going to stop us from doing it for another and another and another, we set a precedent and I don't want to set that precedent.

So for that reason alone, I will not be supporting this project. And I'm sorry, I'm not supporting the project. I think as far as a residential property and the plan that's being done here, it's not bad. But I won't -- I won't go against our own citizen-approved plan. Thank you.

Mayor Lane: Thank you, Councilwoman. Councilmember Korte.

[Time: 01:57:29]

Councilmember Korte: Thank you, Mayor. Well, I agree with Councilman Phillips. I too am flummoxed by the opposition to this down zoning. We are looking at less traffic. We are looking at density that's compatible within the surrounding area. Now it may be a little bit high, but it is compatible. It's single story. It's 28 feet. It's not 36. It's not 48. Single family homes, and for opposition to ask for commercial or -- or call for maintaining the commercial zoning, that is just surprising to this, because the impact to commercial zoning within this rural area.

Yes, can a plan -- you know, our general plan, we are working off a 2001 general plan. That was only 16 years ago. We also -- regarding commercial use and the zoning of the Paloma site and saying that -- that the adjacent site would be a great commercial use, that was back in 2006. So that was 11 years ago and I don't know about you but we all know that the whole retail landscape has changed big time and it's not going to go back. The fact that we have vacancy rates within the market area, and I can't remember but those vacancy rates were like 16 to 20%, Mr. Berry. We have sufficient needs to meet the needs of this area. So I will be supporting this project.

[Time: 01:59:30]

Mayor Lane: I too will be supporting this motion that has been made. I'm surprised that some of the folks who have now become advocates of commercial development in the area, it is real -- it really comes as a great surprise to me after such a long period of time where it's been otherwise and I'm also glad to hear that the Summit is doing well. It's taken them a long time, if they are supposedly doing well now, it's taken them a long time. They have come to us recently and asked to get some greater visibility to actually increase the available commercial activity for them. So if that's so, I'm glad for them but it took them a long time to get even to the point of maybe even a break even. So more commercial property development to the north of them, probably won't help that scheme of things for their profitability.

But that's -- that goes beyond the surprise that so many people who now have been adamantly opposed to commercialization in the area are now for it. And now we have to protect. Some of the

same people cited the same statistics with regard to vacancy rates within some of these commercial developments and another case where there was a request for some commercial application. It was -- we have too much commercial right now. I mean this was the calling card, just not -- I mean it seems like it was a few -- maybe not quite a year ago, we were wrestling with that. I'm certainly in support of that.

I would say one final thing is that the first conversations I had with some of the folks who stand here tonight to oppose it, indicated to me that they didn't dislike the project. They just didn't like the layout within it. I don't know what's happened in the meantime, but whatever has happened, if there's misinformation, it's occurred over the last several months. I will stand in favor of the motion as it stands right now.

I think since there's to further questions, I think we will call for the vote. And we are then ready to vote on the motion which has been stated and if everyone is clear on that, please vote aye if you agree and nay if you oppose. Aye. The motion passes 5-2 as you can see there.

Applicant Representative John Berry: Thank you all very much.

Mayor Lane: Thank you very much to staff and everyone who testified and to the applicant for their information.

ITEM 14 – PALMERAIE REZONING (7ZN-2016)

[Time: 02:02:01]

Mayor Lane: Okay. Our next item is -- making an appearance on this agenda and staying strong, Palmeraie rezoning, 7-ZN-2016, and we have Mr. Carr here, the principal planner to give a presentation.

Senior Planner Brad Carr: Thank you honorable Mayor. As you mentioned case 7-ZN-2016, the Palmeraie project. I'm pleased to present the background on this project. It's been a long time coming.

As you can see on the aerial, it's a prominent location along Scottsdale Road, a long vacant road at Indian bend and Scottsdale Road. About 20-acre site there. As you can see a little closer, directly adjacent to the McCormick Stillman Railroad Park, some office location to the south, and to the west, very prominent, currently under construction, the Ritz Carlton piece in the town of Paradise Valley. This project being a sister project to that larger Ritz Carlton development and it will bring a mix of commercial residential and potentially another motel use to the site.

As you can see this site is currently designated in the resort tourism designation in the general plan and the current zoning is the R-4R or resort/townhome residential designation. Just real quickly, of the site plan as you can see here, the area to -- let me grab the -- sorry. The area to the east or the portion of the site here is primarily commercial designation, or commercial for the site will be located

on this eastern portion of the site, some potential for residential and hotel as I mentioned earlier on the northern portion, that boundary line between Paradise Valley and Scottsdale being down the middle here.

Quickly, some images of proposed building design, again, really conceptual as you can see here, a mix of one story and one and a half stories for the northern part for the two to three story residential and/or hotel. Conceptual landscaping showing the applicant's vision or the for a lush, inviting shopping experience for people at the Ritz Carlton and the city of Scottsdale and some renderings demonstrating that.

Real quickly, again this is vacant, undeveloped and has been since its inception in the city, proposed use of mixed use development on approximately 20 gross acres. As you can see here, the office space is about 80,000 as proposed and commercial space is over 225,000. Dwelling units at this point are going to be maxed out at 151 units and hotel units maxed at 151 units. The planning commission did receive this in November at their hearing and recommended approval.

I'm happy to answer any questions if you have any and the applicant as I mentioned is here for a presentation as well.

Mayor Lane: Thank you, Mr. Carr. Would the applicant like to make a presentation?

[Time: 02:05:27]

Applicant Representative Jason Morris: Mayor, Councilmembers, Jason Morris on behalf of the applicant Five Star. I'm not sure if the question is rhetorical, if the applicant would like to make a presentation. You just sat through an extensive presentation and a lot of testimony.

