

---

This document was created from the closed caption transcript of the August 25, 2015 City Council Regular Meeting and **has not been checked for completeness or accuracy of content.**

A copy of the agenda for this meeting, including a summary of the action taken on each agenda item, is available online at:

<http://www.scottsdaleaz.gov/Assets/Public+Website/Council/Council+Documents/2015+Agendas/082515RegularAgenda.pdf>

An unedited digital video recording of the meeting, which can be used in conjunction with the transcript, is available online at: <http://www.scottsdaleaz.gov/citycable11/channels/Council15>. For ease of reference, included throughout the transcript are bracketed "time stamps" [Time: 00:00:00] that correspond to digital video recording time.

For more information about this transcript, please contact the City Clerk's Office at 480-312-2411.

---

#### **CALL TO ORDER**

[Time: 00:00:01]

Mayor Lane: Good afternoon, everyone. Nice to have you here with us on this hot and muggy afternoon. Actually, haven't been out recently. I presume it's still that way. I would like to call to order the August 25<sup>th</sup>, 2015, city council meeting and it is approximately 5 p.m. We will start with a roll call, please.

#### **ROLL CALL**

[Time: 00:00:19]

City Clerk Carolyn Jagger: Mayor Jim Lane.

Mayor Lane: Present.

City Clerk Carolyn Jagger: Vice Mayor Linda Milhaven.

Vice Mayor Milhaven: Here.

City Clerk Carolyn Jagger: Councilmembers Suzanne Klapp.

Councilwoman Klapp: Here.

City Clerk Carolyn Jagger: Virginia Korte.

Councilmember Korte: Here.

City Clerk Carolyn Jagger: Kathy Littlefield.

Councilwoman Littlefield: Here.

City Clerk Carolyn Jagger: Guy Phillips.

Councilman Phillips: Here.

City Clerk Carolyn Jagger: David Smith.

Councilman Smith: Present.

City Clerk Carolyn Jagger: Acting City Manager Brian Biesemeyer.

Acting City Manager Brian Biesemeyer: Here.

City Clerk Carolyn Jagger: City Attorney Bruce Washburn.

City Attorney Bruce Washburn: Here.

City Clerk Carolyn Jagger: City Treasurer Jeff Nichols.

City Treasurer Jeff Nichols: Here.

City Clerk Carolyn Jagger: City Auditor Sharron Walker.

City Auditor Sharron Walker: Here.

City Clerk Carolyn Jagger: And the Clerk is present.

Mayor Lane: Thank you. This is our first meeting back from our summer hiatus. So if we are rusty, you will understand. We have cards if would you like to speak on any topic or for public comment. Those are white cards that the city clerk is holding over her head to my right and then we have yellow cards for the written comments for any of the agenda items that will be presented to us and we will read through the proceedings. We do have Scottsdale police officers, Tom Cleary and Jason Glenn with us, almost at 11:00 in front of me, here to assist you, if you have need for their assistance. And if there are any medical emergencies, please see the Scottsdale fire representative for assistance. I believe he's right directly in front of me at 12:00. So the areas behind the council dais are reserved for the council and staff and we do have facilities for use under that exit sign to my left for your convenience if you have a need.

**PLEDGE OF ALLEGIANCE**

[Time: 00:01:52]

Mayor Lane: This afternoon, we have boy scout troop 916 and their leader Richard Slavin here to lead us with the pledge. Gentlemen, if you want to come forward and lead us in the pledge. If you can, please stand. Whenever you are ready.

Boy Scout Troop 916: If you will please join me in the Pledge of Allegiance. I pledge allegiance to the flag of the United States of America, and to the republic for which it stands: One nation under God, indivisible, with liberty and justice for all.

Mayor Lane: If you would like, turn that microphone around and if you could just introduce yourself individually, and tell us where you go to school and what is your favorite subject or other activity.

Jacob Slavin: I'm Jacob Slavin, I'm the SPL for this troop. I go to North Canyon High School. I like science, thank you.

Tyler: My name is Tyler. I go to Desert Willow, and my favorite subject is social studies.

Nathaniel: I'm Nathaniel and I go to Acacia Elementary School.

Cayden: I'm Cayden. I go to Hearn Academy and I like playing basketball.

Nick: I'm Nick and I go to Canyon Elementary School and my favorite subject is math.

Marcus: My name is Marcus, and I go to Valley Academy. And my favorite subject is E.L.A.

Jace Martin: My name is Jace Martin. I go to Paradise Valley High School and my favorite subject is math.

Andrew Slavin: My name is Andrew Slavin. I go to Cactus View Eeementary and I like social studies.

Ben Stahl: Hi, my name is Ben Stahl I go to Vista Verde and my favorite subject is science.

Cole Seavers: Hi, I'm Cole Seavers. I go to Explorer Middle School and my favorite subject is math.

Alex Whitset: Hi, my name is Alex Whitset I go to Cactus View and my favorite subject is science.

Curtis Graves: My name is Curtis Graves and I go to Sage Academy and my favorite subject is math.

Jason: Hello, my name is Jason and I go to Cactus -- and I attend Cactus View Eeementary.

**INVOCATION**

[Time: 00:05:21]

Mayor Lane: Thank you very much. We have Pastor David Schmidt from Christ Church Lutheran who will lead us in the invocation, please. Pastor. And if you would, you could do it from there or from the podium. That's fine.

Pastor David Schmidt: We make our beginning in the name of God the Father, God the Son and God the Holy Spirit. Please bow your heads in a word of prayer. We thank you Lord God, heavenly father for the gift of this day. This is the day you have made. Let us rejoice and be glad in it. You say in your word if any of us lacks wisdom, he should ask God who gives generously to all and I pray for wisdom for the discussions and the decisions that will be made here in this meeting. I pray for your blessing to be upon all of the ideas that are shared. I pray that it's done in a peaceful and a joyful manner. We thank you for the greatest gift that you have ever given to this world, the gift of your son who offers us eternal life, through his blood shed at the cross. We pray all of these things in his name, amen.

Mayor Lane: Amen. Thank you, pastor.

