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#### **CALL TO ORDER**

[Time: 00:00:04]

Mayor Ortega: I call the January 23, 2024, City Council Regular Meeting and Work Study to order. City Clerk Ben Lane, please conduct the roll call.

#### **ROLL CALL**

[Time: 00:00:12]

City Clerk Ben Lane: Thank you, Mayor. Mayor David Ortega.

Mayor Ortega: Present.

City Clerk Ben Lane: Vice Mayor Solange Whitehead.

Vice Mayor Whitehead: Here.

City Clerk Ben Lane: Councilmembers Tammy Caputi.

Councilwoman Caputi: Here.

City Clerk Ben Lane: Tom Durham.

Councilmember Durham: Here.

City Clerk Ben Lane: Barry Graham.

Councilmember Graham: Here.

City Clerk Ben Lane: Betty Janik.

Councilwoman Janik: Here.

City Clerk Ben Lane: And Kathy Littlefield.

Councilwoman Littlefield: Here.

City Clerk Ben Lane: Thank you, Councilwoman. City Manager Jim Thompson.

Jim Thompson: Here.

City Clerk Ben Lane: City Attorney Sherry Scott.

Sherry Scott: Here.

City Clerk Ben Lane: City Treasurer Sonia Andrews.

Sonia Andrews: Here.

City Clerk Ben Lane: Acting City Auditor Lai Cluff.

Lai Cluff: Here.

City Clerk Ben Lane: And the Clerk is present. Thank you, Mayor.

Mayor Ortega: Thank you. We have Scottsdale Police Sergeant Sean Ryan, as well as Detective Dustin Patrick and firefighter Emma Hayden should anyone need assistance. Let's stand for the Pledge of Allegiance, asking Councilmember Barry Graham.

**PLEDGE OF ALLEGIANCE**

[Time: 00:01:00]

Councilmember Graham: Oh, thank you Mayor, it would be my pleasure. 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'S REPORT**

[Time: 00:01:30]

Mayor Ortega: I ask that we call our attention to the ongoing wars in foreign countries, and especially thinking about our own military who are under hostile fire so that these other countries may protect their freedoms and democracy. Join with me in a moment of silence and reflection.

Thank you. Well, Western Week is coming up, starting January 27<sup>th</sup>. Events include exhibits at the Western Spirit Scottsdale Museum of the West, the Gold Palette Art Walk in the Arts District on Thursday night, western weekend at the Waterfront with live music with line dance lessons, concluding with the 70<sup>th</sup> annual Parada Del Sol Parade and the Arizona Indian Festival. So, I encourage city staff to wear their best Scottsdale western wear for the week.

Also, Scottsdale residents wanting to volunteer their time and contribute to positive change in our community are invited to apply to serve on a city board or commission. Applications are being accepted until January 26<sup>th</sup> for upcoming meetings and eight boards. The process is application and then having a nomination process and then coming forward. And, of course, for the complete list of current and future openings to apply, just visit [Scottsdaleaz.gov/boards](http://Scottsdaleaz.gov/boards) or [Scottsdaleaz.gov](http://Scottsdaleaz.gov) and search boards and commissions.

I want you to be aware that during tonight's meeting, the Council may make a motion to recess into Executive Session to obtain legal advice on any applicable item on the agenda. If authorized by the Council, the Executive Session will be held immediately and will not be open to the public. The public meeting would then resume following Executive Session.

Also, per our Council Rules of Procedure, citizens attending City Council meetings shall observe the same rules of order and decorum, applicable to members of the Council and city staff. Unauthorized remarks or demonstrations from the audience such as applause, stamping of feet, whistles, boos, yells and/or other demonstrations shall not be permitted. Violation of these rules could result in removal from the meeting by security staff. We do want our meetings to run smoothly and appreciate everyone's cooperation.

**PUBLIC COMMENT**

[Time: 00:04:59]

We have an opportunity called Public Comment whereby public citizens, Scottsdale citizens, business owners and/or property owners can comment on any non-agendized item that are within the Council's jurisdiction. Advocacy for or against a candidate or ballot measure during Council meeting is not allowed pursuant to state law and is therefore not deemed to be within the Council's jurisdiction. No official

Council action can be taken on these items, and speakers are limited to three minutes to address the Council. So, of course, if you wish to speak on a non-agendized item, please check with the City Clerk. We received three requests for public comment. So, I would ask, I will open public comment at this time and we will have French Thompson, Bob Pejman, and Brent Bieser, in that order. And you have three minutes. Please come forward. State your name and place of residence.

[Time: 00:06:11]

French Thompson: Mr. Mayor and City Council, my name is French Thompson. My business is 7148 East Main Street. My home is 8323 East Vernon Avenue. I opened up my business in 1997 at the very first of the year. And so, I've been down on Main Street ever since then and over a period of time, I started noticing every spring training season that we were getting more and more people parking on Main Street and all in front of all the businesses.

So, I went back and did a little bit of history research with Google earth. So, if you can imagine my surprise and the Giant Stadium parking. Next slide please. So, if you look right here, just to the east of the stadium, that whole count is 700 parking places in 2005. Next slide, please. Now in November of 2005, there's only 178 parking places. So, all of these other parking places have been removed. Next slide, please.

So now you get into 2019, and there's only 100 parking places left out of 700 parking places. Next slide, please. Now you get in there, the Convention Center building. Actually, the stadium only has 50 parking places where there used to be 700. Now, a lot of time and money has been spent putting the practice fields in there and everything and even over a period of time, all of a sudden, they bumped it up where they were getting more people there. Next slide, please.

So, if you look at this, this is what it used to look like. Next slide, please. So, these are numbers from the city parking study. On the Stage Brush Theater, we're still 177 less parking places that used to exist back in 1972. If you look down at the bottom, the Giant Stadium parking, we're missing 600 parking places down there. If you notice on this graph, there was 1,041 parking places in 2005 and there was 1,041 parking places now. Next slide, please.

So, they spent all this money, you know, making the Giant Stadium a better place. They are making, the City spent a lot of money putting in the Civic Center Plaza. Next slide, please. So, this is basically what the City spent, \$30 million on Civic Center Plaza and roughly \$60 million on the stadium, just to bring more people and have more events. But really between 2005 and present day, not a single City-owned parking space has been built. Next slide, please.

These are projected parking spaces, Museum Square, Sagebrush Theater, The Artisan, but none of these parking places exist today and there is no guarantee that any of them or for a timeline, that any of them are ever going to be built. There's no real guarantee, I mean, things could happen, and they just don't get built. We just don't have that guarantee, so they don't exist. Whenever they are brought up, I will just say they don't exist. Next slide, please.

So, the City spent all this money, \$100 million to bring more people to the downtown area around the Giant Stadium and Civic Center Plaza, but you have not provided any new parking for those people. So, you really need to build a parking structure that was in the 2019 Bond. You guys got the money for it. The taxpayers paid it. The money is there. So, the honorable thing would really be fulfill your commitment to the voters and build a parking structure around Civic Center Plaza and the baseball stadium. Thank you.

Mayor Ortega: Thank you, Mr. Thompson.

[Time: 00:09:54]

Councilmember Graham: Mr. Mayor, may I ask, Mr. Thompson.

Mayor Ortega: Yes.

Councilmember Graham: Thank you. I just had one really quick question and then I will let you go. Mr. Thompson, what would you say your opinion is the overriding sentiment of the downtown merchants as far as how the City it meeting their parking needs?

French Thompson: To be honest, I don't think anybody in the downtown business area thinks that the City is meeting their parking needs. I mean, when I moved in in 1997, there was a parking shortage for peak season. So, whenever the City would have events over the Civic Center Plaza, on a Saturday or Sunday, they, all the overflow would come into our area. And so, the people that used to come and park in front of our businesses and shop with us, didn't have a place to park. So now that the baseball stadium has lost all of those parking places, they literally, they all come over on Main Street. So, you can literally see them get out of their cars, walk over to the baseball stadium when the game is over, they come back and get in their cars and drive off.

Now the merchants don't think that the City's, but the merchants did work with the City in that 2019 Bond to get that parking structure on the bond issue, and the voters did vote for it, for south of Indian School to be for the Stadium, for the Old Town merchants, and for the Civic Center Plaza.

Councilmember Graham: Thank you, Mr. Thompson. Thank you, Mayor.

French Thompson: Any other questions?

Mayor Ortega: Next we have Bob Pejman and Brent Bieser.

[Time: 00:11:31]

Bob Pejman: Good evening, Mayor Ortega, Councilmembers, the name is Bob Pejman, and the address is on the record and the one thing that stuck in my mind from the Swags Council discussion was P3 parking credits. I mean, how many times was that mentioned? So, I decided to research the P3 credits

and other parking credits downtown to figure out the history of the parking credits were. And what I found is that not all parking credits are created equal.

So the history of the parking credits in downtown is that in the late '60s, early '70s, 50 years ago, the City realized that a lot of parcels were under parked. And so, what they did is that they went to these parcel owners that were under parked and they said, "If you invest into parking lots, if you participate in improvement districts, we can get your money collectively, all the parcels that were under parked and we are going to build parking lots."

So two improvement districts were formed back then. Can I put this on the projector, please? Okay. As you can see, there were two improvement districts that were formed, the Fifth Avenue Improvement District, formed in 1970, 51 parcels participated. There's a result was 230 spaces got created and the parcel owners invested into it, and they got the parking spaces built. South of Indian School, the two quadrants, 149 parcel owners participated. The result was the 560 spaces were created and the five lots that we all know about.

The situation with the northeast quadrant is radically drastic, because what the City did is that they didn't create a parking improvement district there. They basically went to those parcel owners with a zoning overlay, they said, "Hey, you know for every one of those parcels for every 300 square feet, we are going to give them one P3 credit." And that's why you have all these P3 credits in that area, but it's basically not associated with real parking spaces and thus called phantom, pure phantom.

Now this brings us up to the Bond. Now, there are some people that argue that some of this bond money should be spent on to alleviate this problem, but I want to point you to the language and the purpose of the Bond. The voters were told that certain parts of downtown experience parking shortages. One in peak season and two during major events. The City didn't tell them, "Hey tax yourselves for \$21 million so that we can help these small parcels redevelop." And frankly that's considered or can be called subsidizing redevelopment, and what voter is going to agree to be taxed to subsidize redevelopment? It's as simple as that. I think there's another solution for the northeast quadrant, whether it's an improvement district, private investment, other city money, I'm not sure, but I can tell you that the bond money, the promise was made to the voters to spend it for areas based on certain need. And I think the City needs to honor their promise to the voters. Thank you.

Mayor Ortega: Thank you, and we have Brent Bieser. He's the last one.

[Time: 00:14:57]

Brent Bieser: Good evening, Mayor and City Councilmembers. Probably don't need to reintroduce myself here. I'm Brent Bieser, 7317 East Vista Drive, this is my fourth time visiting you all and I know you each received the email from the zoning administrator Erin Perreault. So, I wanted to bring you up to speed a little bit and bring the citizens up to speed on what we are dealing with here and where we are supposed to go based on what Erin told us.

So, basically the two takeaways that I got from Erin's email was that parking is not considered a land use in Scottsdale, and under the Scottsdale zoning ordinance there is no prohibition on shared parking. So, you know, that's where we are basically running into some problems with the property, with the office property wanting to or needing to by easement share their parking.

When I read the service residential zoning, which is the supposed to be the lightest most neighborhood friendly zoning for commercial in the City, it says strict property development standards, lessen the impact of more intense uses on adjacent single family, which is us, R110, residential districts while encouraging sensitive design.

So what I'm trying to figure out is if, you know, if Erin is telling us that parking is no land use, and that there are no prohibitions, then, slide there, we can say that, okay, we have, this is okay for SR parking. Buses are okay, which has been a recurring problem. The hotel will park their buses and leave them idling there, diesel fumes. Let's see, no prohibitions. Dump trucks are okay, and garbage trucks. Those are okay too on SR zoning.

[Time: 00:16:51]

The idea that there's no prohibition on parking, I think is either a massive misinterpretation or we've got some problems in our zoning ordinance. So what I'm coming to the City with is maybe three suggestions that we may use to take some corrective measures over the way the zoning ordinance is written. One is that the parking actually is a land use matched to the parcel's zoning. According to the SR zoning, it said property. It didn't say building, so the building is included with the parking, so the land use is matched to the zoning. Shared parking must be of equal or lesser intensity to the parcel as it's zoned and the third one is that all SR projects need to go before the Development Review Board.