That being said, we are very proud of the presentation and the development that's before you this evening. Staff has done an incredible job putting together both the staff report and not just planning staff, but we have been working with transportation. We have been working with your legal department. This has been an all hands on deck effort, because it's a complicated parcel, being both in the town of Paradise Valley and the city of Scottsdale.

And I will say we have a presentation. I'm happy to walk through the extensive development that is occurring on this site and go through some of the details but I'm also happy to make a much more brief presentation and answer questions about what's occurring on site. I will give you the overview verbally and if you would like me to go through the presentation, I'm happy to, Mayor. As staff pointed out, this is a 20-acre site, 10 acres of which is being planned today, with the remaining 10-acre northern portion coming back before both planning commission and council for approval of a site plan before we can proceed.

This portion, this 10-acre portion that's the immediate and direct concern today, and the development that's occurring along with the Ritz Carlton resort community, is primarily restaurant and retail, with a very small office component in the center. It's entirely parked underground. So we have an

extensive amount of open space. It's also a lot of transition of plazas and pedestrian ways at the level of hotel. So virtually from the front door to the hotel, both the guests and any of the patrons at the Palmeraie units are led between the retail and also fronting up against Scottsdale Road. So as this is your resort corridor, as called out in the south Scottsdale plan, it's in keeping with what you have envisioned for this site.

I'm happy to go through the architecture. I'm happy to talk about many more of the details, but I would be also content to answer your questions and address any concerns you may have.

Mayor Lane: Well, thank you, Mr. Morris. We will go ahead and start with the questions.

Applicant Representative Jason Morris: Thank you.

Mayor Lane: And if you want to stand by if they are for you or if they are for staff.

Applicant Representative Jason Morris: Perfect.

Mayor Lane: We will start with Councilman Phillips.

[Time: 02:08:06]

Councilman Phillips: Thank you, Mayor. And Mr. Morris, this is not any question.

In fact, I wanted to make a motion to approve Palmeraie rezoning, 7-ZN-2016. I know it's been postponed quite a few times and it's been a long-time coming and a lot of issues with flood control and Paradise Valley and the Ritz Carlton and the utilities and all of this. And if I may, I just wanted to say thank you to our city manager for going through these issues and working with everybody and getting all of this developed to the point where I feel good about it, and I can approve this. Thank you for that.

Councilwoman Littlefield: Second.

Mayor Lane: Thank you, councilman, and second from Councilwoman Littlefield. Would you like to speak toward it?

Councilwoman Littlefield: Yes, I would.

Mayor Lane: I'm sorry. One second. Was there some issue --

City Attorney Bruce Washburn: Thank you. Do I understand correctly then that the motion is to adopt ordinance 4289 and adopt resolution 10645 and 10677?

Councilman Phillips: Yes, thank you for that.

City Atty. Washburn: Thank you.

Mayor Lane: And so the second.

[Time: 02:09:16]

Councilwoman Littlefield: That's what I understood, yes. I think this is going to be great for Scottsdale. I really think that this is kind of retail we want to see in our downtown. It's a win/win situation for both Scottsdale and Paradise Valley, and I'm hoping that it will work out as we are all hoping that it does, which will be great.

I did have one question, which I would like to address to you. Would you address the questions of traffic on Scottsdale Road and Indian Bend?

Applicant Representative Jason Morris: Certainly. Mayor and councilwoman Littlefield, we fully have an exhibit, if I can -- if I can use this as a diagram that will help you better understand the traffic situation. We are actually very fortunate given the size of this property, although it's 20 acres, it's actually served by two signalized intersections. The signalized intersections at Scottsdale Road are both at Indian Bend and further south at what's known as 6750. Both of which are existing signalized intersections. There will be full access movement at those intersections and, excuse me -- and in between those two signalized intersections there's right in and right out access directly to Scottsdale Road with the deceleration lanes. So in terms of having access, it's not only plentiful but it provides access without interrupting existing access on the east side of Scottsdale Road and it also doesn't interrupt the flow of traffic going southbound on Scottsdale Road because there's deceleration lanes.

Councilwoman Littlefield: Thank you.

Mayor Lane: Very good. Well, unless -- there are no cards. If there's any other questions of council, I think we are ready to vote. I would only say thank you very much for the hard work that went into this on the part of staff, as well as for the applicant and their team.

Applicant Representative Jason Morris: Thank you.

Mayor Lane: We are now ready to vote. All of those in favor, please indicate with an aye. Those opposed with a nay. Aye. It's unanimous, 7-0.

Applicant Representative Jason Morris: Thank you very much.

ITEM 15 – UNDERGROUND UTILITY FACILITIES IMPROVEMENT DISTRICT NO. I-6002

[Time: 02:11:45]

Mayor Lane: Our next item is the underground utilities facilities improvement district, number I-6002. We have Mr. Worth. Yes we do have Mr. Worth here to present on behalf of the city.

Public Works Director Dan Worth: Good evening Mayor and Council. This is the next installment in our continuing process regarding the raintree underground improvement district. The action, I will ask you to consider approval of three different resolutions.

The first one is canvass the election we had regarding the improvement district and the second one is to order the work and approve the form of agreement between the city and APS and governs the payment for it and then the third resolution is authorizing the levying of an assessment and giving approval of a preliminary assessment diagram. I will talk a little bit of detail about each of these.

The first resolution, to canvass the results of election. We did have an election. On January 31st of this year. The city mailed official election materials to the qualified voters in the district. There were 213 individual parcels in the district. Each of those is a qualified voter. We tabulated votes that we received. It was an all-mail election. We received ballots back being all ballots that were received prior to the deadline of 7 p.m. on March 2nd were counted.

There were actually two questions on the ballot. The first one was a question regarding whether or not the voters wished to have you form the district. The second one was whether or not they supported the levy of April assessment to pay the district's expenses and you can see the results up here. 119, yes, 16 no on the formation of the district and a similar assessment on the levy. So both measures passed by a considerable margin.