**MAYOR'S REPORT**

[Time: 00:06:44]

Mayor Lane: This year, as we have each year, we have the Mayor's Constitution Day contest and that's September 17<sup>th</sup>, on September 17<sup>th</sup>, 1787, the United States Constitution was signed by 39 men who bravely changed the course of history. I invite students one through 12 to participate in my Constitution Day essay contest in celebration of this momentous occasion. Entries must be submitted, mailed or postmarked by 5 p.m., April 31<sup>st</sup> of this year. Entry must be submitted at any -- can be submitted at any Scottsdale public library information desk at Scottsdale city hall or electronically to Kelli Kuester in the mayor's office. Please spread the word. We had a great contest in past years and it's a great event and we have some great awards as well.

**PRESENTATIONS/INFORMATION/UPDATES**

[Time: 00:07:48]

Mayor Lane: Today we've got a presentation -- an economic development strategic plan accomplishments and we have Ms. Danielle Casey here with us, who is our director of economic development. Ms. Casey.

Economic Development Director Danielle Casey: Good evening, Mr. Mayor and members of the council. It's quite a pleasure to -- I have to lower the microphone just like the boys. It's a pleasure to be here to kick off your first meeting after the little bit of a summer break and what I'm going to run

you through tonight is a brief 10-minute presentation about our strategic plan accomplishments. I think the economic development team that -- I think all of them are here tonight wish all of my discussions about the strategic plan were this short.

The plan was adopted in February of this year. While the report I will walk you through quickly, really covers six months of the strategic plan, I will talk to you from the standpoint of our fiscal year report because we do report in a fiscal year manner. We are looking at a lot of numbers from 2014-'15.

So I will talk about the top achievements from last year and the new initiatives we plan to launch through the course of the next fiscal year and a little bit of information on the annual reporting and metrics that we will be tracking and collecting. I know this is a lot of text. Essentially the message in this slide is that these are the top action agenda items in our strategic plan, the top role that I will address this evening and touch a little bit on each. And they all address really our economic development mission through for the city of Scottsdale, which is through the economic investment and program Ms. The city of Scottsdale, retains grows and attracts targeted sources of wealth generation to enhance the community's tax base, preserve the natural environment and foster prosperity for all citizens.

Before I go into all the goals, I wanted to remind everyone in the audience that there's detailed information on the department's activity available on our economic development website. That's [choosescottsdale.com](http://choosescottsdale.com). We have quarterly reports and that's 2014-15 annual report is live and online. We have a couple of copies in the back today and we have a copy in the council report this evening. It includes information on performance measures all the way down to what's our marketing reach look, any awards we have received testimonials from all the C.E.O.s that we get the chance to talk to throughout the year.

[Time: 00:10:17]

Speaking of that, one of the top questions we always get from anyone, what are some of the cool companies who you got to work with in Scottsdale? Who came and who grew? These are some of the featured firms that we had an amazing opportunity to work with, that's growing rapidly in Scottsdale right now, from small ones to large ones, from tech to insurance, to aviation. So if you look in the strategic plan, the annual report, there's detailed information on all of their plans and some additional ones as well and tons of news in our new section on the website. I wanted to share that because it's fun to share some pretty logos.

For first goal to retain and grow firms. We visited 95 Scottsdale companies last year, through the economic development team, and the ones we visited when we went and talked with them, they totaled over 3,000 new jobs in the community. The companies we talked to were adding that many jobs in the communities and these were the ones we had the opportunity to sit down with. We had new engagement events and opportunities last year and we will be enhancing those and continuing them next year with a goal of hitting 100 companies over the next fiscal year.

For our second goal, it really centers around supporting the talent needs of our companies and the

purpose of holding the meetings with all of the companies is obviously to get the pulse of the economy and see what we can do, what makes sense for the city in terms of assisting the firms if our local community and helping them grow, helping them thrive and removing any obstacles in their way and one of the big things that they have been telling us is they need help with advertising. We spent a ton of time researching best practices. We wanted a new strategy that no other communities are doing around, which is centered around welcoming new employees into our community and better integrating them into the community and also a huge multifaceted location to make Scottsdale a location for top talent and some of the metro regions that have highly talented individuals that aren't even thinking of us as a location where they want to be. And then hopefully bringing some of those targeted people back here to work for our companies.

Okay. So I'm kind of stuck. Can you get me to slide three, the next slide? There we go.

So goal three, employment centers are a big deal. Secure corridor, McDowell corridor, the airpark, they are top of mind. We had some amazing corridor events. Last year we had Elizabeth Holmes speaking. She was a huge hit. I have people asking if we can get her back this year. I don't know. But they have done a really amazing work if you followed them in the news with blood testing and opening up opportunities for medical access for all kinds of folks. And we are already working on next year. So save the date for Friday, December 4, that's the next cure corridor event and we are working on enhanced redevelopment opportunities in the Airpark over the next year and collaborating with the tourism team in support of downtown businesses to -- hopefully you will be seeing quite a bit of that activity coming out of us in the next 12 months. All right.

[Time: 00:13:24]

So our next goal, elevating engagement. This is really about us getting out and being a leader and in the forefront of activities with regional and state partners. We ramped that up with the Arizona commerce authority and the greater and much more strategic level and that's because we developed materials and targeted industry and understanding of the targeted industries we are going after and in the markets and why we are actually speaking to those companies. So we really have greater level of research and promotional collateral developed. So our strategic plan has allowed us to do that. Next year, we will continue to advance our real and virtual presence through a lot of media, and especially social media and that cheap or free stuff. The international efforts will continue to be focused and restricted in Canada but we will be looking at partnerships like the Canada-Arizona business council and the Toronto Stock Exchange.

Building a business brand is very important. To put it lightly, the growth in our marketing outreach in the past year, we have had one team member solely assigned to focusing on our marketing efforts and economic development. It's developed our website, our social media reach, the P.R., digital, print, video publications. If you go on to YouTube or go on to the economic development Facebook page, you will see all kinds of testimonials from Scottsdale companies talking about why they love this community and why it's important to do business here. We will be continuing to see creative approaches over the next year and looking at leveraging things like the power of linked in to outreach, the new talent and new companies across the nation. So targeted industry sector attraction. If we

gave away all of our secrets right now, then we would be telling our competitors what we are doing, right?

We had some great accomplishments in the past year. If the company made the decision because of our specific involvement and influence, made the decision to locate here or grow, they were 13 of those in the last year that added up to 1180 new jobs in the community, in the first 12 months and this is data from the companies with an average wage of more than \$57,000 and this actually represents a five-year direct revenue impact to the city of over \$6.5 million. And what's also kind of interesting is from additional firms that we worked with, like Orion health and other companies that decided to expand in Scottsdale but reached out to us and got significant help from our team like P.R. and connecting them with workforce groups and doing all of things that economic development groups do, if you add those jobs up that's 1725 jobs that we had significant involvement with in the last year. So just a little bit of bragging.