In this particular case, the office building, which is undergoing a major reconstruction, it's not just some little, you know, remodel. It's virtually impossible to tell the difference, and I'm an architect and I have been doing this for 40 years, it's almost impossible to tell that these are the same two buildings when you look at them side by side. But the staff basically helped themselves and said, "Okay, we are going to review it on a staff level." I brought it up to them the difference of the intensity of the use, and they basically dismissed me. I don't think they are qualified to be making these type of interpretations. They are planners, they're not architects. So, thank you very much for your time. And I want to thank Councilwoman Janik and Vice Mayor Whitehead for reaching out to me. I got some very kind emails from them. Thank you.

Mayor Ortega: Thank you. And with that, we will close Public Comment.

## **MINUTES**

[Time: 00:18:34]

Mayor Ortega: Next, we have approval of the Minutes. Are there any revisions? I request a motion to approve the Regular Meeting and Work Study Session Minutes of December 5, 2023, Special Meeting

Minutes of December 6, 2023, Executive Session Minutes of December 6, 2023. Do I have a motion?

Councilwoman Janik: So moved.

Vice Mayor Whitehead: Second.

Mayor Ortega: A motion and a second. Please record your vote. Thank you. Ms. Littlefield, if you'll give us an audio. Thank you.

Councilwoman Littlefield: Yes.

Mayor Ortega: Thank you. It's an audible. Okay. We are unanimous.

### **CONSENT AGENDA**

[Time: 00:19:27]

Mayor Ortega: Next, we have our Consent Agenda Items 1 through 15. All of the items are on file, and, of course, subject to our discussions tonight. However, staff has requested that Item Number 13, that's the Fiscal Year 2023-24 Capital Improvement Plan Budget Adjustments and Cash Transfers be pulled from the Consent Agenda. This Item will be resubmitted for Council consideration at a later date. So at this point, just to be clear, we're looking at Items Number 1 through 15, excluding Number 3. I also had a request, Councilman Graham did you request an item to be, what? Please, go ahead.

Councilmember Graham: Six.

Mayor Ortega: Six. Okay. So Item Number 6 is also going to be pulled from the Consent Agenda. Just to be clear, if someone has any question about Consent Agenda Items they can be answered and, of course, I make a call to the public so the public is, can come forward to speak on any Consent Agenda Items. Clerk tells me there is no Public Comment. Therefore, I will close Public Comment on items, Consent Agenda Items and at this point, just to clarify, that would be Consent Agenda Items 1 through 12, then, sorry, Item Number 6 and 13 excluded from the Consent Agenda Items as posted.

Vice Mayor Whitehead: Mayor, I will motion to approve Consent Agenda Items 1 through 15 with the exception of 13 and 6.

Councilwoman Janik: Second.

Mayor Ortega: Thank you. We had a motion and a second. Please record your vote.

Councilwoman Littlefield: Yes.

Mayor Ortega: Thank you. That's unanimous.

**REGULAR AGENDA**

**ITEM 6 – BELLEVIEW I PROPERTIES INDEPENDENT ENTITY SERVICES INTERGOVERNMENTAL AGREEMENT (IGA)**

[Time: 00:21:35]

Mayor Ortega: At this point, we will move on to our Regular Agenda and in particular, a presentation for Item Number 6. Item Number 6 is a question pertaining to housing and a resolution authorizing housing and an Intergovernmental Agreement between Scottsdale and the Housing Authority of Maricopa County for independent entity services at the Belleview properties. Please proceed. Go ahead, Mary.

[Time: 00:22:11]

Mary Witkofski: Good evening, Mayor and Council. As they are getting the slide pulled up, basically all the slide will show, is that we are talking about a housing choice voucher participant who is now leased up in Belleview properties, requiring an independent contractor to complete our housing quality inspections as well as our rent reasonableness studies so we are requesting adoption of resolution this evening to, for the Intergovernmental Agreement with the Housing Authority of Maricopa County. There is nothing on the slide, though.

Mayor Ortega: Sure. We will wait for the presentation and get on with the questions from Council and clarifications and then vote on the motion.

Mary Witkofski: Honorable Mayor, there's no presentation other than what I just said.

Mayor Ortega: I just wasn't sure if there was anything to pop up here. Okay, Vice Mayor Whitehead and then Councilwoman Janik.

Vice Mayor Whitehead: Mary, good to see you. This is an example of governments working for its residents. Very impressive program. We purchased a property and that property, of course, has appreciated greatly, and for ten years, it has paid for itself through rent, but the rent is reduced, allowing some of our lower-income residents the opportunity to live here, and it's managed outside, it's managed by a separate property manager.

So government that doesn't cost you dollars, helps our residents in need, and returns a profit in terms of incredible increase in value of that property. How impressive. I motion to approve, let me get to my, I motion to approve Item 6, Belleview Properties Independent Entity Services Intergovernmental Agreement because of ten years of success and request that my Council colleagues adopt Resolution 13029, oh, sorry, 13013 to authorize the IGA number 2024-016-COS with the Housing Authority of Maricopa County for the provision of independent entity services of Belleview I Properties Project-Based Voucher Units to perform inspections and rent reasonableness determinations and two, the human services director or designee to execute any other document to take such other actions as necessary to carry out the intent of this resolution.

Councilwoman Janik: Second.

Councilmember Durham: Second.

Mayor Ortega: Thank you, we have a motion and a second. And Councilwoman Janik, and then Councilmember Graham.

[Time: 00:25:18]

Councilwoman Janik: Okay. Thank you, Mayor. Mary, thank you very much for this. I do have a question. I was surprised when I saw that project-based vouchers hadn't been used before on this property. Could you give me a little information on what's going on?

Mary Witkofski: Mayor Ortega, Councilwoman Janik, back in 2013, when the property was originally acquired, there was only noted within it to rent to low-income residents. There was no designation or requirement to house housing choice voucher participants. So, the goal to was to house people who have low-income limits at 60% of the area median income.

Mayor Ortega: Thank you. Councilmember Graham.

[Time: 00:26:08]

Councilmember Graham: Thank you, Mayor. Thank you, Mary. I know this is kind of a procedural change. It's not that big of a deal. I'm not comfortable voting yes though for a few reasons. Councilmember Whitehead talked about, we bought this, and it appreciated and that's great, but does that mean that we should be going into, this is a hypothetical, do our taxpayers want us to be going in and buying a lot more properties up because of success in the past and hoping those appreciate. We shouldn't get into that type of speculation.

So, I think we got lucky with the appreciation there. I sent a few questions to staff, to you and Judy Doyle, so I really appreciate answering those questions. And just for the public's edification, the average stay, so we bought this eight-unit housing project in 2013. And what would you say the average stay is at the housing project? Duration of stay?

Mary Witkofski: Mayor Ortega, Councilmember Graham, we have served approximately 12 families, and the average length of stay is three to four years.

Councilmember Graham: What would you say, do you happen to know what the longest stay to date so far is?

Mary Witkofski: Councilmember Graham, I believe the last time I looked at the rent roll, which was today, I believe the last person on there is 2014 has resided there since.

Councilmember Graham: So probably ten years. So I guess I question the missional aspect of it because I think something like this could be more for an interim basis, kind of a hand out and a leg up on an interim short-term bases as opposed to more of a permanent solution or longer term solution. You said there's been 12 participants in the program. How many of those 12 were from Scottsdale?

Mary Witkofski: Mayor Ortega, Councilmember Graham, four were from Scottsdale. The residents came from Tempe, Scottsdale, and Avondale.

Councilmember Graham: Okay. So, the majority of people that have used this program were not from Scottsdale. How many police calls would you say to the unit since 2013?

Mary Witkofski: Mayor Ortega, Councilmember Graham, there's approximately 117 calls for service in the past 10 years with 22 of those being emergency-related or medical.

Councilmember Graham: What kind of public safety calls, police calls, to the facility have there been? What type, how would you describe them categorically?

Mary Witkofski: Mayor Ortega, Councilmember Graham, actually Police Chief Walthers is here this evening to help answer those questions if they are specifically related to police related matters.

Councilmember Graham: Do you think he would be kind enough to join you on the podium? Is there enough space for the Police Chief? Good to see you Chief Walther.

[Time: 00:28:49]

Chief Walther: Thank you, Councilmember Graham. They run the gamut. Over a ten-year period we did not see an abnormal number of calls for service there, but Mary already talked about 22 emergency calls for service and then how we title those, those are going to be all medical calls. There have been disturbances. We see a lot of disturbance calls in particular at multifamily housing but that can be anything from noise related to people yelling at each other. We had a small handful of domestic disturbances at that location, so it's really run the gamut for a typical multifamily housing setting.

Councilmember Graham: Can you say a little bit more about domestic disturbance that you might have experienced there?

Chief Walther: Sure. So what you usually see, when typically calls for service belie the true facts of what is going on. So I look at not just calls for service but I had my staff do a deep dive in terms of how many reports have we pulled at that location. And it averages about at these two different locations, 7220 and 7224, it averages three-ish reports a year over that ten-year time period, which is pretty nominal.

But there's been a number of the domestic responses that we had didn't require a report number. What that tells us is that it was typically somebody heard people arguing and were worried that something more was going on. We responded to that and then didn't find anything above and beyond that rose to

the level of taking a report. On a couple of occasions there were reports taken but a number of the reports included theft, or theft cell phone or they were the victims of fraudulent, fraud scheme. It runs the gamut, certainly over a decade time period.

Councilmember Graham: I hate to put you on the spot but what would you say is the worst thing in a P.G. sort of phrasing.

Chief Walther: Sure, there were three sexual reports, either sexual assault or sexual abuse, and when we looked at those, one of those did not occur at that location, so we scrubbed that information. And then the other two were related to a singular residence that was there. Same folks involved. Also, the same folks were involved in some of the domestic issues and so reports were taken in both of those, but ultimately moving forward, the victims declined prosecution. So, but again, those involved a singular residence.

Councilmember Graham: Now Judy said in her email that we sort of farm out to a third party the vetting and that none of the residents had a criminal background when they moved in. Did anybody have a criminal background during their stay, before they left to your knowledge?

Chief Walther: I'm not aware of that. I would have to turn that over to Mary or Judy. We don't do that afterwards. If they moved into the location, we are more after the fact answer.

Councilmember Graham: Okay. I may ask, I think that might be you will the questions, Chief Walther, I have for you. Thanks for hauling yourself down here. Mary, did you catch that question?

[Time: 00:31:52]

Mary Witkofski: Mayor Ortega, Councilmember Graham, no one had criminal records at the time of move-in nor under fair housing rules can we deny someone residency based solely on a criminal record.

Councilmember Graham: I understand that we are not asking to deny them, I'm just asking for information.

Mary Witkofski: Resident checks or criminal checks are not run on a yearly basis only at time of lease.

Councilmember Graham: Okay. Have you got any feedback or complaints from neighbors to the City about the facility?

Mary Witkofski: Mayor Ortega, Councilmember Graham, we had one complaint from the City, or to the City regarding weeds and that has been resolved through the property management company.

Councilmember Graham: Very good. Well, like I said, I know this is not a big deal. It's an administrative change that we are talking about here and so I'm not going to make a bigger deal out of it than what is needed. Many residents have told me about their skepticism of the city government getting into the

residential real estate business. Most of the participants in the program, I'm disappointed aren't from Scottsdale. I kind of think a facility like this should serve Scottsdale residents. And I think that because the average stay is years, I would like to see more like months because it, a program like this, to me, ideally shorter term, a leg up, a handout, and so with those, I'm not comfortable moving forward with our track record here. And as well what Chief Walther said about the volumes and the type of police calls. So thank you for answering my questions, Mary.

Mayor Ortega: Okay. Well, first of all, this Belleview has come a long way over the last 30 years. And that street is quite presentable. There's been many investments by private sector. There's one affiliate partner for the City called Family Promise directly across the street. The property is very presentable. And it's part of our City's commitment to diverse housing solutions and it is part of the General Plan intention approved by voters. It is not a bridge housing, as might have been alluded to. It's very specific and I'm sure that all rentals also have rules, house rules, and so forth.