This is actually regarding the third of the three resolutions. Somehow I got the consequence out of order here. But the third of those three resolutions, we're asking you to approve the preliminary assessment diagram. This is the diagram. You can see the outline of the parcels and groups of parcels that make up the district. Two different shades on the diagram reflect the two tier assessment methodology. The lighter color are parcels that have frontage along the route of the power line and you can see the route of the power line as portrayed with a line labeled p open the diagram. So the lighter colored parcels, the lighter colored properties have a frontage on a portion of that power line, the darker colored ones are what we call tier two. They are still within the district but they are not directly fronting on the power line.

You also have in your material attached to the council report, a table that lists each individual property and the maximum assessment that would be apportioned to that property that's based on the current estimate to APS, 3 million 89 dollars and the Tier 1 assessments are just a little bit more than twice the dollars per square foot than the Tier 2 assessments. So we allocated a greater proportion of the assessment to the Tier 1 properties.

This slide refers to the second of those three resolutions, the agreement between the city and the APS under the terms of agreement, APS constructs the power lines underground and they pay the associated costs to do so. The city has responsibility to collect the semiannual assessment from the property owners, those who choose to pay it through a semiannual assessment. There's also an option to pay a lump sum. And then the city will collect the assessment for APS.

District members are not actually a party to the agreement but this is the agreement that does cover how they will reimburse APS for the costs of under grounding through that assessment using the assessment methodology that we on the previous slide. And you can see at the end they do have the option, the one-time payment or finance option through an assessment.

And then this is the slide that we have been showing you at each step along this process, to show you the whole process. You go down about two-thirds of way down the slide. The line in yellow is what we are contemplating tonight: The resolution order and work, we had the election, it's the previous bullet. We have been through all of those previous processes.

I will point out the next item on the list is a hearing. We have scheduled it for April 25th. It has to be done no earlier than 20 days after the approval of the assessment diagram. This is a hearing where anybody in the district who wishes to contest the assessment, dispute the methodology, dispute their individual assessment and it has the ability to speak before you at a hearing. And following that hearing, we will have final improvements of the assessment diagram.

And with that, I will be happy to entertain any questions.

Mayor Lane: Thank you, Mr. Worth. Yes, we do have -- we will start with the question or comment or motion by Councilwoman Milhaven.

[Time: 02:18:03]

Councilwoman Milhaven: I would like to make a motion to adopt resolution number 100756, adopt resolution 10707, and resolution 10758.

Councilmember Korte: Second.

Mayor Lane: All right. I will give the credit of the second to Councilmember Korte if you would like to. No comment? I will then I will give you the opportunity. All right. Very good. So we have a motion and a second.

Councilman Phillips do you have comments would you like to make?

Councilman Phillips: Thank you, Mayor. Yes, I would just like to say we did get this letter from some of the business owners in that area. And it seems like they are having some angst about how they are going to pay in the zones and stuff like that and I believe on your last slide if you can show that. That kind of answers that question. So I guess what they need to do is come back to a public hearing on April 25th and then bring up what their objections are and what they propose and then from then council can decide if we want to change it.

Public Works Director Dan Worth: Councilman Phillips, they certainly have that opportunity. That's purpose of that hearing.

Councilman Phillips: I hope everybody gets that. Thank you.

Mayor Lane: Thank you Councilman. Councilwoman Littlefield.

Councilwoman Littlefield: On April 25th, when it comes back to us, will we have the dollar amount from APS at that point? As much as they can give it to us before we start work, an estimate, at least of where they think they are going with this money?

Public Works Director Dan Worth: Councilwoman Littlefield, the amount is the \$3,089,000 that we have the last bullet on the process is after the completion of the work. And then there's -- the final assessment will be approved on the final actual cost. It can be less. We expect to be less than the \$3,089,000. It cannot be more.

Councilwoman Littlefield: Thank you.

Mayor Lane: Thank you, councilwoman. You know, I know this is a step in the process, and there's still a ways to go but I wanted to reiterate that we are talking almost three years in the process of working on this and it was majorly a long shot because of the inability to work with the state land department with regard to direct access to that substation. So I just wanted to make note of the fact that APS has worked very hard with us in giving us an extension of time to facilitate it. It's important on the overall. And thank you, Dan, for your work as well and the staff all the way around. I know it's not an easy task. I appreciate your time and effort on that too.

I think we are then ready to vote on the motion that's on the table. All of those in favor please indicate by aye. Those opposed with a nay. Aye. It's unanimous then. It passes unanimously on all counts. Thank you again, Mr. Worth.

Public Works Director Dan Worth: Thank you, Mayor.

ITEM 17 – SPECIAL EVENTS ORDINANCE UPDATE

[Time: 02:21:05]

Mayor Lane: All right. Next order of business is the sign ordinance update. Temporary signs text amendment. Oh, I'm sorry. The order of business on that is that it's been removed at the request of staff.

So our next order of business -- that was item 16. That's 17. The special events ordinance update. Special events and Cheryl Sumners our events manager is here for that. Welcome.

Events Manager Cheryl Sumners: Good evening. Thank you, Mayor and members of the City Council. I'm Cheryl Sumners I'm the events manager in the tourism and events department. I'm here this evening to present potential changes for temporary signs, specific to special events.

A year ago, I feel like I was here and we were requesting changes to the special events ordinance and those regulations, there was one item that we didn't include in there and that was, in fact, the regulations related to signs for special events. That was specific and due to a larger event that was being planned for the overall sign code, and this effort began last year. It focused on temporary signs. And so the existing special events sign regulations that have been in place for about 20 years have seen relatively no changes.