What was the strategic plan goal. I'm very proud because of the strategic plan that the council created and approved and the efforts we put forth to advance it, we have actually already gotten three awards in the last year for the team. An international economic development council award for the redevelopment of our choosescottsdale.com website. Thanks to the internal media team, which launched a new city website which is pretty fantastic. And foreign investment magazine and then the Arizona association for economic development, our statewide group gave us the 2015 large community economic development organization of the year award.

Finally in terms of metrics, just throwing a lot of chunks of information up here for you, this is a sampling and an idea of the types of performance metrics in our annual report. We've got information in our annual report and goals and objectives in the city's budget book and throughout the course of the strategic plan implementation, we will be benchmarking and tracking a number of metrics and they are these economic development specific ones and if you even glance at these, you see some we influence directly and some we don't. Some are just essentially an indicator of the environment, and then we also are going to be tracking general government metrics and benchmarking against other highly successful communities. So the idea that over this five-year period, we can look and see if we are moving the needle in any direction and throughout that five years if there's something in the strategy that is not working or doesn't make sense, we can always come back and retool.

Finally, I have gotten this question before from folks - who is on your team and what do they do? I will thought I would throw this up here really quick. We have a small team but they are small and mighty and most of them are here tonight. So I want to thank you all. Because nothing happens without the efforts and the collaboration of the team. So we have a great group. Our administrative assistant tells us all what to do every day and she's shy and didn't want her picture in here. We have a business retention and expansion manager who when you think of the 95 visits to companies that's what Bob is doing every day. Rob Millar heads up the business attraction. He's trying to track down new companies and invest. Christian Green works very hard on all of our strategic marketing, everything from quotes to graphic design to P.R., to social media, and then mark is really our life blood for entrepreneurial small business and research work and is in connections with

SkySong. With, that I hope I got close to ten minutes.

It's a pleasure to keep you updated in this manner and at least annually and I welcome any questions or feedback.

Mayor Lane: Well, we can't give any questions since you are not on the agenda. So you get off on that --

Economic Development Director Danielle Casey: Good for me.

Mayor Lane: Thank you very much for the update and the presentation.

Economic Development Director Danielle Casey: Great.

**PUBLIC COMMENT**

[Time: 00:19:17]

Mayor Lane: Next order of business will be our public comment period, and we have -- it's reserved time for citizens comments regarding non-agendized items that we will not take any action on, but just to listen. The speakers are limited to three minutes each and we have a maximum of five speakers at this time. There will be another opportunity at the end of the meeting if there are additional requests to speak for public comment. I will start with Jane Rau, the infamous and much heralded and prime Scottsdale citizen.

Jane Rau: Thank you, mayor and council. I wanted to bring you to the celebration of my 93<sup>rd</sup> birthday. Just think about this. When I graduated from high school in 1940, none of you were born yet. None of you in this room were born yet. People just keep saying that. I'm coming before you to tell you of my latest honor. I'm going to be inducted into Shaker Heights High School Hall of Fame on Columbus Day, October 11<sup>th</sup>. And to me, it's something to be shared with all of you. It's the citizens who helped with the Preserve. We came to you five times and you supported us and last time, setting the Preserve aside in perpetuity, you passed that by 65%. So this is an honor to all the citizens of Scottsdale to the thousands of wonderful, wonderful stewards who enthusiastically and joyously give of their time and working on all of these scientific things that they are and all the information that they are gathering and passing on to you. And so this all goes back to it's going to be 25 years next year since we started the conservancy and all of this started, but it's the people that have made this as special as it is. So pat yourselves all on your own backs because that's what's important.

[Time: 00:22:49]

Mayor Lane: Thank you, Jane. Thank you. We are going to do a fact check on whether anyone's been born before 1940 or before. If you want to raise your hand if you are fall into that category, let me know. Next on the public comment would be Paul Eubanks.



Paul Eubanks: Good evening. I'm Paul Eubanks. I own Gallery Russia, it's a retail art gallery in downtown Scottsdale and I went to Hampton Meadows Elementary School. I'm here to present a petition on behalf of the Scottsdale Gallery Association. I would like to state clearly that this petition involves many more businesses than just art galleries. It actually involves, at this time, considerable amount of restaurants, various retailers and service businesses. At this time, there's over 200 plus signatures on this petition, which happened in one and a half weeks in the middle of August. I suspect it will get bigger.

The petition we are putting forth today, there are six points. Number one, we ask to reserve Thursday nights exclusively for the traditional Art Walk event, as the only art-related event for Thursday nights. Number two, we would ask that you designate the Scottsdale Art Walk as a grandfathered city signature event. Number three, in the special events ordinance rewrite that's imminent, we ask that the council define special events as unique, short-term activities and/or festivals. This definition would not include temporary pop-up retail businesses as special events. Number four, the city is to approve a maximum of 30 days of art-related events per calendar year. This can be split between any number of events, as long as any single art-related event does not exceed seven consecutive days per calendar year. Number five, special events shall not compete with or have an adverse monetary and foot traffic effect on the local brick and mortar businesses. And number six, we request that the city council sign off on every special event permit prior to issuance. We hope the city addresses this. We are willing to work with it. However, if the council fails to address our concerns, unfortunately, we will need to expand this petition to our own individual client lists, as well as to the general public, from which we have already received a great deal of support. We simply ask that you help protect our industry as the city events permitting process does for every other single event currently in Scottsdale. Level the playing field. That's all we humbly ask you. Thank you.

[Time: 00:25:57]

Mayor Lane: Thank you, Mr. Eubanks. Next and final one is Rabbi Robert Kravitz.