This item today is only for a management contract, done at, not on a review of the skepticism that people may have about our community goals and our needs and our community. The other point is that many people who are, well always have to be vetted prior to coming in. So, I definitely have to support it and I believe it's an essential part of our City's full spectrum, consideration of human beings looking and needing, and meeting the qualifications to be housed there. I see Councilwoman Littlefield, Councilmember Durham, and Vice Mayor Whitehead. Go ahead Councilwoman Littlefield.

[Time: 00:35:11]

Councilwoman Littlefield: Thank you, Mayor. I am going to support this project. I'm quite familiar with this area. I used to work at a place called Girls Ranch, which was right down the street and over a couple. And so, I believe that this project serves a need and helps people in need, and I support it. All of the years that I have been in that area, and I had never heard of any kind of problem or issue that had occurred at that ranch, that house, housing unit, and Girls Ranch and Family Promise both are in that area. So it's an area of Scottsdale that serves this kind of need. And I think it's an appropriate location for it, so I am going to be supporting it. I have not heard any negativity about it. And I think it's a good program. I would like to see more Scottsdale residents there, you are right, Barry. But I think people in need are people in need and they are citizens of Arizona, they need to be helped and I'm going to be supporting this project. Thank you.

Mayor Ortega: Councilmember Durham, and then Vice Mayor Whitehead.

[Time: 00:36:29]

Councilmember Durham: Thank you, Mayor. Just so there's no confusion on this issue, I heard Chief Walther say that the criminal activity in this project was normal or what you would expect. So there's no argument here that this is a uniquely dangerous spot. I've got to say with respect to Councilmember Graham's views, he doesn't like it that these are long-term residents, but I think he voted against our previous hotel program because part of the reason was those were short-term residents. So if we can't

help long-term residents and we can't help short-term residents, I'm not sure who we're going to be able to help here. Thank you. And I will be voting in favor of it, obviously.

Mayor Ortega: Okay, Vice Mayor Whitehead and back to Councilmember Graham.

[Time: 00:37:27]

Vice Mayor Whitehead: Yeah, Councilmember Graham, I was going to comment on your support of short-term bridge housing, and I hope to have your support in the future because that is something that cities across the country are doing and I think it's very important. A couple of things I just want to stress to the residents watching this. Number one, approving a contract does not in any way suggest that this City Council will be purchasing future properties. This is not about purchasing properties. Number two I want to reiterate what Councilmember Graham said, the police called to this multifamily housing is no different than any other multifamily housing. So, I'm not sure why we are picking on this one property.

Number three, this is not subsidized with your tax dollars. This is a program that funds itself through rent and offering low-income rent is simply cheaper than having homeless people. So, this is a self-funded program, does not cost taxpayers, it reduces human suffering and it also saves tax dollars because we're not dealing with more homeless people. And number four, there are 70% of our workforce comes from out of state, or out of city. So what we have been trying to do for all of these years is to provide housing for people who work here but cannot afford to live here. And I would say most of us on this Council would classify as not Scottsdalian. We came from somewhere else. So I think it's pretty common for people to come from other states, let alone just simply Tempe or something.

Again, I want to commend the City of Scottsdale for not being the government that creates programs that don't work and do cost taxpayers money. And I think it does matter. We have to care about people who live and work here, are no matter their income level. Thank you.

Mayor Ortega: Okay. Councilmember Graham, and then Councilwoman Janik. I will call for the question. So go ahead.

Councilmember Graham: Okay, I will keep this brief. What Councilmember Whitehead said was false that it's not subsidized. What purchased the property? A massive government grant. What maintains the property? I mean, you can go on and on. That's what she said is not true. Secondly, I question Councilmember Durham's memory about, you know, ascribing my motives or my votes for, I was against short-term at one point and then I was against long term at one point. I don't know where he gets that. I think that's a false characterization, because I voted against, I think what you are talking about was the McCormick Ranch hotel; is that right?

Councilmember Durham: Yes.

Councilmember Graham: That was because that had stringed attached that we were told from Mr. Greg Bestgen about that if we took that \$1 million, that we also had to house people from the Zone and

Title 42 migrants. So to go back to that vote, that was the reason I voted against that. So for him to say, well, no, it's because this and so I'm not being consistent. Let's go back and look at the facts and kind of freshen our memories. Thank you, Mayor.

Councilwoman Janik: Point of order.

Mayor Ortega: Yeah, Councilwoman Janik.

[Time: 00:40:47]

Councilwoman Janik: Point of order. That's not what we are discussing right now. We are really off topic. This is a model program. It's worked, and there are a lot of constituents who support it. So, I think we need to get on with the vote.

Mayor Ortega: Yes. Okay, thank you very much. And I will ask for the vote. Remember, anyone that lives in Scottsdale becomes a resident, whether it's two years, three years, you are a resident of Scottsdale. And that self-identity is very important of all spectrums as well. Please record your vote.

Councilwoman Littlefield: Yes.

Mayor Ortega: The motion carries with Councilmember Graham dissenting.

#### **ITEM 16 – HEADWATERS RESIDENTIAL HEALTHCARE FACILITIES REZONING (16-ZN-2022)**

[Time: 00:41:52]

Mayor Ortega: Next, we, again, will clarify that Item Number 13 will be heard at a future time. So, we will go to our Regular Agenda Items, which involves Item Number 16, Headwaters Residential Healthcare Facility rezoning. That's case number 16-ZN-2023. At the applicant's request this item will be continued to the February 6, 2024 City Council meeting date. This is the first continuance for this case, and it is granted as a matter of the right per our Council Rules as the request was submitted to the City Clerk at least two business days prior to the meeting. There's no action on this. So for the record, and also at that point, there will be public comment and correct posting for that case to be heard in full.

#### **ITEM 17 – EXPENDITURE LIMITATION REVIEW POLICY**

[Time: 00:42:37]

Mayor Ortega: Next, we will go to Item Number 17, Expenditure Limitation Review Policy. Our presenter is Sonia Andrews, City Treasurer. Hello.

City Treasurer Sonia Andrews: Thank you, Mayor. Thank you, Council. This item is the Expenditure Limitation Policy. We did a presentation back in December on the state-imposed expenditure limitation at which time the Council and Mayor requested that we bring a proposed Expenditure Limitation Review

Policy back for Council consideration, so this is what this item is. Next slide.

So before we discuss the policy, I would like to recap what the state-imposed limitation is and why that is important to us. The state-imposed limitation is a limitation on our expenditure, our operating expenditures primarily. Our operating expenditures do not include our infrastructure capital expenditures. It also excludes debt service and grant-funded expenditures. In 1979 and 1980, state law was imposed to provide a cap limit that we cannot exceed for our operating expenditures subject to this limitation. There are penalties if we exceed that limitation. Next slide.

The state adjusts this limitation amount annually by population and inflation growth, but there is no automatic adjustment for an increase in visitors or seasonal residents. That's an important point for our city because we do have significant visitors and seasonal residents that this expenditure limitation does not recognize. And also the state, the adjustments, automatic annual adjustments, does not factor in any new programs or increased services that are beyond population and inflation adjustments. So state law does allow cities to request what we call a permanent base adjustment to reset or increase the expenditure limitation for new programs and increased services in recognition of growing cities that may have experienced such increases.

Next slide. So the city of Scottsdale has requested two such permanent base adjustment increases since 1979 - 1980. We requested one in 1998 and we requested another one in 2006. We have not requested a permanent base adjustment increase since 2006. And currently, we rank pretty much at the bottom among our peers in terms of the limitation per capita, as you can see on this chart. Next slide. So as I mentioned earlier, at the December Council Work Study Session, we discussed the City is currently at 94% of our state expenditure limitation capacity, and we should consider looking at a permanent base adjustment. The last formal review and request for a permanent base adjustment was in 2006, more than 15, 18 years ago. And so, that was when Council directed staff to bring back a policy for review of this expenditure limitation for every five years. Next slide.

And just real quickly, why the City is at 94% of the limitation is it's pretty much increasing in our new programs, services and facilities, increasing our revenues and expenditures over time. Tourism expenditures was one of the major increases. We increased our bed tax in 2010 after the 2006 permanent base adjustment. Our bed tax went from 3% to 5% which increased our funding of tourism-related expenditures. We also had a lot of public safety operational increases and facility increases, new fire stations and all that. And water and sewer operation increases, as well as operating costs of new facilities. The next slide. So new facilities come with new operating costs. This is a list of a lot of our new facilities since 2010, as you can see most of them are public safety facilities, water, wastewater facilities, a lot of facilities for our residents and visitors. Next slide.

[Time: 00:46:55]

And so really, to sum it up, we will need a permanent base adjustment to take on any additional new services. We anticipate new public safety costs, new water sewer costs, and new operating costs of the facilities that were, we will be bringing online with our Bond 2019 projects. Next slide. So, I wanted to

emphasize this for our viewers and our residents. A permanent base adjustment increases the expenditure limitation capacity. Basically, the expenditure limitation amount that we have to abide by. It is not a tax increase. It does not increase our taxes automatically. It is not a budget override. It's not like a school budget override where we exceed, when we can exceed our budget and request a property tax increase along with it. It is simply an expenditure limitation increase; it does not allow us to exceed our adopted budget. It does not allow the City to spend more than we collect in revenues. We're still required to spend within our means. So, a permanent base adjustment does not allow us to exceed spending in terms of revenues we collect. Next slide.

So, the City has policies and laws in place regarding our spending and taxes, for example. We do require a separate voter approval for any tax increase. So, our permanent base adjustment increased the expenditure limitation, but if we want to increase sales tax rates, we still have to have a separate vote to obtain that approval for increasing taxes. We are still required to adopt a balanced budget. We are not allowed to have deficit spending and by law, our expenditures cannot exceed our adopted budget even if our expenditure limitation is above the budget. Next slide.

So, if the policies and laws that we have in place with respect to the expenditure limitation right now are that we are required to file an annual audit of expenditure limitation, and report that to the State Auditor General. So every year, our auditors' external independent auditors audit our expenditure limitation report and we file that with the State Auditor General to show that we are beneath that expenditure limitation. We do not currently have a policy for formal review, specifically of the expenditure limitation with Council.

What we do provide Council is every year, when we bring the tentative budget and the final budget for Council adoption, we do include in our budget packet, our 100-page budget packet, a state form that we do put in the state form, or required to put in the state form, what the tentative or the final budget that we are proposing is and what the state expenditure limitation is. So that's the place where we currently provide Council with the annual budget and expenditure limitation. Next slide.

So, the proposed budget that we're bringing for Council approval tonight basically states that the City shall ensure that its expenditures are adopted through the annual budget process, are below the expenditure limitation established by the state. And secondly, at a minimum of every five years, the City Treasurer shall report specifically to the City Council the expenditure limitation capacity of the City. And third, in the event that the projections through the budget process result in the City reaching or exceeding 90% of the expenditure limitation, that the City Treasurer shall provide a specific formal notification and recommendations for Council action. So next slide.

So, with this policy, our next slide would be to prepare the analysis for a permanent base adjustment that would be required by the State Auditor General, should we decide, or should Council decide to request a permanent base adjustment. We plan to bring a resolution to Council in March on a recommendation for permanent base adjustment, and we will then no later than August submit all the required documentation to the Auditor General for approval. And next slide. So, this is my last slide. So, this is the request for Council to consider a motion to adopt the resolution for the Expenditure

Limitation Review Policy. And with that, I can answer any questions.

Mayor Ortega: Thank you very much. Before we go to our own deliberation, I will open for public comment. So at this point, I have one request from Austin Fairbanks. Please come forward. State your place of residence and we have three minutes. Thank you, kindly.

**PUBLIC COMMENT**

[Time: 00:51:56]

Austin Fairbanks: Honorable Mayor and Council, my name is Austin Fairbanks I live at 2938 North 61<sup>st</sup> Place, Scottsdale 85251. I like to begin by saying I appreciate the item on today's agenda, it's not a direct attempt to raise the expenditure limit. That's good news for the citizens and taxpayers of Arizona that we are not today raising the expenditure limit. What concerns me however as a citizen who believes in fiscal responsibility and a lean government, is the talk about potentially raising the expenditure limit in the future.

So first in response to the presentation back in December on the expenditure limit, I want to challenge the idea that this is a state imposed policy. While the state does enforce this policy, it's in reality a voter approved constitutional amendment that was enacted by 80% of the voters plus a number of years ago now. Scottsdale's governed by the U.S. Constitution and our state constitution as well as our City Charter. So this is something that I encourage Council not to take lightly, the fact that this is a constitutional mandate 80% of the voters put in place.