Although the sign industry itself has changes, the types of signs have changed, and because there has been very little changes to the special events sign, what we have right now existing today is very broad, in general and in addition, it does not fully address public safety. Excuse me. Sorry for that.

This request, again, is for updating the sign regulation. It helps to maintain Scottsdale as a tourist destination. It provides consistency and cohesiveness by removing the regulations from the zoning ordinance and placing them in to capture 22, which is where our existing special events ordinance currently resides.

As we move forward developing the criteria, we had a few key goals in mind. This included creating criteria that would be consistently applied by the sign type, the size, the location, the street classification and quantity. We wanted to address way finding, traffic, and pedestrian criteria, with a goal to be user friendly and allowing flexibility while maintaining our community's high standard of minimizing sign clutter and keeping visual aesthetics in place. We also wanted to establish criteria for both on-site and off premise signs.

The tourism and events development department, we completed and held two public open houses in December. There were two people that attended. Both with positive comments. In order to provide some additional outreach we emailed a little over 250 of our special event key stakeholders that utilize the ordinance and the regulations which include our special events applications and our producers, and our downtown merchants, tourism and development commissioners, tourism and advisory task force members and experienced Scottsdale staff. Anyone who has participated in the special events ordinance update last year and then along with anybody interested in special events. The other thing we did was we posted it on our city's website, specifically the special events web page. From that, we did not receive any additional comments.

So staff it recommending the adoption of ordinance 4302, that amends Chapter 22 by modifying two sections related to the definitions and then the application requirements and then it adds one new section related specifically to the special events sign criteria. It's packaged up nicely, in a matrix table for hopefully easy use. And then, of course we believe it addresses the public safety and provides consistency and applications. I'm happy to answer any questions.

[Time: 02:26:31]

Mayor Lane: Thank you, Ms. Sumners. We have comments or questions, starting with Councilmember Korte.

Councilmember Korte: I move to adopt ordinance number 4302.

Councilwoman Milhaven: Second.

Mayor Lane: The motion has been made and seconded. Would you like to speak towards it, second? Hear nothing no request to speak on it, there's no cards on it. And therefore, I think we are then ready to vote. All of those in favor please indicate with an aye, those opposed with a nay. It's unanimous.

Events Manager Cheryl Sumners: Thank you.

ITEM 19 – MONTHLY FINANCIAL UPDATE

Mayor Lane: Next order of business is our monthly financial update from Mr. Jeff Nichols our esteemed city treasurer. He's at the podium. Welcome Mr. Nichols.

[Time: 02:27:17]

City Treasurer Jeff Nichols: Thank you, Mr. Mayor, and City Council. February update as of February 2017. As you all are aware, the Arizona Department of Revenue took over collection, renewal of licenses and collections of sales taxes, beginning January 1st, 2017, and you will see the result of that. I have some information to report regarding that but I will start with the presentation.

You notice that tax is local, that first bar chart, the actuals are much less than the revised budget and this slide shows that much better. You see a reduction -- the unfavorable variance of approximately \$5 million and I will get to that in about two slides. Some of variances you are seeing on this, the property tax variance of \$500,000, it's just timing. And we expect that to be at budget at the end of the fiscal year.

The fines, fees and forfeitures. We were looking at some parking issues and we stopped issuing parking signs. So they could deal with the parking issues down there with our city staff. And we also had to stop issuing photo radar fines for a period of time, and even though that was in last fiscal year, it played out to the first couple of months of this fiscal year where we were not collecting these dollars anymore. So those were the most significant variances getting to the within I really want to talk about tonight, the operating source is 1% sales tax, as you will see, across every category of sales tax within the city, accepts utilities, we are experiencing a negative variance.

What I would like to add to that is our accounting structure is such that charter requires us to issue monthly public financial statements to the council within 15 business days of month end. And in order to do this -- so for this month, the January returns which we would receive in February, we had to cut off on the second business day of March, which would have been a Thursday, the 28th of a February was Tuesday. March 2nd, two business days later was a Thursday, and that was our cutoff date. On March 3rd, we receive a data set from Arizona Department of Revenue and that data set is give into us and it's given to the state treasurer. And the state treasurer's office has to review the

request from ADOR and then on the following Monday or Tuesday, we will actually receive the funds for that. It was pretty significant.

Within that information that we received on March 3rd, about \$2.2 million worth of the tax collections that were being reported to us related to the month of January. We just received the information late because we're not receiving it on a daily basis, like we were when we were collecting it. We are receiving it on a weekly basis. So we are receiving it every Friday. And then again on March 10th, they had not closed the month of January. So we received the data set from ADOR and the following payment of approximately \$801,000. And then on March 17th, just last Friday, we received another data set from ADOR stating that there was additional returns from month of January that they were remitting to us, through the state treasurer's office of approximately \$484,000. So if you add all of those up -- I see some of you trying to do math, I think. Maybe. Maybe not. Maybe writing questions. It's \$3,491,000 that we received after we closed our books.

If you remember, after the discussion that Jan Brewer's government. We always thought this would be a lag in payments. We were very hopeful that we would receive the same amount of monies that we would have collected had we continued to do the renewal and collection process, but we knew that there would be a lag. And the Arizona league of cities and towns was telling all the non-program cities, the one that ADOR was not collecting for was to take that into account.

So one thing we want to share was in January. Brian, if you can help me. So in January, we had reported a \$600,000 total variance year-to-date. That variance has grown to \$1.2 million. Now the reason I bring this up in January, this report that we gave you in February, we were still collecting the remittances from the vendors but there's been some confusion among the vendors. We have some significant vendors in all the categories that are still mailing payments to us. We also had vendors that had started back on July 1st because the information put out by ADOR that it begun remits payments from ADOR from the July returns even though they were supposed to do the next six months with the city. So a lot of confusion in trying to communicate that these change.