Rabbi Robert Kravitz: Mayor and members of council thank you for opportunity to address you today. The governor said we need to rebrand Arizona. Likewise, we need to rebrand the city of Scottsdale. There's been much TV and radio coverage recently and newspaper articles outlining how Arizona's image and brand is in peril, and it's damaged. This is because employers, businesses and tourists believe we are unwelcoming and close minded. There's a storm coming for those of you who are not aware. The city of Scottsdale needs to be open to everyone. Businesses need to be open to everyone. Tourism, worship, needs to be open in every possible way. It is possible to work together, to worship together and to treat each other fairly, as we collaborate together with a sense of community that will provide the quality of life for each and every resident in the city of Scottsdale. I'm pleased that the city of Scottsdale has passed the Unity Pledge. That's stage one. I would be delighted to know that my city of Scottsdale, where I have lived for a decade and a half will also look positively at passage of the nondiscrimination ordinance. I urge you to pass it. I believe that we are all created in the image of God, and I encourage our leadership to uphold our shared ewe manty and

promote community in the city of Scottsdale and beyond. Many of our problems came from our legislature, and there's nothing we can do about that right now. We can only work within our own city council and within our city to make the changes that will benefit the businesses, the residents, the tourists of the city of Scottsdale. This past weekend, there was a tremendous event in north Scottsdale that brought together folks who were planning on becoming married. They happen to be of the same sex. The folks who were there brought incredible business and the potential for business to the city of Scottsdale. Individually, we need to treat people fairly. Individually and publicly, we need to recognize that each of us -- my apologies. I have a very stubborn telephone that wants to warn me. We have the responsibility, especially as we have these young scouts with us tonight to show them that we care about each other and that we can recognize each other as being important and valid. Thank you for your time. I apologize for the interruption.

## **MINUTES**

[Time: 00:29:33]

Mayor Lane: Thank you, Rabbi. That completes our public comment period. Next order of business would be, and I would ask for the approval of special meeting minutes, if there are no adds or deletes to what has been previously delivered to us, I request the approval of the special meeting minutes of June 16<sup>th</sup>, 2015, June 23<sup>rd</sup>, 2015, and July 1<sup>st</sup>, 2015, regular meeting minutes of June 16<sup>th</sup>, July 1<sup>st</sup>, and July 2<sup>nd</sup> of 2015, and work study sessions of June 23<sup>rd</sup>, 2015.

Councilmember Korte: So moved.

Councilman Phillips: Second.

Mayor Lane: The motion has been made and seconded. I'm not seeing any further comments on that. So all those in favor please indicate by aye, and those opposed with a nay. The minutes have been approved unanimously. Thank you.

## **CONSENT AGENDA**

[Time: 00:30:29]

Mayor Lane: Move on to the next item of the consent items 1 through 30. We have a request from councilwoman Littlefield to have item 17, the Schoneck residence rezoning to be pulled from the consent agenda. We will move that to the regular agenda. We do have -- okay. So there's only -- there are no requests to speak on any other consent items. So I do have items 1 through 30, absent item 17, if I do have a motion to approve those items as has been indicated.

Councilwoman Littlefield: Move to approve.

Councilmember Korte: Second.

Mayor Lane: The motion has been made and seconded. No indications of any further conversation on that. So all those in favor please indicate by aye and register your vote. And nay if you oppose. Items 1 through 30, with the exception of 17 are approved. We move on to the regular agenda items which is 31 and 32, and item 17, which we will attend to that first.

**ITEM 17 – SCHONECK RESIDENCE REZONING (103-ZN-1985#3)**

[Time: 00:32:33]

Mayor Lane: Just for the record, item 17 is the Schoneck residence rezoning. If you could leave quietly, I would appreciate it, so we can continue our business. The Schoneck residence rezoning, 103-ZN-1985 number 3, and adopt ordinance 4219, authorizing an amendment to the development standards and stipulations for case number 103-ZN-1985 to allow improvements outside the building envelope on lot 4 within the Montana del Tesoro subdivision with single family residential district. Mr. Garr?

Senior Planner Keith Niederer: Keith Niederer with the planning department. This is the Schoneck residence, case 103-ZN-1985 number 3. This is a request to amend the stipulations from case 103-ZN-1985 to allow walls, pools and accessory structures outside of building environments. The subject property is located at 10570 East Pinnacle Peak Road which is within the Montana Del Tesoro subdivision, which is at the end of Pinnacle Peak Road. The line is outlined in yellow on the screen. Here's the close-up aerial of the subject property. Located to the north of the property, is the Reata Wash. The zoning the subject project is R1-43 ESL hillside district. The general use shows it's rural neighborhood.

Here's a chronology of the subdivision. It was approved with case 103-ZN-1985, back in 1985, which rezoned the property to R1-43. With the condition that no walls, pools or accessory structures be located outside the building envelope. In 1993, the subject home was built on the property. In 1995, the city council approved case 103-ZN-1985 number 2, which allowed for walls, fences and pools outside the building envelope at a property at 10615 East Pinnacle Peak Road which is to the south of the estate. Permits were issued for the swimming pool and 2010, a wall permit was issued but not built.

In 2015, this year, a zoning application was filed to allow the improvements outside of the building envelope for this lot. Here's the proposed plan, again, the home has been in existence since 1983. The plan is to build a combination of solid and view fence wall in this area, along the west property line and a portion of the north property line just behind the pool. As well, there's a proposed Ramada to be put to the southwest side of the swimming pool.

Just some public outreach notes on May 15<sup>th</sup> of this year, the applicant mailed out project notifications and open house invitations to property owners within 750 feet. On May 28<sup>th</sup>, the applicant held an open house at his home. Three nearby property owners attended. On June 1<sup>st</sup> of this year, city staff mailed out notification postcards to property owners within 750 feet. The staff has one email in support, and that is from the next door neighbor directly west of the property. We also received

three emails in opposition prior planning commission from residents on the north side of the wash. Planning commission did recommend approval at their July 22<sup>nd</sup>, 2015 meeting.

And, again, the request this evening is to amend the development standards and stipulates from the 1985 zoning case to allow these improvements Mr. Schoneck wishes to do to his property. And that concludes staff's presentation. The applicant is here this evening to answer any questions you may have, and given you his presentation. Thank you.

Mayor Lane: Thank you. Very good. If you would like to come forward and speak, we do have -- what do we have here?

[Time: 00:36:48]

Wayne Schoneck: Hello, my name is Wayne Schoneck, the owner of the said property. I would like to thank the city council for hearing and the application, and if there's any questions that anybody has, I'm here to answer them.

Mayor Lane: All right. Well, let me do this then, if you would like, stand by. We do have a couple of requests -- no, I'm sorry. Now, you are Mr. Schoneck, right?

Wayne Schoneck: That's right.

Mayor Lane: So I have your card to speak. I have one other.

Wayne Schoneck: Okay.

Mayor Lane: So I will go ahead and we may come back to you if we have questions of you.