Another comment I heard is that unseen emergency could result in the City exceeding its constitutional expenditure limit. I just want to flag for you all that Article 9, Section 20 of our state constitution allows a two-thirds vote of Council to override the expenditure limit in the event of a man made or natural disaster. So, two-thirds of you could for a year override the expenditure limit if there is an emergency that necessitates that.

The next slide, in terms of a possible expenditure limit raise. You saw a slide today that Scottsdale is the bottom list of Arizona municipalities in terms of their expenditure limit per capita. I would also submit that a couple of our neighboring municipalities, such as Fountain Hills and Cave Creek have lower expenditure limits per capita than Scottsdale. Notably these are also high seasonal visitor kind of communities. Comparing Scottsdale on the same slide as cities with populations that have grown ten times as fast as Scottsdale. I saw Avondale, Buckeye, and Queen Creek on that list. That's not comparing apples-to-apples respectively.

I would also like to note, that the previous ballot reasons and initiatives and expenditure limits back in 1998 and 2006 were largely driven by public safety. And today one of the best reasons I'm hearing is tourism has increased over time. We have new facilities over time. That's not really a convincing reason as public safety, I don't think. I think the voters will see through that. I think that the real issue here is that the constitution has successfully placing a check on our city government in the amount they can

spend.

And as I said at the start of my remarks, I believe in fiscal responsibility and limited government and these ideas have made Scottsdale a great place to live and work and bring a business. Now is not the time to abandon these policy north stars that we should hold true to in difficult times. After all, if you can't spend more, you will have no more reason to tax more. This has kind of hinted at by the City Treasurer respectfully when she said it doesn't automatically raise the taxes, but it gives you the authority in the future to raise taxes beyond what you already raise taxes for.

And the last 25 seconds, I would like to talk about what I think about the current policy. I don't have any objections to it currently. I think it's a backdoor, but I would like to see it added to the end of this phrase to reduce expenditures for compliance. So if I can read this last line would read, the City Treasurer shall provide Council with formal notification and recommendations for Council actions, new words to reduce expenditures for compliance. I think that would be beneficial and thank you for your time. Available for any questions.

Mayor Ortega: Thank you. I see none. We will now close public testimony. I will go on to Councilwoman Janik, then myself, and Councilmember Durham.

[Time: 00:55:24]

Councilwoman Janik: Thank you, Mayor. Sonia thank you for the very clear presentation on where the need is to raise the limit. What I would to ask is if we look at slide six, the reasons you gave are all qualitative reasons and I know that we've gotten some letters saying, "Wait a second. We want to see why we actually need this increase." So, what I would recommend, and you probably already have it, is that you go through all the different expenses throughout the years and show how those expenses have increased maybe even perhaps explain why for example with the police.

Of course, those expenses have increased because we have more police on the force to give us protection for a city that has grown. So, I think we can eliminate some of those objections if we have the quantitative numbers and say, "Okay, look here. Look at this line item. This is increased by this amount." And then at that point in time, you can see why we are pushing up against a limit that was from '06, and we are in 2024. So, I would appreciate it if you would do that, but thank you.

[Time: 00:56:36]

Mayor Ortega: Thank you. Well, first of all, this action item was a result of a Work Study discussion which was held, and we provided some direction that helped guide the motion that we have today. It is true that 44 years ago, the voters approved this requirement, and we are in compliance with that, as we, as it was intended. The rule allows us, as a community, to review our situation. Banks have that. They have stress tests and people can come in and see whether deposits and whatever are involved. Good practice from CPAs would say, "Gee, you are reaching a certain redline point." It's not a bad thing. It's a formula, but that formula escalated by design. It was based on Scottsdale in 1979 and it had certain

escalation clauses in it, and it's an archaic formula that at some point assumed so many libraries and fire stations and we have grown, and we have prospered, and we have supported a lot of services that we have been able to fund. So, the process allows this self-examination of how well we're doing. And then, it would have to, of course, go to the compliance officers or the State Auditor and they would verify it, and what we are looking at today, what we are looking at today is what is missing.

What is missing in our financial policy is having a financial policy that would cover expenditure limitations. Okay. And what we're doing today is saying, and it's somewhat surprising, but actually in 2006, the Treasurer at that time, who happened to have been I think David Smith, later he was elected a Councilperson, but he called the City's attention to this issue. The archaic formula would hit a hard wall and we had new operations coming online and so forth. So at that point, it had to have been brought to the attention of the Council, and then it resulted in an understanding by the public that explained this limit and how legally and properly it should be modified, so it was modified.

Now, what's happened, you know, subsequently is you are looking at 18 years. And 18 years is way past due for us to have a policy, that would have regular alerts, let's call it, and we are finding that we are hitting the redline, right? And we're, I think 94% to that capacity point. So it is our duty to regularly look at where we're at, right? And then evaluate to conform with the state law. And whether it's an initiative or however it got past, it is we are in full compliance. We've had 50 years of excellent financial accountability as a city. So what this policy and, again, we're not talking about sales tax increases. This policy says we should examine and we, by due diligence will now put it into, insert that into our financial policy because it's missing. It's missing.

And what we're looking at and what we discussed at the Work Study was, "Gee, we thought five years would be a reasonable review period." Well, we are 18 years right now since the last review. So that also is, specifies kind of the need. The other point, which is on, I think page 17, it says that, you know, when you hit that redline of 90%, the Treasurer shall do this, right? So, ten years from now, 20 years from now, when they have this policy in effect, there's no excuses. This would say, every five years we would at least look at it, and whether it needed an adjustment to be determined and so forth, or maybe even after four years, somehow, we would hit that 90% redline for some reason, then that is a duty of the Treasurer to do that.

So I would commend that, our office for, you know, bringing this to us at this time, and I will move for approval of the adopt Resolution 13034 to establish an Expenditure Limitation Review Policy and to amend the FY 2023/24 Financial Policies. Again, it's a policy to include really the three points as listed, one is on page 12, sorry, 12 of our report. The City shall ensure that expenditures adopted through the annual budget process are below the expenditure limit established by the state. Item number two at a minimum of every five years, the City Treasurer shall report to the City Council and of course, we are also simultaneously reporting to the state; and number three, that trigger point of 90%, we're actually past that point, so it's other evidence that it needs to be done. I make that motion.

Vice Mayor Whitehead: Second.

Mayor Ortega: We have a motion and a second. We will open up discussion and we have Councilmember Durham, Councilmember Graham, Vice Mayor Whitehead. Councilmember Durham.

[Time: 01:03:02]

Councilmember Durham: Thank you, Mayor. We go through this calculation every year, and you include it, I think you said you included it in the budget. Why wouldn't we require that you report this every year? In effect you do report it, I think with the budget, but does it ever get singled out in a separate notice?

Sonia Andrews: Mayor, Councilmember Durham, we can if you would like us to report it specifically every year through our budget presentation. We currently include it as part of the 100-page budget packet to Council but when I look back at all the previous presentations before my time, it was not specifically presented to the Council, but it is included in the budget packet. You would have to calculate your own percentage, though, because the form doesn't show that. So, it just literally shows the tentative or proposed budget number and the state limitation number.

Councilmember Durham: Would you calculate the percentage under this proposal? It says you would calculate the expenditure limitation and capacity.

Sonia Andrews: Yes, with this policy in place, we would be calculating the percentage.

Councilmember Durham: Okay.

Sonia Andrews: Right now, we do not calculate that percentage, but with this policy, we will.

Councilmember Durham: It just seems to me that would be a good idea to do it every year. I mean, right now it says at minimum of every five years, and I guess it may be good enough if we are going to, you know, do a report when it gets to 90%, perhaps that's satisfactory, but, you know, I just don't see why we shouldn't report it more often, but I think it's probably good enough if we, if there is going to be a report when we exceed 90%. Thank you, Mayor.

Mayor Ortega: Okay, Councilmember Graham, Vice Mayor Whitehead, and then Councilmember Caputi. Councilmember Graham.

[Time: 01:05:09]

Councilmember Graham: Thank you, Mayor. I'm going to vote for this tonight. I do think it is a little bit duplicative, a little bit of window dressing, a feel-good measure, because we look at this every year. We review it every year and Council votes on it every year already. But to add it as a review policy doesn't hurt anything, so I am going to support it. I don't think that, it's not ever a bad thing to do that.

Can you, Mr. Fairbanks brought up emergency. If there's an emergency and if we went above the limit,

two-thirds of the Council, so like five votes, we could get around it if we had to, right? Just a quick is that, was that, is that accurate to say?

Sonia Andrews: Mayor, Councilmember Graham, there is a provision in state statute that allows for the Council to approve exceeding the limit if it is a governor-declared disaster. If it is not a governor-declared disaster, Council can still approve exceeding the limit if it is a disaster emergency, subject to the City reducing the expenditures for that excess in the following fiscal year or obtaining a vote of the voter approval to exceed that limit. If we are operating very close to the limit, and we have a non-governor declared disaster that spans more than one fiscal year, we would be subject to requesting voter approval to exceed our limitation. And I'm not sure that that is a responsible way to operate the City's finances.

Councilmember Graham: Thank you, Sonia. Slide 4 you have all of these, which are good, these peer cities. This is actually very instructive but it kind of shows like Scottsdale, it says four on the PDF, but it's PDF page 10 of 25. Austin Fairbanks mentioned a few additional cities if you could maybe add some more cities just to give more context. And then slide seven, if this, this isn't really isn't a work study. As we move forward with this process, because we are going to have to vote on it, we will have to vote on it as a Council before we put it on the ballot, correct?

Sonia Andrews: Yes, absolutely. There will be a resolution for Council to consider referring the permanent base adjustment.

Councilmember Graham: On the page, it's PDF page 13 of 25, but slide seven, if we could include more programs that we've added. I think we talked about future programs. I think you and I talked about that offline, so I would like to see a more complete list of all the programs we've added. And, I mean, I kind of agree with Mr. Fairbanks. I think that it does make a tax increase easier. You can't increase taxes without this, and I do think it makes the growth of local government likelier. So it's just something to watch and be careful of and make sure that we are disciplined. So thank you, Sonia. Thank you, Mayor.

Mayor Ortega: Councilwoman Caputi, Councilwoman Littlefield.

[Time: 01:08:45]

Councilwoman Caputi: Thank you, Sonia. Just, I agree with what Councilwoman Janik said. I think as we move forward, the more detail we could give people the better. This is a complicated topic, and we all know it will get twisted as we move forward and I think just making the general public super clear about the need for it will be better. I mean, what is the motto for the city? Simply better service for a world-class community and those are the things we are trying to offer. Let's actually articulate for people exactly what we are doing. I think that that's a great idea.

Also, in terms of making this a formal policy. Agree, we are already doing it. I mean I think every single year I have sat on this Council; you and I had the conversation about this impending expenditure limit looming. I don't think any of us up here is surprised. We all have been given a lot of information about it

and so making the policy itself more formal, 100%, I can't imagine why we wouldn't do that. So, I'm in support as well. Thank you.

Mayor Ortega: Thank you, Councilwoman Littlefield and then Vice Mayor Whitehead.

[Time: 01:09:57]

Councilwoman Littlefield: Thank you, Mayor. I will also be supporting this. I agree with Councilman Graham on what he said. And I think that because we are already doing this, it's better to bring it out and in the open where citizens can see what we are doing, why we are do it, and how we are doing it. And I believe that this is a better way to open up our deliberations to our citizens. It's their money that we are asking for. And so, I will be approving it for those reasons, and we do already review this every year, but it's better to have it open and more available and readily readable by our citizens so they know what we are doing and why we are doing it. So, thank you.

Mayor Ortega: Thank you. Vice Mayor Whitehead and then we have a motion.

[Time: 01:10:56]

Vice Mayor Whitehead: Yeah, it looks like we are all in agreement that a policy makes sense because we, it better informs the public and it keeps us focused on this. One of the items I wanted to just point out for future, that this no automatic adjustment for visitors and seasonal residents. In the 2000, in the economic downturn in 2009, '10, '11, we saw a big increase in seasonal residents replacing people that were living in apartments turned condos so that's I think going to be a really important number moving forward. And I think educating the public. I mean, I appreciate Mr. Fairbanks' analysis, but he pointed to Fountain Hills and Cave Creek, they do not have a water department and they do not have a fire department, and I don't believe they have police departments. So, if we do want to make sure that we're keeping everybody very, very informed and it's hard to compare different communities, but we want to make sure that we do what is right for ours. Thank you.