And a lot of confusion stems from the fact that it was supposed to start on January 1st, 2014 and then it was delayed. And then January 1st, 2015, and it was delayed again. And so people -- our vendors were probably thinking, is it going to? Is it not going to? ADOR basically told us if we receive -- and we did receive some of this, a vendor would send our tax return, and a check to us, and the instruction from ADOR to make sure that we communicate all the same messages we were to send that tax return and that payment back to the vendor with a letter instructing the actions that they needed to take to fill out the state's tax form and make the check payable to ADOR and send the whole package to them instead of us just forwarding it to them. I can see some of you shaking your heads and we shook our heads too.

Because we realize that when someone sends us payment, we are going to hold onto the money until we figure whether the payment is right or wrong. We would not remit that back to the vendor. So

—

[Time: 02:34:20]

Mayor Lane: Excuse me one second. Number one for the audience that may be listening, this has been on ongoing trial and sometimes and mostly error for the last three to four years with regards to the implementation of inclusive of instructions various instructions that have gone out to the taxpayers and has caused a great amount of this simple confusion. So where they are paying, how they are paying and frankly in some instances the formula by which they pay.

So we are lucky I suppose that we are even at this point in time and I just want to make sure that everybody understands that this is not something that surfaced here, that you have done a fantastic job in frankly the city and your staff have done an awful lot to try to help ADOR get their way onto the tracks. We do have a question or comment from Councilman Phillips

[Time: 02:35:15]

Councilman Phillips: Thank you Mayor and I appreciate that clarification too because I have the same concerns and when you see deficit, deficit, deficit I don't like that you know all these red flags come up and we don't want that to happen. So I guess my question would be is it always going to be like this now? Or are we going to be able to find a way to redo our reports so that we are not always in the negative and we can show you know what is coming or something like that. I don't know how you would do it, I would hate to have your job.

City Treasurer Jeff Nichols: Mayor Lane, Councilman Phillips, well first of all I love my job and I think the Mayor was right, I think the staff does an excellent job. We work with IT staff, we work with staff in the sales tax area, remittance processing, collections. We have been involved for the last three years meeting continually with ADOR. We find their business practices are different than ours. So as far as the charter requires us to have the financial report to council within 15 business days and we will do that. Because of that, this tail will always be there. And that's what when we talk to the league, they said, again, we expect to collect the same amount of taxes over time, but you are going to see this lag, so you need to make sure from a cash flow perspective that you can handle that. Well, on average, we collect about -- in this 1% sales tax, we collect about \$11 million a month. And they said there would be maybe a four to six month lag.

So really, the fact that it was only three weeks and we're off by about \$600,000, we looked at as a positive, but now what we have to do, because we did what was called a match and merge to make sure all the vendors that we had registered with sales tax licenses, that the state it registered in their system. And you have to remember, some of these vendors, the stay doesn't collect tax on rental properties. So all of the vendors that we had with rental properties, we had to get into their system. And it was a very difficult process and it was sending data sets back and forth and reconciling those.

What I expect staff to do now and work with I.T. and the staff in our sales tax area to do a reconciliation, if you will to try to figure out which vendors may have been dropped, which the state doesn't have. Are they holding those receipts from those vendors in some suspense and they are just trying to figure out where those payments go. We're going to be working through this, but I think for the next few months, it's going to be chasing the tail of this lag that we are seeing.

I think the city manager and I need to sit down and say when we look at the year-end process, which really is the only month -- June is the only month where we do true accrual accounting and it's a modified accrual basis, really. But that's where we might be able to make a difference to make the year whole. Now going forward, in '17/18, we may have to look at and change the timing of our budget and the way that we budget these sales tax revenues and not have so much in the earlier months and have a much larger collection in June so we are not always seeing negative variances. That's something I need to discuss with the city manager.

Councilman Phillips: Yes, and I remember when we made that charter change to do this but -- so you are suggesting we might have to go back and change the charter?

City Treasurer Jeff Nichols: I would never -- I would never make that suggestion. I mean, a charter change is a significant event. I -- I think we just need to look for a way to work around this, to make the report to council on a timely basis every month, and then find a way that we budget so that we are not showing negative variances all the time and I'm not up here reporting what we received in data sets, you know, the following Friday and the Friday after that and the Friday after that. We don't determine now when the month is closed, as far as tax receipts. ADOR makes that determination.

So with we receive that final data set on March 17th, they said in their opinion, the month of January was closed. And that was all that they would get. Now, that does not mean that we may still receive more tax returns from January and more tax dollars. They are just closing the month out in their system and saying that it.

Councilman Phillips: And another concern I have is when we stop paying to the city, and start paying to the state, I think a lot of people are just going to stop paying to the city.

City Treasurer Jeff Nichols: That's my concern as well Councilman Phillips.

Councilman Phillips: Is there any way to be able to figure out would is not paying any more that should be paying? You think if I have to send it to the state, no one will ever no.

City Treasurer Jeff Nichols: When house bill 2111 and when we were working with ADOR, Councilman Phillips, they said that if you want to audit -- because we have a fairly robust audit program. When you have an audit program, people tend to pay things. I mean the I.R.S. only audits less than 1% of their returns. Most people are afraid not to send in their return to the I.R.S. because of the probability. Audit even though it's so small. We have a robust audit program. You can keep your aid it staff and you just have to put the request through us and tell us who you would like to audit. Well, at that point in time with the collection, they are saying we are not really interested in you helping us with collections.

There's been significant changes at the department of revenue from the top, the director, the assistant director's on down. And now the new staff are changing their tune, so to speak and they are saying, look, if you have the staff available to help us with the collections process, then we would be happy to

talk to you about that. So we think we are going to be entering discussions with them to make certain that people who should be filling out their forms and remitting their payments to ADOR are doing so. So we'll see how that -- and I will be reporting on that in the future. You're welcome.