Wayne Schoneck: Okay.

[Time: 00:37:31]

Mayor Lane: Then it would be Theresa meeker.

Theresa Meeker: Actually, four letters were written regarding the opposition to him building outside his envelope, and our concerns are that the perimeter of our neighborhood is open on all sides. It is important that all properties in our community and surrounding our community follow current zoning regulations. Therefore, no building outside of building envelopes must be strictly enforced to protect our home values, views, integrity of our neighborhood. And my property and several of the others who have written in, our backyards which is our major entertaining areas will be in direct view of this and that will compromise our use of our properties. We have very small envelopes as well, and a lot of the people that could not build something in the back used their envelope in the front to do. So I had suggested that to Mr. Schoneck. So, you know, currently the property is zoned with no improvements outside the building envelope. There is an existing pool and view fencing currently

outside the building envelope, and we asked that no further building take place outside the building envelope on Mr. Schoneck's property which is visible from -- we have very small entertaining area and this compromises it. I purchased a lot for \$650,000 in north Scottsdale because of the zoning that was in effect and, you know, stayed within my envelope as everybody else in our neighborhood does, and we ask that everybody else do the same. The Schonecks and all property owners needed to do their due diligence prior to purchasing their properties and understand the current zoning restrictions and not rely on being granted variances to build outside there are envelopes that affect neighboring properties.

The Ramada itself, Mr. Schoneck has told me, the posts are 8 feet, and then there will be a roof on it. So you are looking at a 9 to 10-foot structure outside his envelope, and, you know, on the other side, there's quite a bit of space between the properties and that maintains a nice integrity and keeps the views and everything really nice. Now he's going right to his property line and wanting to build, even in much lower level neighborhoods in Phoenix and different areas, you cannot go right to your property line and build. If a precedent is set, then anybody can go right up to their property line and build these 8 to 10-foot Ramadas and I feel that in that area, that could be a fire safety issue.

Also there is erosion that is visible from the back of his property. And my home is right across the wash, right there. And, you know, now putting more stuff outside his envelope could lead to more erosion and I really feel that the Reata Wash, the integrity and all of that, it could cause flooding.

Mayor Lane: If you could wrap up. Your time is up.

Theresa Meeker: Thank you.

[Time: 00:41:42]

Mayor Lane: Thank you. All right. That is the only public comment we have on this particular item. We do have a question from Councilmember Korte.

Councilmember Korte: Thank you, mayor. Could Mr. Niederer, could you put up the lot, over the -- the photo of the lot. I'm unclear of the alignment of the envelope versus the property line, and that was not clear to me. While we are doing that, I will ask another question. In 2010, the city council approved the construction of this fenced in area on the -- at the same location on that lot in 2010?

Senior Planner Keith Niederer: Mayor Lane, Councilwoman Korte, know this was a permit issued by the one-stop shop for the wall.

Councilmember Korte: So the permit, in 1995, it was allowed walls and fences outside the perimeter and then the permit was issued in 2010?

Senior Planner Keith Niederer: Correct. There was a zoning case done in 1995, for this lot I'm pointing to right over here to the south and the east to amend those development standards to allow

certain items outside the building envelope and that was approved by the city council.

Councilmember Korte: Okay. So there's a neighbor that has built outside the envelope back in 2000?

Senior Planner Keith Niederer: Back in 1995, yes.

Councilmember Korte: 1995. Okay. So where is the alignment outside -- where is the envelope versus the alignment of the fence?

Senior Planner Keith Niederer: Yes, Mayor Lane, Councilwoman Korte, the building envelope is set by the setbacks on the lot, and you could kind of see it here in this dashed line drawn on the exhibit. There you can see it by the black dashed line. So the request is to --

Councilmember Korte: So the pool has already been built outside of the --

Senior Planner Keith Niederer: Correct, the pool has been constructed. There was some confusion over the years with regards to the standard and the permit was issued.

Councilmember Korte: Okay. And then last question, the residence that are in opposition are across Reata Wash?

Senior Planner Keith Niederer: Mayor Lane, Councilwoman Korte, yes, the three emails I have in opposition are on the north side of the Reata Wash.

Councilmember Korte: And what is that distance?

Senior Planner Keith Niederer: I believe it's approximately 500 plus feet, 550 feet.

Councilmember Korte: 550 feet from -- okay. Thank you.

[Time: 00:44:54]

Mayor Lane: Thank you, councilwoman. Councilwoman Littlefield.

Councilwoman Littlefield: Thank you, mayor. The reason I asked for this to be pulled was because we all received a great number of emails or at least quite a few emails from the neighbors that were not happy with having this done. And as I read the emails and also received one from the owner and read that also.

And it seems to me a couple of things come up that I have questions on, and perhaps the city staff can answer them for me. The owner of the property went through a very long email, about how he had been issued a number of various permits over a number of years without having this document 103-ZN-85 and it wasn't presented to him as a possible problem that it would have to be looked at and

solved. Why did it take so long for that to surface? I mean, he's already put in money, bought permits and done all of this stuff and it seems like this was something that should have been solved or taken care of up front.

Senior Planner Keith Niederer: Yes, Mayor Lane, Councilwoman Littlefield, the record was not as clear in our subdivision files as it should have been. And it took a while until the last permit request came in, that it was uncovered that we need to amend these standards.

Councilwoman Littlefield: Okay. Another problem that I looked at that was mentioned by some of the neighbors, does this set a precedent in that neighborhood then that building outside the envelopes for all the various homes that area would be approvable? And would that negatively affect the neighborhood?

Current Planning Director Tim Curtis: Mayor and Councilwoman Littlefield, not particularly legal precedent, but as this neighborhood seems to be evolving there may be similar requests and similar analyses on what the impacts are of those requests. And we have seen in the past neighborhoods evolved and standards change and this happens to be one of them in front of you tonight.

Councilwoman Littlefield: Okay. By passing this, would it make a difference on any future ones that would come before you, well, we did it here and so we will do it there type thing?

Current Planning Director Tim Curtis: Mayor and Councilwoman Littlefield, each is decided on a case-by-case basis so the council would judge it on each individual case.

Councilwoman Littlefield: And my final concern was the issue of erosion, that was brought up by a couple of neighborhoods and evidently some erosion has already occurred, and would this possibly cause any future problems in the wash going forward?