Mayor Ortega: Great. You know, adoption of this policy is very essential as a municipal corporation, and any corporation, public corporation, even a privately owned business would have a ten, five and ten-year horizon, right? So that's our duty to set it as well as possible. You know, and I'm only saying this sometimes, I mean we are in a position to act much better locally than Congress, which has to raise their limitation every year or six months and that's just, it gets really crazy in that world of debt and other situations. So, we have a very, with this policy, we are able to look at the best advice of our financial advisor, the Treasurer, and make sure that we don't have to go to the voters every year, that's why it's so important. This provision says at least every five years, make sure you look at it, critically, if it comes up sooner, that's again, I'm being repetitive. But with that, let's vote, and thank you.

Councilwoman Littlefield: Yes.

Mayor Ortega: Thank you. We are unanimous. At this point, we will be looking at moving into our next,

we are complete with the Regular Agenda.

**PUBLIC COMMENT**

And we will go to public comment, the second opportunity for members of the public to come forward for non-agendized items. Seeing none, I will close public comment.

**CITIZEN PETITIONS**

Next Item 18 allows, our charter allows for citizens to petition us. There is no petition request. Therefore, that item is closed.

**WORK STUDY**

[Time: 01:14:06]

Next, we have a discussion of Work Study. And we will go right into our Work Study. At this point, we will look at our Work Study Session. It's an opportunity to provide a less formal setting for the Mayor and Council to discuss specific topics with each other and city staff and provide staff an opportunity to receive direction from the Council, to provide an opportunity for public input yet continue to maximize the amount of time available for the Council to have a focused discussion on the agendized item. We give the opportunity for public comment.

**PUBLIC COMMENT**

Public comment is open at this point, and I would, I see there's one person, Sonnie Kirtley, who would like to speak on this subject. So, I would like you to come forward and we are, of course, discussing the special noise violation ordinance. Good to see you, Sonnie.

[Time: 01:15:16]

Sonnie Kirtley: Good evening, Mayor, Vice Mayor, City Council, I'm still Sonnie Kirtley, hanging around, representing C.O.G.S., Coalition of Greater Scottsdale, and our address is on file. You've had in the file from clear back last fall when we had our first studies, a far more detailed items that C.O.G.S. was hoping you would look at when we were looking at the noise ordinance, and Brent's team has done an incredible job, hours, and hours of work, but I want to remind you of these.

First of all, that ordinance has to be citywide. There can't be any part of the city that gets off free. Secondly, we gotta change those meters. When Ron Cagey first bought them. We told him, look, the A scale is for human voices. You have to get the C scale that gets the bass that I hear a mile and a half away. And then a new policy I hope you will take a look at. When you approve roof top patio bars, please don't allow them to have speakers. They can have music, they can have whatever they want, but no speakers. Pointing down, that doesn't help. Glass partitions sort of help. But rooftops, we've got

another Casa, Calle Rosa is asking now to do a skybridge across Saddleback and add a whole back area. No speakers, please.

And then about three years ago, C.O.G.S. worked with Villa Monterey, because the construction was going to happen with the apartments on 73<sup>rd</sup> and we worked with Michael Clack for months to get a construction noise mitigation ordinance in. And it was supposed to deal with the beep beeps of the backups and the times of day and all that. And it was supposed to be a check list that's in every one of those project files no matter where it is city. We haven't been able to find them in the files, so this is something that needs to be checked on. Thank you so much.

Mayor Ortega: Thank you. Next, we will move, and I will close public comment. We will now move to our presentation by Assistant City Manager Brent Stockwell. Please proceed.

[Time: 01:17:34]

Brent Stockwell: Good evening, Mayor and Council. Tonight, we are updating you on the ongoing efforts to update the special noise violation ordinance. And this is one of the Council priorities that we identified in the organizational strategic plan. This effort is a cross-departmental effort, including staff from the following departments, police, planning, code enforcement, tourism and events, communications, information technology, the city attorney, and the city manager.

So tonight, a few members of our team will be giving you an overview of efforts to date. We will be doing an overview and analysis of the existing ordinance, a look at community involvement conducted so far, and then some possible ordinance updates to address improvements identified through the outreach efforts and at the end we are interested in your feedback on what you would like included in the ordinance update.

So many of you had the opportunity to attend one of the three outreach sessions that we held at the community design studio in November. At those sessions we shared a problem statement that we had been using to guide our efforts to date. This outlined some of the challenges. Current sound levels are too loud at times. There are differences in how to address the problem, based on the location of the issue and they do not take into account all types of disruptive sound.

I got the thumbs up now. All right. We also put together this goal for the project, to maintain an improved quality of life within Scottsdale, look at possible ordinance changes and other mitigation methods that provide a mechanism for setting reasonable sound standards including four bass frequencies and provide guidance for sound management relating to outdoor amplification. So to be clear, at this point, we are just focusing on this particular issue, this particular aspect of all the issues of sound in Scottsdale. We understand there are other concerns about sound and noise in Scottsdale. But we're focusing on one problem at a time. So tonight, we are specifically talking about entertainment-related sound. Sound coming from outdoor amplification from bars, restaurants, live entertainment, and special events.

At a scientific level, sound and noise are the same things. They are vibrations that we will pick up with our ears. Sound is a neutral way of saying it. Noise is a word we use to express a negative perception about sounds that we don't like. In other words, all noise is sound but not all sound is noise. The same sound is enjoyed by some and set at levels they find reasonable, and that same sound is disruptive to other people and found unreasonable and that's one the issues, one the reasons that this is such a difficult issue to look at and regulate in cities.

[Time: 01:21:05]

The same sounds that will bring thousands of people into Old Town Scottsdale, for example, can be seen as disruptive to other businesses and residents in the area. Beyond that, as shown on the screen, sound is measured in decibels, and the decibels scale is a scientific way to objectively measure sound levels. This scale on the screen, and I had to pick from a bunch of different ones, and I will tell you why I picked this one. This is an educational resource prepared by the National Institute of Health as part of an educational campaign to help students understand how different sound levels impact health.

At higher levels, sound can negatively affect health and can cause hearing damage. In general, the longer you are exposed to high sound levels, the more impactful it can be to your hearing and sound diminishes over distance so the further away you are, the lower the level the same sound will be. So, these are important things to understand in setting a community standard for acceptable and unacceptable sound levels, and this scale is focused on mid and high-frequency sounds. I will talk about measuring low frequency sound in a few moments.

So why is this such a challenging issue? So beyond this, there are a lot of reasons why sound management is challenging. Sound can be perceived differently at different times of the day. A sound that is acceptable at 2:00 in the afternoon may be unreasonable at 2:00 in the morning. Landscape can provide a visual buffer and sometimes sound is perceived less negatively when vegetation masks the source. Sound also carries differently over water and as it hits natural barriers like mountains. We also know that in different weather conditions, temperature, humidity, cloud cover, sound carries differently. It tends to dissipate more quickly on warm, clear days and it's kept closer to the ground and bounces back toward the ground on cooler cloudy days. Different building types also make a difference. The types and age of windows and insulation that a home has might keep some sounds out and different building materials can actually bounce sounds back.

The type of music also matters. Different types of music used more bass than others, and some people like sounds from some music but not others. And as noted, the same sounds that draw thousands of people to an event or business can be the same sounds that other businesses and residents find objectionable. It was estimated that last year, 10.8 million people visited Scottsdale with an economic impact of \$3.2 billion. And so, it is a challenging issue to figure out the right balance to keep Scottsdale simultaneously economically viable and at the same time, maintain the highest standard of livability. And I have often heard people say that's the challenge that Scottsdale is trying to do that's different than most other communities. We are trying to lead on both.

[Time: 01:24:22]

So to better understand the landscape of sound in Scottsdale and with the intention to try and figure out a way that we could be proactively identify loud levels and then automate notification so that they could be reduced before complaints were received. Prior to the Super Bowl last year, we installed five smart multinode sensors on streetlight poles in Old Town Scottsdale.

There are three sensors along Saddleback Trail, one on Shoeman Lane and another one on Buckboard Lane. These sensors include a sound level monitor that records the max and average sound levels. They measure each 15 minutes and then they upload the data once per day. These devices only record sound levels during the evening and night when the light is turned on and they are approximately 30 feet off the ground. So, since most human's ears are between 4 and say 7 feet off the ground, not 30, we anticipated there would be a drop off in sound, but we really didn't know how much. And, again, this is a pilot. This is an experiment to try and see if we can truly do something new and innovative and novel to try and get on top of this issue.

So, to verify ground level sound data and compare the sensors on the poles, staff brought in several high-quality professional grade sound monitors on October 19<sup>th</sup> and 20<sup>th</sup>. So, the data from the pole-mounted sensors over time is shown here on the screen. And it, the range in the average to max levels are shown between these lines here. There's not all the dots, but that tells you where the average and the maximum were. And so, it was clear that the ground level sound is much louder than the pole sensors report. It's hard to read there, it's between 87 and 100 decibels on the ground, but I'd say between about 70 and 75 on the pole. So, we do know that sound levels do dissipate over distance which might partly explain why the elevated pole sensors captured less noise and there's even a larger discrepancy when it comes to recording the maximum sound levels. However, this is also somewhat expected as the pole sensors are designed for more general purposes and not built to be incredibly accurate.

For example, they only report the decibel numbers in round integers. And even though the pole-mounted sensors aren't 100% representative of sound levels in the neighborhoods. We can still learn some things from the patterns that we see in the data. So, here we can see where sound levels are loudest over the course of the average day. So, each one of these lines represents one the different sound meters and one the poles. So not surprisingly, things start to get loud around 9:30 p.m. when the night life activity ramps up and then it dies down around 2 a.m. with the last call in the early morning. Exactly what you would expect the data to show. You can notice that only in the very middle of the early morning do those levels go below 68 dBA.

We can also see that this Camelback sensor that's in orange, that sensor is the one that's actually placed farthest from the nightclubs and right next to a busy road, Camelback. It doesn't exhibit the same patterns. So, what you can notice is the ones that are closer to the nightclubs, you actually get that drop off just by the time it gets to the edge of Camelback and that's not even across the street where the residential, non-mixed use district neighborhoods begin, and Villa Monterey starts. So it doesn't, it mainly picks up on traffic noises. And, again, these sensors only collect data when the light pole is

turned on. They don't collect data from the middle of the day. So, it has been a neat experiment to that end, but we are continuing to look for additional technology that can better do the job that we need it to do.

We can also see patterns on even longer scales as well. So, on the two bottom lines here, what you see is two different average nightly noise levels from two representative sensors. So, they are both the same scale here, 65 to 75 and they are that way over time. And this, again, will surprise no one, but the sound levels are loudest on the weekends, so every one of those peaks is the weekend and they go down in the week and they go down and they go back up. This visualization on the top, shows that deviations from the normal pattern. So, what this shows is, there have been, if we look at the entire year, we see certain weekends that are even higher than the typical weekend, so those were the Super Bowl, the 4<sup>th</sup> of July, Labor Day, Halloween, and Thanksgiving. So again, not a surprise. Those bigger weekends we see even bigger peaks as well.

[Time: 01:29:45]

So, what are the takeaways? Well, as expected nights, weekends, and special events, they are louder. We also understand that the pole-mounted sensors are not the most accurate and that peak sound levels are not being captured and those are actually the sound levels that are most likely to trigger resident complaints. So to address this, we have an ongoing project with staff to identify alternative and appropriate sound monitoring technologies, as well as reporting methods that can help us collect objective sound data over time, again for the purposes of knowing when those are and using that proactively to reduce complaints. So, the goal that we would like to get here is that we could actually reduce the problem before someone even calls because we're using that monitor to be aware of it. And we'll keep you updated on that effort as well.

Another data related effort we've gone through, is we have also mapped all the bars and liquor license, and live entertainment uses in Old Town. Those were the black dots that you see there and then we also measured all the residential areas that are within Old Town. And then for the six months of this calendar year, the last calendar year, we looked at the relationship of calls for service to the police department for noise complaints specifically to those relating to venues and music. And we had to pull out from that all the ones that related for nuisance parties because we have a separate ordinance to do that. These are ones really about the music and the venues in and around Old Town. And in looking at those first six months we saw an interesting trend and that was ,you can see it visually there, that kind of dot, dot, dot with the comment. Those are the ones where the complaints came from and there were actually more complaints inside the Old Town boundaries than outside it and that led us to an observation.