Mayor Lane: Thank you, Councilman. Councilman Smith.

[Time: 02:41:58]

Councilman Smith: Thank you, Mayor. You have made this fascinating!

City Treasurer Jeff Nichols: I'm sorry.

Councilman Smith: And I'm sure everyone out there is riveted to the TVs. You said they expect us to collect the same amount of tax over time. I think the reality is that means that we will eventually be even money at then of perpetuity.

City Treasurer Jeff Nichols: Exactly.

Councilman Smith: Which is a real long time.

City Treasurer Jeff Nichols: It's a real long time.

Councilman Smith: So essentially this new arrangement is going to cost us, I don't know, \$5 million in lost money that we will eventually get back at the end of perpetuity.

City Treasurer Jeff Nichols: And Councilman Smith, you are correct. And that's the conversation that the city manager and I have to have, because there is a way that I think we can probably stop this and take that hit and take it from unreserved fund balance and just go forward where we are not chasing our tail forever.

Councilman Smith: I think it's a difficult pill to swallow. But we'll swallow it.

City Treasurer Jeff Nichols: It's a very difficult pill to swallow.

Councilman Smith: You mentioned briefly the audit experience because when they took over this collection, which -- took over this collection, which will cost us \$5 million, they also took over the audit exercise, and as I recall, you informed us at some point in time, that once they took it over, then they cut their audit staff at the state level. How -- what did we get for our money there? Or what's the -- what's your assessment? I know it can't be very precise, but what is your sense of how effective this is working or not working?

City Treasurer Jeff Nichols: My assessment of the state's audit, Councilman Smith, is that they don't have nearly robust as a program as we have. From my understanding, if it was under \$10,000 -- because you have to realize, the state collects literally billions of dollars. So if it was under

\$10,000, they didn't even chase that. He with would never in our audit department do that. So we are monitoring this and every time we see an opportunity for an audit that we think will be productive, we are making a request to the department of revenue saying, well you allow us to audit this? To the best of my knowledge to date, they have never told us no, you cannot audit that. So they allow us to do it.

We have cut back on staff within our audit department, but we have maintained a certain level of staff because we felt that we would have to do audits make certain that we don't have significant decreases in revenues. So we will -- we will continue our program.

Councilman Smith: We did pay or we are paying them on an ongoing basis for taking over the audit function, so to speak, right?

City Treasurer Jeff Nichols: Councilman Smith, we are paying them for the administration of the program so the renewal of licenses, the collection of TPT. I mean, the collections, the monthly payments, the audits, and the collections, the whole process. That's what we are paying them for, but you are correct, I think it was at the beginning of this fiscal year, it was announced that they had gotten rid of the majority of their audit staff and we have no control over that and we can have control over how it's audited.

Councilman Smith: It doesn't sound like a good deal for the city.

City Treasurer Jeff Nichols: You are trying to negotiate with a bigger than 800-pound gorilla, when you are dealing with the state.

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

[Time: 02:46:11]

Vice Mayor Klapp: This is a dilemma for the people that are reporting the sales taxes.

City Treasurer Jeff Nichols: Oh, yes!

Vice Mayor Klapp: So I would urge you to do all you can to audit what's happening right now if you can. It would seem that the state could generate, I guess what I would call an exception report that would say, someone is reporting state taxes but not city tax because as a person who has had to fill out these forms, it's complicated. I assume it gets easier as the time goes on.

In order to pay your city taxes, and this is getting into the weeds, but when you are going into the form and filling out your taxes due, the state tax line always comes up, but then you have to figure out how to create the city tax line. And it's not as easy as you would think, because first of all, it's a new system. It's slow. You have to wait a long time for each page to come up. Then you have to figure out how you line and the directions are not very good.

And I know from talking to other people in retail that were surrounding my, they are coming to me, saying how do I fill this form out? I have gone to this website and I can't figure it out. And so there's got to be some people who just threw up their hands and fill out the state portion and skip the city section because it's too difficult to figure out how to create that line item. And if you have more than one location, this whole process was developed to make it easier for people who have lots of locations to pay on one form, but each one of those locations has to be created inside this system. So anyone who has more than one location is probably just dumping and throwing their hands up in the air.

And that's part of the reason why you will not capture some city sales tax and I think we need to be closely talking to ADOR about this, because you cannot get anybody on the phone. You cannot ask any questions. You have to fill out the form and figure it out for yourself. There is no one that ever answers your questions on this. So there are a lot of frustrated people that are trying to pay their sales taxes, because it's all electronic now.

You have to pay it all by electronic form. There's no checks involved. It's all done electronically and I really believe based on experience that there are a lot of businesses still trying to figure it out. They may be hearing this, but if you can't get anybody on the phone, you at least have a direct line to ADOR and say, you know, I know from my limited perspective, there are people not sure how to fill out the forms and, in particular, how to report city taxes. The state part is an automatic line that comes up. But -- and unfortunately, I found when I filled out the February report, all the city lines had disappeared when it came up again. So you had to recreate the line that you created in January. I'm assuming that will get fixed but you can see where it just becomes more and more difficult for you to report your city portion of your taxes. The easy out is to just fill in the state part and just move on because you just don't want to spend the time.

City Treasurer Jeff Nichols: If, um, Vice Mayor Klapp, those are great comments. I will ask my staff, if they are not watching tonight, I will ask them to watch, once Brian very efficiently gets this up and listen to your comments.

We don't have a direct line. So when my staff needs to call ADOR to try to straighten out or get a question answered, we are on hold for 25, 30 minutes as well. We have direct lines to the top but that doesn't get you to the people that can help you.

The other thing, this delay in ADOR's part was all about location codes.

Vice Mayor Klapp: Right.