Senior Planner Keith Niederer: Mayor Lane, Councilwoman Littlefield, the wall is -- or the fence is not going to be any closer than what currently exists after today. This' already a new fence around the swimming pool. So it shouldn't have any -- the construction should not have any impact on any additional erosion from the wash.

Councilwoman Littlefield: Okay. Thank you.

[Time: 00:48:31]

Mayor Lane: Thank you, councilwoman. Councilman Phillips.

Councilman Phillips: Thank you, mayor. So just to make that clear, that wall is already there? North of the pool?

Senior Planner Keith Niederer: Mayor Lane, Councilman Phillips, yes, there is a view fence that's required by code that is around the swimming pool.

Councilman Phillips: Okay. So really what we are looking at here is the Ramada? I mean if the fence and the pool are already there?

Senior Planner Keith Niederer: Mayor Lane, Councilman Phillips, yes, there's going to be in addition to the wall as well on the west side of the property.

Councilman Phillips: Okay on the west side.

Senior Planner Keith Niederer: As well as the Ramada.

Councilman Phillips: Okay. And as far as the neighbors to the north, across the wash, is there a height difference from that side down to this person's property? Mr. Schoneck's property?

Senior Planner Keith Niederer: Councilman Phillips, I don't have that information handy, but I believe Mr. Schoneck may have analyzed that.

[Time: 00:49:33]

Mayor Lane: Mr. Schoneck, if you would please, you need to come to the microphone.

Wayne Schoneck: Brian, if you want to maybe just pull up those photos on that power point, please, if I may, sorry. We might have a little clearer picture of the property. Elevation difference from our side of the wash versus the other, we are a little bit lower than the north side of the wash. Not by much. The wash is fairly deep. It's fairly significant. I have measured off about 575 feet between property lines. So I have -- I have considered the views from the north side of the wash, as well as my immediate neighbors and there's a view of -- sorry. Okay.

Do I have control here? I don't know if you can see that photograph a little better. Mrs. Meeker was concerned about erosion and there's some erosion. I'm not sure if you can see that up there. That is from previous owner, I assume who dug out the pool and pushed all the dirt over the edge. So that's the erosion that you are seeing. It's just loose dirt. As I look down into the various gouges in there, it's full of old concrete and different things that are down and amongst that. So I believe the stability of the bank is not compromised by any means. It's just the erosion of the excess dirt from the pool dumped over the edge.

Just to continue to clarify. Where is my mouse? Existing fence, which is bars, totally full view, four inches spread apart. It goes around the pool. Where did the mouse go again? It goes around the pool and it kind of came back in here and ended up back at the house approximately here, in a full wall formation. There was outdoor living area, barbecue, nothing covered, permanently covered in that area, and we just plan on replacing that with brand new fence of the same, like material. The original fence used to come way over to this side of the property, and across. We removed all of that. We're going to bring the fence down this way, and attach it to the house. So there will be less fence visible from the north side of the wash. And less for us to look at, to look at and enjoy the wash.



The Ramada, as you -- it will be positioned approximately here. Because of the rear yard setback, it puts it more northward that puts it more in view of the north side of the wash. I guess that's what we have to deal with. From that point next to the Ramada or the sun shade, it's just an open sided, all open sided sun shade, and we're going to have a 6-foot wall on that side along the property line. Actually, it's inside the property line, entirely on our property, and it will continue instead of taking the route this way, it's going to continue along the property a little bit further, then down to this point and swing back and join up to the house over here. This will include a little more area for us to enjoy, a little outdoor garden kind of area, desert kind of thing, with a little Ramada there. There's a bedroom here on the main floor that we'll be able to enjoy the walking right in, out into the pool. Plus, in about here, there's a doorway into the laundry room and washroom facilities that will be available for this area and the pool, this area, to shower off and enjoy that.

So a lot of consideration was taken into consideration this neighbor has signed letter and in full support and offered to come here. Neighbors on this side are in full support and signed off. As a matter of fact, I have ten out of 12 people in two subdivisions on south side of the wash who have committed and signed the documents in support of us continuing to finish our project.

Counselor Littlefield, quickly, your question was about how come we were never brought in to the zn-103. It was never brought forward until our final submissions for doing the yard. It was considered when we first bought the property, we asked tore zoning setbacks and they gave them to us. We tore out everything that was there pretty much, rebuilt the home and took a little break from construction and pushed forward to continue doing that, understanding that our zoning is completely different than what was sent in to us. We spent a significant amount of money remodeling this home in anticipation of the outdoor living space. Had this z103 been brought forward, we probably would have redesigned the house to accommodate for restrictions and stuff like that.

[Time: 00:55:51]

Councilman Phillips: Excuse me, Mr. Schoneck, sir. I saw earlier, there was an actual picture of your house.

Wayne Schoneck: Okay. I will just roll through. I pulled a few. We had a photo exhibit for the planning mission. I pulled a few photos in case there were some questions.

Councilman Phillips: Not that one. Keep going. That one right there.

Wayne Schoneck: Right there.

Councilman Phillips: So the people on the north, this is their view?

Wayne Schoneck: Yes.

Councilman Phillips: 500 feet away. But that's their view?

Wayne Schoneck: Yes.

Councilman Phillips: So instead of the back portion of their house, they will get the same view, except a Ramada right there?

Wayne Schoneck: Back in -- let me get the thing up in here. If you can see it from your screen, there's a temporary fence behind this fence in front. And that's about the front of the sun shade Ramada that's about the position of it this tree here may have to go. There's a bush or two that's going to be gone. It does not -- the Ramada actually fits all of the setbacks requirements two feet away from the property, all the height restrictions of a rear yard accessory building. This wall is going to continue all the way down in between -- right into the thicket of the trees. As I said, it's entirely on our property. The neighbor next door is very happy for us to continue and have a Ramada and a wall there. And the views from across the wash, I went over there and took some photos a couple of days ago just below their spot. I have them here, a little further on if you care to see them.

Councilman Phillips: Sure.

Wayne Schoneck: This is the fence design stuff. Okay. So there's our position there. 575 meters, property line to property line. This is some stipulations and stuff from the Sonoran Highlands which is across the wash. There's some questions brought up and some differences between the zoning there and ours. This is a view, I believe, of us looking across the wash to the, and this will be a view from the north side of the wash viewing ours. This is our home right here.

Councilman Phillips: Well, that view I think you are higher.

Wayne Schoneck: I'm not quite as high. I'm a little bit lower where I took my picture.