And another thing that probably needs to be updated in the ordinance, is figure out a way, how to address sound for those residents and businesses that are within the Old Town boundaries. And, of course, over time you've heard from residence at Envy Condominiums, you've heard from residents at Optima Camelview Village, and you've heard from residents at the Waterfront. These are all residences, some of them actually were built after the 2010 ordinance went into effect. But are experiencing those concerns and letting the City know of their concerns about it, by calling in calls for service to the police

department. So more on that in a moment.

[Time: 01:32:25]

So, in addition to looking at Scottsdale-specific data, we have also been looking around at how other community address and enforce entertainment-related sounds. One source that I wanted to talk to you about is coming from an organization that actually focuses, it's made up of other cities that have active staff members that are managing the night life in their cities. So, these are other cities that have very vibrant entertainment areas and night life. I have summarized their key principles for planning entertainment-related sound on this slide. Here's a couple of the recommendations they made. They recommended that amplified sound from night life should be viewed as sound to be managed rather than noise to be eliminated. They also recommended tailoring sound allowances for entertainment-related amplified sound differently from the approach to just general noise from all other sources.

And this actually is consistent with the current approach that we have as we address entertainment-related sound in the special noise violations ordinance rather than just a catch-all noise ordinance. And actually, perhaps if we were taking all this together right now, we might want to rename this ordinance the entertainment-related sound management ordinance to kind of reflect all this. They also recommend customizing sound level allowances for specific locations. So, there's concentrated areas that have more of an issue than other areas. They recommend an ordinance development providing long-term predictability for all stakeholders by measuring sound at the establishment property line, rather than at residential locations or using subjective standards.

They also recommend anticipating and addressing quality of life for nearby residents, investing resources in the management of sound impacts, facilitating stakeholder education, communication, and problem solving, and having proactive enforcement with a focus on relationships and compliance. So, this was another perspective that we have been thinking about as we have been working on this project and wanted to make sure that you were aware of as well. So now, another area that we have been working on is understanding how to measure low frequency sound. So, this is the type of sound that results from bass levels which is measured in a c-weighted scale or dBC. So, we worked with a local engineering firm to help us identify some research on approaches to measuring low frequency noise. Like mid and high frequency sound, high levels of low frequency sound can have negative health effects, and because human hearing becomes gradually less sensitive as the frequency decreases, for humans to perceive low frequency sound, the sound pressure level has to be relatively high.

So, the available evidence from studies on this issue give some guidance on how to set levels at a point to reduce annoyance to most residents, in the 90 to 95% range, you may not be able to get all the way to 100%. One way is to set the violation at a level where dBC exceeds dBA by 20-decibel points. So again, this is the issue that because we perceive that low frequency sound it has to be at a higher-pressure level because db, the decibel scale measures that pressure level, even if you have a relatively low dBA level, like 45, the dBC max would need to be like 20 decibels higher or 65 dBC. This is kind of counterintuitive but is one of the ways we wanted to kind of understand this issue so that we could

make sure the ordinance is actually going to have the intended results rather than just kind of picking an arbitrary level.

And/or the other alternative that can be considered is setting different dBC levels for different conditions. So, for example, different levels at daytime, versus nighttime, different levels in residential neighbors, neighborhoods and commercial neighborhoods, or even different levels from intermittent, so occasional versus continuous low frequency sound. This is a complicated subject, but we wanted to let you know what we learned so far and we will continue to keep you updated and the community updated as we continue to learn on this. So at this point, I'm going to turn it over to Commander Jeromie O'Meara to talk about our current ordinance and I will remain available for questions at any point.

[Time: 01:37:09]

Commander Jeromie O'Meara: Thank you, Brent. Good evening, Mayor, members of City Council, good to see you all again. Thank you for the opportunity to present to you tonight. So as Brent just stated, it's my job to give a basic summary of the current ordinance and within that we will also discuss what we reviewed with the citizens during the Work Studies including some the challenges that we are currently facing. So, a couple things to note first regarding the current ordinance, number one it was passed in 2010. So, by the very nature of the date, a lot of things have changed, we will go into that further in the presentation. But as our downtown continues to develop, and more events come into this area, it's probably a time for a good review anyway, given the age of the ordinance.

Second, it's also important to note that the ordinance prohibits unreasonable noise that's created by businesses that serve alcohol, and/or provide live entertainment. So that's all encompassing beyond just the entertainment district. And again, we will talk more about that as we get into the presentation. But it's more than just this area right here. Lastly, the current ordinance also sets the criteria on how we actually measure the sounds. And that becomes very important as the science of the sound, the further you go, the less intrusive it may be, in terms of the actual reading, but that may not equate into less call for service that we are getting for the complaints. And lastly, the current ordinance also sets the authority on who can actually issue the civil citations or the complaints for the enforcement side that goes beyond a criminal investigation would be from the police department.

[Time: 01:38:41]

So going a little more into some of the specifics regarding the ordinance, it's very important to note that this is a city-wide ordinance that governs all the businesses that currently serve alcohol and/or have live entertainment. So, again, it's bigger than just the downtown area. It is enforced by using a reasonable person standard, and I will go into greater detail in just a few minutes on what that actually means and it's part of the challenge of the current ordinance. With the current ordinance, sound is measured 100 feet from the source within a residential district. Not a mixed-use district. So, what does that mean? It means that if the business is located within a residential district, then we will go 100 feet out, with a reading to see what that decibel sound meter is actually saying. But if this is within a mixed-use area,

then we will not do that because it's occurred in an area that's exempt from that reading of the 68-decibels that's currently within the ordinance.

Right now, special events are also exempt from this ordinance. A reasonable question is why is that so? Well, special events currently have their own review process in which sound mitigation strategies and limits are already put within that. The current ordinance as it stands does not address special events. So, there are some challenges that we are facing when it comes to this ordinance. One the things I do want to set as a basic pretext is, what does it mean as a reasonable standard? Well, simply what that means is an officer comes and gets the complaints, we have to use a burden of proof, very hypothetical in terms of reasonable person, but we have to gather the evidence and what that means.

And so a reasonable perspective, the officer will take into account the time of day, day of the week, what's the history of that address or the business, what's the number of complaints, what is the officer actually able to observe, what evidence does the citizen or citizens able to provide to show what the violation may be, but in taking all that into account, the officer also cannot be using any of the bias, any of the politics regarding an issue, anything that may be personal preference, it's purely just based on what the violation is in front of them. And we see that on occasion when it comes to the type of club or whether it be a special event or whether it be a short-term rental, all the other issues that we send to come across, those type of issues do not go into what is a reasonable person standard when it comes to that.

And so, by the ordinance itself, it states that an unreasonable, the noise is unreasonable pursuant to this section, a reasonable person of normal sensibilities shall include an officer or other city employees. So that can be the subject of disagreement on what an officer may be observing or another designee from the city, based on what the citizen may be observing by the very nature, could be a difference on that. Within this as well though, we also have to take a look at what does it mean when you move into an area that is vibrant, such as our downtown, is there a different level of expectation of what the noise or the sound will be within that area.

Given that this ordinance was passed in 2010, we have seen since then an additional 2500 residents have moved into this area. The assumption back in 2010 was that people would be moving into this area to experience the very nature of what this area offers. That may now not be the case. And so, as the science was showing with the complaints that we are receiving, residents now within this area are expecting potentially a different level of quiet or quality of life that maybe the ordinance needs to revisit.

We also have to take a look, as Brent was explaining, regarding the difference between the dBA, which is the treble and the dBC, which is the bass. I can share with you from our calls for service regarding the complaints. It's almost always regarding the bass. It is, "The windows are shaking in my bedroom. My walls are shaking. I can feel the music." That is what's coming from the bass when it comes to us as that complaint. And so one of the challenges is the 68-decibel a proper reading for that level the dBC when it comes to what the ordinance will allow.

[Time: 01:43:06]

We are in the midst of our special events season and so, again, part of this as Brent was just explaining, what does it mean for us to have a vibrant night life and special events season? With Barrett-Jackson coming just now and the Waste Management Open and spring training right around the corner, we are a tourism city and with that it comes that balance. What does it mean to remain attractive for those events and at the same time still protecting the quality of life? Lastly is the challenge, it's very difficult for us to do some enforcement within these when the complaints come in as a general area it's coming from the horseshoe or the U. We've got several collections of clubs that are producing very similar types of sounds, and it could be very impossible for the officer to actually determine which club is currently in violation.

In so within that again we understand the citizenry having some frustration regarding, where are the citations? where are the enforcements? But we also have to have that burden of proof for us to build to be able to show which club is actually in violation and is this more of an overall area problem as opposed to an individual club or business. So, with that, thank you very much, and I will be available to answer any of your questions.

Brent Stockwell: Okay, Mayor and Council, the next thing we want to do is we want to talk to you about the results from our community involvement efforts and then we will talk to you about some possible solutions to address that and then.

Mayor Ortega: This might be a good spot, just because I see a couple of Council, just want to respond perhaps up to this point. So, Councilmember Durham, did you have a point?

[Time: 01:44:36]

Councilmember Durham: Thank you, Mayor. Brent, on your slide about decibel levels, how far away from the source are you talking about? 5 feet? 10 feet? Because obviously decibel levels change as you move out.

Brent Stockwell: So, on that scale, Councilmember Durham, they would be measuring pretty close to that source.

Councilmember Durham: Okay, so talking distance or something like that?

Brent Stockwell: Yeah.

Councilmember Durham: On that map that you showed with the black dots, it's 12. Yeah. The black dots are actual entertainment centers.

Brent Stockwell: Councilmember, the black dots are properties that have liquor licenses, liquor licenses or have live entertainment uses.

Councilmember Durham: Oh, okay. And you were trying to point out where the complaints are coming from, and I didn't quite follow that.

Brent Stockwell: So, the complaint icon on that screen is the one that looks like a comment with, like, a dot, dot, dot in it.

Councilmember Durham: Oh, okay.

Brent Stockwell: So, all of those are where the complaints are and if I do kind of a quick calculation of the complaints that came into that period of time, I definitely see more inside the Old Town boundary than outside of it.

Councilmember Durham: Yeah. And is there some way of showing the volume of complaints from those little balloons?

Brent Stockwell: Each one of those represents one complaint.

Councilmember Durham: Okay.

Brent Stockwell: On the north side of canal, of the canal, east of the Scottsdale and north of Camelback you see three stacked in a row and so that means there's multiple ones there.

Councilmember Durham: Okay, okay. That's all I had. Now I understand it better. Thank you, Mayor.

[Time: 01:46:37]

Mayor Ortega: Thank you. Just two things real quickly. I went into the library last week, and there were police officers, fire, police, firemen, firefighters, and very fit people and it didn't take me long to realize they were all bouncers. They were bouncers for the bars and there was an education going on as to whether or not, you know, citizen arrests could happen or is it worth chasing someone eight blocks because they took somebody's flag from some football team out of a bar. Is it worth risking your life or whatever? But I just wondered, is there an education program? So that we make a very solid effort to go through that. But do we do that with the audio element? And, you know, help me out with that. Is that part of an education process?

Brent Stockwell: Mayor, the quick response on that is that the city, on a regular basis, does what it calls a Bar Summit where we go and we talk and the police officers talk to the managers of the bars and talk to them about any issues they are seeing in Old Town Scottsdale, and that would range a variety of issues.

Mayor Ortega: Good. Good. That's part of what I'm wondering how you touch base to educate. If you go there and try to talk, it's too noisy to explain something, what the standard is. Okay the other point that I would like to, so you could inform me, but I would like to know if specifically for sound mitigation, or

sound concerns, you have some sessions. And then the second thing is it seems like these poles are sort of like sentries, right? It's almost like having a police car parked there, I guess if you can give them a readout and say, "Hey, this area generated this last night. Oh, by the way, you might have noticed that." And so, we have almost for monitoring purposes, for gathering information to respond to Council. Also, perhaps a little tool to, you know, keep people aware that there's some measurements being taken. So could you respond sort of just about the sound mitigation education with the bars and so forth.