City Treasurer Jeff Nichols: So when this took place, they have thought -- you have to understand, they are still on a main frame computer. I mean, I don't know a better way to explain it. I don't know if it's FORTRAN or COBOL that they are programming in. But it's one of the two. And so that's why year after year after year they kept saying, we can't do it because they were having problem with the location codes.

So my concern is one that you have addressed that people are just paying state but my concern is also if they didn't program it right you could have paid and remitted your taxes and maybe Glendale got them and Glendale is going, we don't have this business in our town. And then you try and work with ADOR to tell them -- I heard a story just today that Litchfield Park had been overpaid by ADOR and they told ADOR this money is not ours. We need to get it back to you. And it took them over a year to give money back to the Arizona Department of Revenue.

So I mean, this is not a -- this is a very big agency and I think bigger is not always better. I have think we did it very well. And it was an efficient process and, yes, there could have been simplification for people who only had one location. The idea philosophically was a good idea. The implementation through the system that ADOR is trying to do it with was the -- was the poor part, in my opinion.

Vice Mayor Klapp: Yes.

City Treasurer Jeff Nichols: But I don't program COBOL.

Vice Mayor Klapp: Hopefully over time it the improve but now is the time for us to look at what are we losing and anything we can audit right now will be to our benefit, because I suspect we are.

City Treasurer Jeff Nichols: And just to put it in perspective, we are doing a reconciliation, but we have more than 25,000 businesses licensed within the city of Scottsdale. I'm thankful that the majority of our tax collections comes from a minority of businesses in our city. I'm hearing in certain categories where they have professional accounting staff, that they were done incorrectly. I was told by the manager down in our sales tax unit that she has a return on her desk that was for January and it was sent on our form with a economic to the city and we know what process we have to do to get that corrected. Staff is working their tail off in trying to assist ADOR but it's the type of organization that doesn't always think they need any help. We are doing everything we can to let them know that they do need help and we are here to help you. As are the non-program cities.

Vice Mayor Klapp: Thank you.

City Treasurer Jeff Nichols: You're welcome.

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

[Time: 02:53:42]

Councilwoman Littlefield: I stand amazed. I stand amazed you still have hair, that you haven't pulled it all out.

City Treasurer Jeff Nichols: You stand amazed and I'm barely standing. So --

Councilwoman Littlefield: Some of the things that Vice Mayor Klapp said, I have heard from other people who are business in Scottsdale and they call me and ask me how to fill the form out. I'm

going I don't know.

But I'm wondering if there's any way for the city to help our vendors and our businesses here in Scottsdale work through some of these form problems. And I'm thinking the people that you are finding that haven't done it right or sending it to you and not to them or vice versa or somewhere. If there's any way we can work with ADOT so that we can work with -- to create an actual, readable, sensible page to insert when you put back this money to the vendors and say you have to redo it and do it this way. Here's some steps that we found that might help you to fill out these forms and try to do some sort of education from our end to make sure that folks know, for example, you have to fill in the city every time you fill out the form. That might be of interest to a lot of people who aren't used to that kind of repetitive step.

City Treasurer Jeff Nichols: Councilwoman Littlefield, I agree and that was the first time I had heard that. So thank you, Vice Mayor Klapp, for sharing that with us. I'm not sure if ADOR is aware, but I've got to believe it's not only happening to our vendors but happening to the other people in the non-programmed cities, Phoenixes and the Glendales. We are doing everything we can.

This vendor, I'm absolutely certain that Ms. Hoagland will reach out to this vendor tomorrow, you know, explain to them that they filled out the incorrect form and don't make the check payable to the city and we'll walk them through the process but we can only do so much. If you have to do that with a few thousand people, that's a time consuming process. So it's going to take a few months to work out the kinks related to this, I believe.

Councilwoman Littlefield: If I could finish, Mayor. Is there anything that perhaps the league of cities could do to help the cities in this issue?

City Treasurer Jeff Nichols: I see him smiling just like I smile when people ask me questions like that, Councilwoman Littlefield.

Councilwoman Littlefield: They have a group of cities to go, so maybe they could make it something that the cities need to know.

City Treasurer Jeff Nichols: Well, through this three-year process and these delays, the 19 program cities were working as a consortium with the Arizona league of cities and towns, because they were the go-between and communicating to ADOR. That's really how we had a straight pipeline to them, because they were listening to the league staff. And all 19 of us were telling the league staff, you need to talk to them and here's Waugh need to talk to them about and here's the problems that we see. We did our best over that three-year period to try to communicate and our recommendation, we still didn't believe, okay, so on July 1st, 2016, when ADOR sent out communication to merchants telling them that they were taking over this function on January 1st, in my opinion, that violated an agreement that we had with ADOR through the league that no vendors would be notified until every person was in agreement that we were ready to launch and they did a launch way before we said we were ready.

Then during the renewal process, they came back and said, hey, we did the early launch. We didn't really mean to do that. You didn't help us with the renewals and the feeling at that point in time, after almost three years of frustration was like, no, you said you were going to do it. You need to step up to the plate and do. It yes, I think people knew there would be some pain with that, but at what point in time, you know -- this was a legislative action. The state statute said they would collect them. It wasn't -- they would do the renewals. They would collect the TPT. There was very little we could do about it except try to work with them.

We thought that agreement we had with them would help us and we were all surprised on July 1st when that letter came out from the director of ADOR saying that they would start the collections in 2017. So –

[Time: 02:58:28]

Mayor Lane: Thank you, Councilwoman. If I might just add a little bit to that and you hate to belabor this too very much but you are talking about three plus years of haggling with -- actually with two administrations and you have to admit that the current administration was a lot more cooperative in recognizing the difficulties they were going to have in trying to implement this thing with a COBOL system, trying to interface into current operating systems in a -- in the new digital age. It was insane!