Councilman Phillips: Okay. The bottom line, the Ramada is not going to be taller than your house?

Wayne Schoneck: Oh, no, not even half as tall.

Councilman Phillips: Thank you.

[Time: 00:58:59]

Mayor Lane: Thank you councilman. Councilman Smith.

Councilman Smith: Thank you, Mr. Mayor. I don't know that I have any questions for you, if you want to be seated.

Wayne Schoneck: Thank you.

Councilman Smith: My comments on the proposal. I guess I'm embarrassed on behalf of the city,

embarrassed that we somehow inadvertently gave the permission to build a pool in 2000 outside the building line and then in 2010, we apparently gave permission or acquiesced to the idea of building a wall outside the building lot line. I received all the same emails that everybody else has, but my concern about this is almost without regard to the emails that we're receiving from some of the neighbors either in support or against it, I don't want to perpetuate a couple of errors that we apparently made.

And we have these rules on building lot lines and staying within the building lot lines. There's both aesthetic reasons and flooding reasons and all kinds of reasons that we have these rules, and then somehow say in a particular case we're not going to enforce the rules, somebody used the phrase, does this create a precedent. It obviously creates a precedent, even in the write-up that we were given, we were, in fact, quoted a precedent of how we did this for a neighbor to the southeast in 1985. Any time do you, this you will create a precedent and the next person would come along and says, well, you did it once. Now you did it twice. I'm just -- I'm bound by the fact that we have these rules.

I think they are good rules to have. They are applicable to everyone else that builds in the city. And as a matter of fairness, I don't know how I can resolve, in my mind, saying not guilty this particular case because it's going to be a nice hooking -- nice looking Ramada or a nice looking fence, it's obviously nice looking. You give this particular property owner. You enhanced the property value of his piece of property. He's now going to have, if this is granted a property that will be expanded by -- I don't know how many square feet over what it now is. I think unfortunately this lot, both because of its size and configuration is -- is too small to allow the kinds of things that are being requested. Clearly it's too small within the existing building lines.

So as a matter of enforcing the rules that we have, and I think it's fairness to everyone else would built inside their property lines and most importantly so we don't set yet another precedent supporting this, I will not be supporting this.

Thank you, mayor.

[Time: 01:02:18]

Mayor Lane: Thank you, councilman. Excuse me. Keith, if I may ask a couple of questions with regard to the lot itself, and to councilman Smith's points of whether or not we have created something other than a view issue or if there's somehow this has endangered the wash or endangered the neighborhood by virtue of the city's error some many years ago and I'm presuming this started back in -- somewhere in the area of 1985, when this original building envelope was permitted; is that correct?

Senior Planner Keith Niederer: Mayor Lane, the subdivision was zoned back in 1985. This house was built in 1993. So --

Mayor Lane: Okay.

Senior Planner: So the issue with the approvals happened sometime after that time.

Mayor Lane: What is the size of this lot in acres?

Senior Planner Keith Niederer: Mayor Lane, it's about 41,000 square feet.

Mayor Lane: What is the normal building envelope on that size of --

Senior Planner Keith Niederer: I don't have that number in front of me.

Mayor Lane: Is it a percentage number or is it --

Senior Planner Keith Niederer: It's approximately whatever the setbacks are. I believe they are 30 feet. So probably 60% in that area.

Mayor Lane: Is the building envelope. Is the property, as it says, configured right now. I understand it's out of whack as you show with the dotted lines. Does it exceed that amount, 60% in the building area.

Senior Planner Keith Niederer: Currently the swimming pool which is outside of that.

Mayor Lane: No, I understand that. It's not outside the building envelope, as far as the authority to build. You have to build the swimming pool --

Senior Planner Keith Niederer: That's how it's currently stipulated.

Mayor Lane: With the pool, with the house, with whatever other structures would normally be included in the building envelope, how many square feet is it? Does it exceed approximately 60%?

Keith Niederer: Mayor Lane, I will put the graphic on the screen.

Mayor Lane: The reason I'm asking, if it's a view issue, I think that what is being proposed doesn't really change anything. If it's a precedent issue, I'm concerned about it, as well. But the fact remains that the city made a mistake at a point in time -- I'm not sure how we handle this. I know it comes up from time to time because these laws at one time were new, and their implementation wasn't exactly accurate. So we have dealt with this before. And there has been an issue of, you know, have we in essence accomplished the building envelope restrictions if you will, the setbacks are another issue. I understand that.

And the other is the reasons for the setbacks, generally, they are for view corridors or frankly from the street, or they are from -- to protect maybe in the case of this wash, maybe a setback from the wash, so you are not right on your property line so that it's going up to the wash. Is there any type of danger or damage that would be seen either to the property or anyone else because of the proximity

of the wash by not adhering to the proper setbacks? Is there a danger or damage?

Senior Planner Keith Niederer: Mayor Lane, the city is not aware of any potential danger that this fence would cause to the wash. The fence has been out there for quite some time, since the pool was built.

Mayor Lane: Just looking at this practically, if we want to stand on the law, it gets shut down. But if we are talking about the neighbors to both sides of him, don't have any problem with it. It didn't encompass a view and they are not over using property as we would like to think of it from the standpoint of a building envelope and I realize all of that is subject to some concerns by the property owners overall, but nevertheless, I don't see that we are in a position to not tell this property owner that he can't build in what we already established as the building envelope by permit, original permit. I don't know that it was formally established that way and I don't know when the real building envelope was presented from what I understand, this action he's taking right now is the first time this has ever come forward.

Senior Planner Keith Niederer: Correct, for this lot, yes.

Mayor Lane: So when he built the pool or anything else open here this was no mention in the permit process which might have been a couple of times other than the building of house itself. I guess I'm concerned, you know with the expressed opposition 550 some feet away, and then the other idea as to whether it's a view -- if it's a few feet, I don't think it really changes the view at all. I think there was some comment that the building might be 10 feet tall. The Ramada might be 10 feet high. I don't know whether we looked at that but it's not higher than the house and it's not higher than anything that's around it. So let me see if I -- that's the extent of my questions. Thank you very much, Keith. I appreciate it.