Commander Jeromie O'Meara: Yes, Mayor. So, one the things that should be noted regarding this is that although we are in an area, we are talking just the clubs and the bars regarding Camelback and Saddleback, we have an outstanding relationship with them. Although the ordinance itself exempts this area, our working relationship with the management of all the clubs has allowed us to get a certain level of voluntary compliance. Now, how have we done it? Quite honestly, we've done it by feel, by what we get a feel for when the calls come in, about okay, it's getting too loud. We will use noise readers. We will use them closer to the venues themselves and when it gets to the point of where we see them kind of outdoing each other, we are able to have that discussion with the management of the clubs for them to tone it down. So, we're very blessed when it's to that, because of the Bar Summits and our relationship with them.

The honest answer is the clubs are operating well above the 68 decibels now. And so, what we try to find is that balance between what they are going to want to operate as a thriving business to where it's drawing the people in but we're not going to get all the complaints in the neighborhood that are coming into there. Can I tell you specifically what that level is? No, because we just really haven't done that type of study beyond what the poles are showing and us taking a look at it greater, but can I tell you, are those conversations happening on a weekend basis or monthly basis, especially as the seasons change, because although we are learning a lot about the science, but just being out there, the colder air makes a difference.

And when everyone wants to open their windows, it makes a difference. And when people want to be outside and enjoying the patios at the restaurants and all that makes a difference on that experience to where we do have those conversations more often with the clubs and the bars, this time of year. But again, the voluntary compliance that we're able to achieve with them is a good spot for us to be in, and it's definitely a great launching point, wherever this ends up being or changing, we will be in a good position to be able to work with them.

Mayor Ortega: Excellent. And I see Councilmember Graham has a comment and then we will proceed.

[Time: 01:51:16]

Brent Stockwell: Can I respond to your second question? So, about the sound monitors in particular, so the goal there is to get to the point where those sound monitors are more real time so that, you know, we could even map this on the City's open data portal so that people could take a look at what the levels are out there and see what their experiencing and maybe, "Oh I'm not going to call in this time because I see it's only at this level or I am going to call in this time, because I see it's at that level." We still have to

work to get the technology up. One the things that we've looked at is moving them down lower on the pole, not so low enough that people can mess with them, but high enough so that it cuts the distance between the two.

Another thing that we're doing is also under Commander O'Meara's area of responsibility is the short-term rental unit. So, we're actually getting new calibrated sound monitors that are actually able to track the sound over time, not just a glance and make sure those are calibrated and up, and so we can set them out and use them for the measurement of sound, both as part of enforcement related to this ordinance but also as part of enforcement of the nuisance party ordinance. We are upgrading that as well and we are trying to get better and better at that, and we will keep you updated over time on that as well.

Mayor Ortega: Good, Councilmember Graham and then we will proceed with the presentation.

[Time: 01:52:38]

Councilmember Graham: Thank you, Mayor. Thank you, Commander, and Brent. I need to study more the unreasonable versus reasonable issue. Low frequency sound and then I wanted to ask the special noise violation ordinance, that, is that effect in when special events are happening? How often is that in effect?

Brent Stockwell: So, Councilmember Graham, there is actually an exemption in the special noise violation ordinance that says special events are exempt.

Councilmember Graham: That's what I thought. The nomenclature is confusing.

Brent Stockwell: I agree.

Councilmember Graham: Yeah.

Brent Stockwell: So special events are exempt from the special noise violations ordinance, but they have their own ordinance, the special events ordinance, that says something, I'm recalling from memory, but it says something pretty close to the fact that noise, that the event producer has to manage a special event so that noise is managed so as to not disturb nearby businesses and residences. As Commander mentioned, we can put in stipulations on a special event permit that can say, for this event in this area, the decibel level, the maximum decibel level is x.

Councilmember Graham: Yeah, okay.

Brent Stockwell: And so that is something that we are exploring doing as well.

Councilmember Graham: And I wanted to ask on slide 16, yeah, slide and pdf 16, special noise violations, applicable citywide, except mixed use areas. Is that, do you have a zoning map when you say mixed use?

Or like, because there are some apartment complexes that might have, like, a single commercial element, and they may be zoned mixed use.

Brent Stockwell: Councilmember, this question came up at the community workshops. So, we generally answer it this way, the mixed use districts are generally Old Town Scottsdale, the Airpark, and like the McDowell Road corridor. Those are the ones that have those mixed-use designations. Generally, there are others as well but those are generally those areas.

Councilmember Graham: Okay, and then last comment for the time being. It was suggested to me that we could demonstrate tonight like 68 decibels and what that's like. I think it's really difficult to simulate that with microphones and speakers. Is that possible? You don't have to.

Brent Stockwell: Well, so Councilmember Graham, as we have talked to professionals about this issue. They generally suggest that you not use the sound monitors that are on your phone to do that. However, the National Institute for Occupational Safety and Health, NIOSH, does have an app that can be used, and I will say generally, probably right now, we're, as I'm talking, right now, it's probably in the 65 to 68-decibel range, based on having done this with actual sound meters at other community workshops.

Councilmember Graham: But you are amplified with speakers so it's.

Brent Stockwell: Exactly.

Councilmember Graham: It's kind of hard to simulate that, right?

Brent Stockwell: Well, I mean I think we I can simulate it right now in the conversation that we are going back, I can tell you it's probably right about that level right now.

Councilmember Graham: Thank you, Mayor. Thank you, Brent. Commander.

Brent Stockwell: So, if we could get back to the first slide in the community involvement, which is slide 18.

[Time: 01:56:08]

Joy Racine: Good evening, Mayor Ortega and members of the Council. I'm Joy Racine, Community Involvement Manager, with the Office of Communications and Citizen Service. I will be sharing what level of public engagement we have pursued, as well as give you a little bit of insight of what we have heard over the past few months. The main bulk of our effort occurred in November when we offered both in-person workshops and online participation through our Speak Up Scottsdale platform. Each of those avenues garnered about 100 people each. We had over 106 participants during the three sessions, and then 100 people participated on the online item.

But our research started even before then. Over the past few months, we have been learning as much as we can about sound, but we have also been listening to our Scottsdale residents and business owners. In September, we interviewed residents residing in both our multi-use development areas as well as residents living outside of the entertainment district. We met with business owners who owned daytime businesses and owners and managers from nightclubs, bars, and hotels. We spoke with people in the industry who organize and run special events and a company who was responsible for installing speaker and sound equipment in the various venues.

During these conversations we were able to get their perspectives on the sound, what their concerns were, who else we should speak with and what their history has been with sound regulations over the years. In November, as mentioned, we held three in-person sessions. And then the online version followed that through our Speak Up Scottsdale platform. In both of these arenas, a presentation was shown similar to the one that you are seeing tonight to help explain our reasoning for updating the ordinance and the challenges we are facing.

We then presented four scenarios based on common resident complaints. The participants were then asked a series of questions to get them thinking about how they would feel, and they feel the issue should be addressed. In the first scenario we referenced a home approximately a mile away from the entertainment district, who was complaining about noise on a Thursday night. Closer to midnight. Questions here focused on decibel levels. Should it be measured and if so, from where? We also looked at the time of year. Does that matter? Summers versus winter or should exemptions be made if it was during Waste Management Phoenix Open or spring training or the Super Bowl?

Scenario two was a very similar in nature in terms of description and the complaint, but this time that resident resided within that mixed use area. Again, we posed questions related to decibel levels to determine if there was a difference in participant responses based on the location of that complainant. We also asked questions about police response and potential consequences for any violations.

With scenario three, we moved out of the entertainment district and into a more residentially zoned area with a commercially zoned location, more known for shopping and restaurants than the nightclubs. In this scenario, the restaurant was rezoned to include an outdoor patio where patrons could listen to recorded music. We again asked about where the level of sound should be measured but this time it was more on the type of sound that should be addressed. And should it matter if the establishment is or is not part of that mixed-use development. This allowed us to pertain to areas related to those exceptions of the current ordinance.

Finally, in the fourth scenario, we shifted gears to address special events. We wanted to know if participants saw a difference between special events and bars and nightclubs. We also looked at, again, the type of sound generated and the time of year. But we also asked if there should be a distinction between city-sponsored events and private events. Based on the interviews, the in-person sessions and the online feedback, we concluded that consistency is the key. Noise is not, noise is noise and all sound matters. An event is an event, regardless if it's city sponsored or a private event. And a business is a business, regardless of the location within Scottsdale.

[Time: 02:00:52]

Four key areas came out from all of these discussions. First of all, there is general consensus about implementing noise decibel levels as a key measure as well as a shared sentiment about considering time, season, location, and situation, while setting those noise control measures. To be more specific, bass and dBC needs to be included in the measurement but there can be flexibility for weekends and days versus night, and business establishments could have different levels versus a special event, as long as it was consistent across the board. In other words, an event occurring in Old Town was the same as an event being held at Chaparral Park. A business in Old Town was the same as a business in The Airpark, as long as the zoning was the same.

During the in-person sessions there was a slight lean towards exceptions during events like spring training, Waste Management Phoenix Open, and the Super Bowl, but with stipulations and advance notice. However, our online participants leaned more towards providing no exceptions during these special times. The consensus from both our workshops and the online platform leaned more towards measuring the sound closer to the source, whether it be what's reflected in the current ordinance 100 feet from the business, or the property line. That smaller minority did suggest measuring it at the resident's home or the nearest residential area.

During the workshops, there were suggestions that different limits should be in place based on the nature of the source, businesses versus residential versus special events. Technology also needed to be in place to measure the sound. While the location of the complainant didn't necessarily matter, there is acknowledgement that a resident has a right to enjoy his or her home with some participants suggesting that sound levels should be disclosed to potential residents before moving in.

For all of our outreach, there's a clear majority that the type of sound does not matter. Including live, amplified and ambience, prerecorded music, but base bass was identified as the main issue, and we should have technology in place to monitor bass. Most respondents do not believe it matters if the event is city-sponsored or located at a city-owned facility, but that noise should adhere to the special events permitting process when it comes to the setting up or breaking down of the event, and/or should comply with H.O.A. management guidelines. Some groups classified it as ambient noise and other groups suggested designated times for such sound.

During the in-person sessions there was some divided opinions, but the consensus leaned towards considering the type and frequency of the events and there were suggestions providing sound mitigation issues. Through our individual interviews, the concern focused on the ability of the ordinance to be something that had teeth and was enforceable. To determine the source of the sound our online platform highlighted a range of suggestions such as utilizing decibel measurements, effective communication, officer interaction, and detective work in addressing the complaints.

Our in-person sessions also suggested detailed follow-up procedures from the Scottsdale Police and also focused on the type of technology used to determine the source of the sound. To address the violations, both reports suggested a tiered approach depending on the number of infractions per venue. And with

that, I will turn the presentation over to Stephanie.

[Time: 02:04:37]

Stephanie Zamora: Thank you, Joy. Good evening, Mayor and Council, my name is Stephanie Zamora and I'm a Management Associate to the City Manager. I will be reviewing possible changes to the Special Noise Violations Ordinance that are based on the community input that Joy just went over with us all and the principles of managing entertainment related sound that were discussed at the beginning of the presentation. As mentioned, the current ordinance stipulates a 68 dBA threshold to be measured 100 feet away from the source of sound in a residential district. So, the sound level measurement and the location of the measurement are two factors that the community provided feedback on.

First, their input suggests that a decibel level should be implemented as a measure of criteria and effective entertainment related sound management should include a base measurement as it's often the most prominently perceived element of amplified sound which could lead to disturbances for residents. So, to capture, that's a little hard to manage, so to capture the sound level from bass which is a lower frequency measures on a C weighted scale, the ordinance could be updated to include a dBC threshold.

Most respondents and participants in the community in part process would like to have sound measured closest to the sound-producing source. The most predictable standard for both businesses and residents is a sound level that is measured at the establishment property line and predictability is a key factor for both encouraging compliance and helping residents have clear expectations about the level of sound that may be present in their environment. While most agreed that sound level thresholds can vary depending on the producer, they would still like there to be consistency across establishments, events, or types of sound. And a common theme across the community's input was in line with the principle that encourages customized sound allowances as part of managing entertainment-related sound. The community also suggested addressing sound levels during the weekend, at nights, and on holidays. And so, to address this with consistency, as was the feedback from the community, the special noise violation ordinance could model the nuisance party ordinance regarding the C weighted sound and regarding applicable time frames or perhaps days of the week.