And if we -- if we look at this even further, we know now, if they have the money ever, they are supposed on a three to four year plan to actually invest in an entirely new system, one we hoped would be a whole lot better but it will be another transition point in relative history short order. This has been a difficult thing to say the least, whether your hair survivors are not, it's -- it really could have been an absolute disaster if they had tried to put it into place, even when they did initially.

City Treasurer Jeff Nichols: Mr. Mayor, I would totally agree with you. You know, under the old administration, there was a hard and fast date. When the new administration came in and replaced the director, they entered into a gentlemen's agreement that we would all agree when we thought we were ready to go forward.

Mayor Lane: And that point game, Councilwoman, to your earlier thought as to whether or not the state league and cities and towns were involved. We had extensive meetings with their new director and old director and they came around to the understanding that this was a disaster that would be theirs, squarely in their lap if, in fact, it were to go forward. So I guess really for tonight, this is a little bit of a non-agendized item and I would be careful about how much further we go into that but I haven't seen any flags going into the city attorney.

City Treasurer Jeff Nichols: He's shaking a little bit, I have to tell you.

Mayor Lane: I think the major message here is in perpetuity, as councilman Smith mentioned, it's a portion -- a portion of this is gone. Because if it's just continually out, there it's never with us. So it's something we have to adjust to on a permanent basis.

But the greater concern, if that's quantifiable and we just live with that, is whether we have a capacity with the proper information to reconcile our current accounts with the information coming from the state, to find the missing accounts even though that's a laborious task in and of itself. If we have the information, we can at least approach getting the correct answer of the number of accounts that are still filing with us, or not filing.

City Treasurer Jeff Nichols: And Mr. Mayor, we are looking at that process because all the data that they give us, I wouldn't consider it totally clean. So there's some manipulation of the data that we have --

Mayor Lane: Do you have any other problems?

City Treasurer Jeff Nichols: Well, I will just --

Mayor Lane: No, I understand.

City Treasurer Jeff Nichols: Yes, I do! Anyway. So graphically, unless you have more questions?

Mayor Lane: Yes, Vice Mayor Klapp.

[Time: 03:01:08]

Vice Mayor Klapp: I hate to belabor the point but since I've got the floor, because you brought up tax license renewals. The process online isn't too difficult to renew. So, you know, that -- I don't have a complaint about it but you never get anything to say your license is renewed. So that's another thing to consider is typically the city requires that retailers post their sales tax licenses but we don't get anything. So that's something to take into consideration is how do retailers show that they have paid their -- I mean, I guess they could show a receipt that they paid it, but there is no. That license that's been issued -- no tax license that's been issued yet. At least this is the middle of March and nothing has been sent.

What is the timetable for actually giving people a bona fide license that they can post?

City Treasurer Jeff Nichols: Very good point. When we did -- that is what we sent out and then we also have license inspectors that go around and they walk into businesses and they make sure it's posted where people can see to make sure that they are licensed vendor. We will follow up on that.

Vice Mayor Klapp: Thank you.

Mayor Lane: Thank you Vice Mayor. Dare I ask you to proceed?

[Time: 03:03:12]

City Treasurer Jeff Nichols: Yeah, because we are getting to the expenses part. That's a little bit

better. Let's get there quicker.

So the uses by category, fiscal year-to-date, we are under budget which is a good thing by \$5.7 million. I will talk about personnel services in a minute and the contractual services area, you see some of these -- the \$4.7 million variance, a lot is due to timing and public works. They have approximately \$2.1 million in projects. They are just behind on their projects. They also -- the police have a favorable variance of about \$900,000, with \$5 million in the jail services contract. We are a little bit behind, but we are also seeing month over month less expense here. So some of that is going to be timing. Some of it will be actual savings that we'll receive within the contractual services public works we are seeing about 400 to \$500,000 savings in electricity, in our utilities account to date. So those are savings we will probably realize which will maybe help with that bite, so we are not chasing our tail into perpetuity.

Personnel services, diving down into that, the salaries amount, again, many of the departments, police department, community services department, the city attorney department had a couple of hires where they were replacing long-term employees, and they were less than the incumbents. So we are seeing savings for that and that's savings we see at the end of the fiscal year. The retirement goes along with that and we had budgeted for the retirement at that higher salary rate.

We are seeing that and I reported last month on the health and dental that the people coming into our -- our new employees coming into our town are asking for plans that are less expensive than what we thought they would opt into. So they are picking plans that are a little bit different than we thought they would pick coming in but we are enjoying a \$2 million positive variance in the personnel services line item.

By division, you see, again, public safety police, the majority of it \$2.8 million, again, over time, jail contract and the overall savings within the police department. A lot of that we will realize at the end of the year and public works will realize some of that, and as they pick up the steam, in the various buildings and maintaining those, they may not realize those by the end of the fiscal year, that savings. But the bottom line is even with this big hit we just took, this first month, and hopefully it stays that way, is that the sources over uses, we are having a \$1.1 million favorable variance when you compare actual to budget to fiscal year '16/17.

So enjoyed the discussion. Wish I had better news to report with regards to ADOR but I can tell you, our staff, my staff, Brad Hartig's staff are working their tails off and have been for about three years and it's a very frustrating process that they are working through. As I said when they try and contact their counter parts at ADOR, they don't have much more luck than the vendors trying to do that as well.

Mayor Lane: All right. Thank you very much, Mr. Nichols. In spite of the news.

ADJOURNMENT

[Time: 03:06:50]

Mayor Lane: There's no further public comment, no citizen petition. Mayor council items?
Hearing none, I will accept a motion to adjourn.

Councilmembers: Move to adjourn.

Councilmembers: Second.

Mayor Lane: There's a first and a second. All in favor aye. Thank you very much, everyone.