To address effective responsiveness to violations, cities are encouraged to develop compliance-based enforcement. An option to encourage compliance from sound producers would be to encourage violators to establish a sound management plan in return for a reduced fine. And this is a concept that we have used in the enforcement of the nuisance party ordinance as well. So in all, managing sound, so in all entertainment, managing entertainment-related sound through possible ordinance changes may hopefully encourage a balance between a vibrant and successful night life while also maintaining a quality of life for residents by providing predictability, tailored sound allowances, and consistency for set sound levels. Thank you.

[Time: 02:08:20]

Brent Stockwell: So, thank you, Stephanie. So, what are our next steps? So, we're going to continue enforcing the existing special noise violations ordinance. We're going to conduct further analysis of sound and sound-related complaints. We are going to continue to work to identify best practices for sound enforcement.

We'll draft ordinance amendments based on the direction we receive from you tonight, and then what we'll do with that is we'll gain public and other stakeholder feedback on the draft ordinance and at this point, we anticipate the drafting the ordinance and getting public feedback that we can come back for ordinance adoption before the summer break. So, that's what we have for you tonight. I hope you also understand as I have tried to emphasize through this that it's a very complicated subject and we didn't want to spend any longer than what we already have during that presentation but there's a lot of details in here that we could have certainly discussed more. Thank you.

Mayor Ortega: Sure, we have Councilmember Durham and then Vice Mayor Whitehead and then Councilwoman Janik to speak. Councilman Durham.

[Time: 02:09:25]

Councilmember Durham: Thank you, Mayor. And slide number 23, you, there's a bullet point. There's no distinction for city-sponsored events versus private special events. It seems to me just that by their nature, city-sponsored events are often going to be much bigger. For example, events on the Civic Center Plaza, that they are going to be bigger and therefor possibly noisier, likely noisier, as compared to private events, which are likely to take place on smaller plots of land. So, I would just suggest that maybe there should be a distinction there. Thank you, Mayor.

Mayor Ortega: Okay. Vice Mayor Whitehead. Councilwoman Janik.

[Time: 02:10:23]

Vice Mayor Whitehead: Thanks, this is a great presentation and I think it's pretty meaningful that we've had all the stakeholders involved. I do want to bring up the request from C.O.G.S. about the you know, the possible looking at the amplified speakers on rooftops, and also the comments that I hear when I speak with either bar managers or club owners, is that their club would be glad to lower the volume but then the other clubs won't. And so, that would be something that's worth discussing.

I just don't believe, I mean when I go down there, it's, it's really loud and so I do want to point to that other, let's see where was the graph from the federal government about, here we go, page 20, perhaps. The sound versus, well, the health aspects of these loud noises. So, I think that would be a really good voluntary thing. I mean, there's nobody up here who wants to make Scottsdale not fun. But the question is, does it have to be so loud that you are possibly damaging the health of your employees and those who participate in order to have fun and is there, rather than get wonky in the science, can the club owners come up with a number that they can test out that's just lower than the lower the volume than it is today.

I mean just to be, you know, just to use some common sense and see if we can get the volume down. That would be, you know, a good test for, you know, could save further legislation on them, with an ordinance just to have some voluntary tests to lower the volume. Thanks.

Mayor Ortega: Okay. Councilwoman Janik and then Councilwoman Littlefield.

[Time: 02:12:31]

Councilwoman Janik: Thank you, Mayor. First of all, slide five. I would think that would be a very good guideline for amplitude of the noise which I'm pretty sure you feel is the case as well, when we are talking about loud noise like Councilwoman Whitehead mentioned that is damaging the hearing, we have guidelines, health guidelines that are universally accepted and have been tested, so that should be one of the big basis that you use when you start coming up with specific guidelines.

My other comment would be on slide 20, scenario four, the country club. I'm curious, if you have a country club that's in the middle of a neighborhood, let's just say D.C. Ranch, doesn't D.C. Ranch or the H.O.A. have guidelines for noise? Or are we expected to enforce that when it's a gated community with people surrounding the country club or the pool? How does that actually work?

Brent Stockwell: Yes, so Councilwoman, I think it's a good point. You know, we have more than 1,000 homeowners' associations within Scottsdale. Many have their own community centers. Many of them have guidelines for sound levels within their communities that would likely be applicable to their own facilities. And the City would not enforce those on that. So, you know, a neighborhood if they were organized like that, they could have levels that are different. I think what the challenge is going to come in, in the interface between commercial areas that are on the edges of those.

Councilwoman Janik: Right.

Brent Stockwell: And we heard about that in McCormick Ranch or McDowell Mountain Ranch or D. C. Ranch, they are actually outside of those H.O.A. boundaries and that's where some of those conflicts occur as well. I think generally you are correct; the City couldn't enforce those private standards.

[Time: 02:14:24]

Councilwoman Janik: Okay. Yeah. And then my last comment and I think you all addressed it is if you notify the neighborhood when it's going to be noisy, I think maybe you would get fewer complaints, just, but I'm guessing that you pretty much do that. You go through and you say, well, the police would say expect it to be a little bit noisier and maybe when the complaints come in and say well it's kind of expected and forewarn them. So maybe if they can't handle it, they leave town or whatever. But I think having that knowledge would help reduce complaints because you are saying, "Hey, we know this is a problem. Yes, it will be loud. And we're working on it."

Brent Stockwell: Councilmember, if I could comment on that. Yeah, I think generally, that's fine with the

special events you have a little bit more flexibility to do that. I know we have been in a lot of conversation with Scottsdale Arts since they reopened the use of Civic Center and through the Civic Center ordinance, we actually have some additional requirements that are in effect for this area. But we talked to them about that notification and if people know how long it's going to be, when it's going to be.

Councilwoman Janik: Mm-hmm.

Brent Stockwell: When it's going to stop, that's all information that's helpful to people. Now, that being said, because sound carries and in different circumstances, you may recall one of the very first special events they held out here, the complaints that we were getting were from a mile away to the southeast.

Councilwoman Janik: Right.

Brent Stockwell: Part of that is also the dynamic of figuring out how the sound works with these new facilities and then working to address that. But having clearer community standards and good guidance on that is going to be helpful and people knowing what to expect, I think that goes to the predictability and the reasonability of it as well.

Councilwoman Janik: Exactly. I think your next steps are great where you are going to head from here and all of you, a tremendous amount of work, pulling it together, coming up with trends, predictions. You have done a really good job on this and it's a very difficult topic. So, thank you very much for all of your efforts.

Mayor Ortega: Thank you, Councilwoman Littlefield and then Councilwoman Caputi and Graham.

[Time: 02:16:37]

Councilwoman Littlefield: Thank you, Mayor. I just have to say, I am very impressed, Brent. This was a tremendous presentation. And really brought out the complexity of what you are trying to do and how it's going to be done, and what's involved in all of this. I actually enjoyed listening to what you all had said, and I thought you did a great job. Obviously, we have to continue on until we find some good solutions. I agree with Betty on what she said, she brought out some good points.

I also agree with the conclusion about the gated communities. They usually have their own decibel allowances and stuff. I have been involved in a couple of them that were unhappy with what was going on. I think that is going to have to be a separate and unique situation for each one of those. I'm looking forward to your solutions to all of this, and I thank you and your entire group of people that have been working on this to find out some of these problems and what the issues are to find solutions. It's not going to be easy, so thank you very much.

Mayor Ortega: Well, thank you. Councilwoman Caputi and then Councilmember Graham.

[Time: 02:18:06]

Councilwoman Caputi: First of all, thank you, Brent. It never ceases to amaze me how you become an expert at so many different topics, the short-term rentals, the noise ordinance, you just take such an amazing deep dive, and you own it. I have learned a lot tonight. A couple quick comments. Definitely, I think the bass, that has been brought up to all of us so many times. That's a no-brainer. Of course, we want to include that in our noise ordinance since that seems to be more irritating to people than most. The thing I kept hearing about tonight was about how this whole issue is so subjective, right? I mean this is really tricky.

It's the whole issue between a person's right and freedom to enjoy their own place, versus the business' right and freedom to, you know, conduct their business and who is making this decision and it's just so subjective. There was a comment about, it needs to apply citywide. But I actually think that I don't know, I think the reason that we have a downtown is that it's downtown. People move into downtown; they expect to have some level of noise. I mean, I think even you pointed that out, the entertainment district existed and then we brought in a whole bunch of people, expecting that there would be live, work and play, with the understanding that you are living in a downtown.

And I think that expectation living in a downtown probably should differ than living in a quiet residential community that's far away from any businesses or city. So, I do think there needs to be some adjustments for that. Again, we wouldn't expect to be able to hear a pin drop in our entertainment district in the middle of a Saturday night, right? That defeats the purpose. We want it to be fun. We want it to be exciting. Again, not to level where people would be having ear damage but certainly, I wouldn't want to get to the point where, you know, we enforce this degree of quietness that defeats the purpose of having a fun downtown.

So, I do think it's situational. It's totally valid when we get those arguments, we hear a lot in our emails, you know, we were up until 2:00 in the morning we couldn't sleep. Of course, we have to balance that with the vibrancy of our downtown, but I do think we should be looking at particular areas separately than the rest of the city, because they are different and to me, the situation is different. So, I like the next steps as well. Let's keep going. It's so Scottsdale to be looking at this. Like you said, we're like one of the few cities that's actually trying to balance that whole let's grow, let's continue to be cool and unique and attract people, but let's also make sure that we don't forget that we want to do it with thoughtfulness and make sure that everybody is happy here. So, I like the next steps. Let's keep going and I think this has been a really important thing to take a look at.

Mayor Ortega: Thank you. Councilmember Graham and then we'll conclude.

[Time: 02:21:04]

Councilmember Graham: Thank you, Mayor. I think we've, I think we have made a lot of noise about this ordinance here. I had to throw in a dad joke there. I agree with what Councilmember Durham said. I agree with what Councilmember Janik told you. I agree with what Councilmember Littlefield said. I differ

a little bit with Councilwoman Caputi. I'm a little bit tentative or hesitant about special carve outs for sections or areas of the city. She's right, there is a balance and she's also right that when you live in that area, you expect something different than, you know, way up north near the northern edge of the city. So I think that when you create carve outs, what you end up inevitably getting at some point is that that becomes a shield or it's used to evade some sort of scrutiny. So, I'm hesitant about that, but other than that, I like what we heard and next steps. So, thank you, Mayor.

Mayor Ortega: Very good. I will say that this has been a very, very constructive Work Study. And I really appreciate all the participants, all the public and so forth. But two things I wanted to point out. One is a sound curfew. And a sound curfew is imposed just so the public should know, for instance, at the Civic Center, we have three venues for outdoor entertainment, and there are curfews. It's 10:00 on weekdays or something and maybe 11:00 on weekends. So, these are self-imposed timing limits. And the bands know, and I have spoken with Gerd when he said, gee, they ended right at 8:55 or whatever it was, 10:59. And the same way, hopefully what we can derive could be a useful model or template for H.O.A.s, for instance. They are kind of strange animals because they can fine people, right away. I mean that's just the way they, in some cases they can fine you for speeding in their roads or whatever. It's interesting. So that's important.

[Time: 02:23:27]

The other point that I heard was, you know, noise, whether it's emanating from the business or special events is still noise. Well, I think we should really crack down on, well, short-term rentals are businesses. They are registered here. They have taxes to pay, and they are abutting not necessarily 100 feet away, they are right up against the wall. In some cases, they are putting games and corn hole and all that and people are shouting and making a lot of disturbance just over, you know, something coming through the other side. So I know we have a nuisance party ordinance, but we really do need to look at that as far as policing short-term rentals. I know that we're looking at additional ordinance areas. And so, without, you know, I also agree that you know in some areas of town, we have dark sky ordinances, right? So, it's sort of like dark noise. There are some areas where more light you have and activity, perhaps more noise is generated.

And then finally, the other thing that was mentioned was the impact to visitors saying we have, you know, 10.8 million visitors. Well, they weren't and then 3 billion, 3.5 billion for tourism, but that wasn't to imply that was all centered at the entertainment bar district, right? Because it's mostly, and it's a lot of it is at Fashion Square, which is enclosed and so forth. Move forward, I really like what you are saying. With that, we are concluded, and I would, please give me a motion to adjourn.

Vice Mayor Whitehead: So moved.

Councilwoman Janik: So moved.

Mayor Ortega: Thank you, motion to adjourn.

Councilmember Durham: Second.

Mayor Ortega: Second. Please record your vote. Thank you.

Councilwoman Littlefield: Yes.

Mayor Ortega: We are adjourned.

**ADJOURNMENT**

[Time: 02:25:17]