[Time: 01:08:13]

Mayor Lane: I think it's a built of a predicament and my primary would be that it has been asked and answered. Does it set a precedent. This council could probably break anything, if we chose to, I suppose, but in this case, what we have is an error that's established a different use on the property and I think that what's being proposed here by the property owner is consistent with that initial error to try to go back now, and say that you can't do it, because we didn't put you in the proper envelope, you have to go out some place else or frankly you can't do it anyway, unless you tear your house down and put it in the envelope property. I think that a difficult place to be. So I would support this effort.

Thank you. Councilman Phillips.

[Time: 01:09:06]

Councilman Phillips: Thank you, mayor. I'm just curious, it almost looks like a lot in front of that. Is that part of his lot?

Senior Planner Keith Niederer: No, that lot directly to the south is a separate lot that's yet to be developed.

Councilman Phillips: So all he has is a little scratch along the front side of the house. So he really doesn't have much property left to work with?

Senior Planner Keith Niederer: No. There isn't too much, with the way the house is positioned.

Councilman Phillips: Okay. And then the other thing is, and it's just so the council is clear on this, he's not building outside his property envelope. He's building outside the building envelope, which, as the mayor has established has already been given in the past.

Senior Planner Keith Niederer: Yes, Mayor Lane, Councilman Phillips, there's no building going on beyond the proper line. It's just beyond the building envelope line, which is created by the setbacks on the property.

Councilman Phillips: Okay. Thank you.

[Time: 01:10:14]

Mayor Lane: Thank you, councilman. Councilwoman Littlefield.

Councilwoman Littlefield: Thank you, Mayor. Yeah, this is a mess, actually, and it's a mess that was created by the city, not by anyone else. I understand the concerns, but at this point in time, it's very hard for me to justify not allowing this to pass, because this gentleman is actually a victim of a mistake that the city made. My question is: In order -- the biggest problem I have with this is the resident. He answered the question about erosion very well and that's fine. That's not a concern any longer.

But I have a problem with precedent setting. Is there any way and I guess this is a Mr. Washburn question, to tag this case, and say due to the city's lack of finding this problem, this will not be used or is not able to be used in any future decisions about this area and this land, so that it's not used in any way as a precedent setting example?

City Attorney Bruce Washburn: Mayor, members of council, Councilwoman Littlefield, to a legal standpoint this doesn't set a precedent. This does not create legal rights on any other party to come in and say you did it for them and now you have to do it for me. So it's precedent only in the sense that somebody could argue, well, because you did it for them, and my situation is similar to theirs, you should do it for me. It's always up to the council whether or not you believe that the next case merits the same consideration that this case had. And certainly, the circumstances of this case are -- I mean, you are not going to find another case that's exactly like this one that has all of the same factors in it. So the council, from future council, and this is cited to them can say, no, we think your case is distinguishable from this one, and we have to follow it. In that case, it doesn't set a precedent.

Does it answer your question?

Councilwoman Littlefield: I'm wondering if in planning this could be marked and red, x, don't go here kind of thing. And I guess really that's my -- my only concern. I find it very difficult at this point in time, after all of these years to turn to this man and say, well, you can't finish your plan even though the city said it could because of an error in '93 and '96 and '98, and I find that a little bit tough to swallow, because he spent a lot of his time, money, effort, et cetera, in doing this.

The same token the neighbors are right. We don't want this to be Marching down the street every other house to be able to build outside the envelope and to do whatever they want to do so I'm trying to figure out a way to prevent this from happening.

City Attorney Bruce Washburn: Planning can't prohibit some citizen from taking to the council, look at what happened in this case. It's a public record and any citizen can get to it and talk to the council about it. It's more of a planning issue. It should not be considered future precedent.

Current Planning Director Tim Curtis: Mayor and Councilwoman Littlefield, certainly when other folks, if anybody wanted to make a similar application, we would be advising them, as we always do, hey, take a look at the minutes of previous case there. May be different -- there may be a different situation. It's your case to prove to the city council that the impacts to the neighborhood are minimized or limited in order to convince based on the merits of your case that the adjustments need to be made.

[Time: 01:14:37]

Mayor Lane: Thank you. Thank you, councilwoman. Councilwoman Korte.

Councilmember Korte: Mayor, I move to adopt ordinance number 4219, approving an amendment to the development standards and stipulations of case number 103-ZN-1985 to allow improvements outside the building envelope on lot 4, within the Montana Del Tesoro subdivision, located at 10570 East Pinnacle Peak Road.

Councilwoman Klapp: Second.

Mayor Lane: A motion has been made and seconded. Would you the second like to speak this.

Councilwoman Klapp: Mr. Schoneck was given advice and approvals previously for the other improvements and so I believe that he will should be able to finish the plan as he had put it to go and he admits that if he had known otherwise, he probably would have redesigned the footprint of the entire property. So I believe we should allow this and just move forward.

Mayor Lane: Thank you. Vice Mayor, do you have any comments?

Vice Mayor Milhaven: No, thank you very much. You asked all the questions I had.

Mayor Lane: All those in favor please indicate aye, and nay if you oppose.

Vice Mayor Milhaven: Aye.

Mayor Lane: The motion passes 6-1 with Councilman Smith opposing. Thank you very much for the information and the input on this, and just on the explanations.

**ITEM 31 – MCDOWELL CORRIDOR REVITALIZATION STREET BANNER PROGRAM**

[Time: 01:16:25]

Mayor Lane: We will move to the regular agenda item, the McDowell Corridor revitalization street banner program. Mr. Chi is here for us today.

Associate Planner Andrew Chi: Good evening Mayor Lane, members of the city council, my name is Andrew Chi with the current planning department, and I'm here in front of you today with resolution number 120180, the McDowell Road -- the McDowell corridor revitalization street banner program. The area that this resolution encompasses is within the McDowell Road corridor revitalization area. Specifically, the three mile stretch of the McDowell Road between 64<sup>th</sup> Street and Pima Road.

On July 2<sup>nd</sup>, the council adopted fiscal year 2015-2016 organization institution plan, within that plan to continue working with residents, businesses and stakeholders on McDowell Road to revitalize it, support community efforts to establish a new brand or identity, evaluate costs and benefits of the public improvements that would enhance the area and stimulate new business activity, including banners in the area. Tonight, the council action in front of you is to adopt resolution 10180, establishing for a two-year period the McDowell Road corridor revitalization street banner program.

A little information on the program. The responsible department will be the planning and development services department. The program duration will be two years. The location, again, as stated earlier, McDowell Road between 64<sup>th</sup> Street and Pima. There will be 26 light poles, city owned identified for banner installation. The banner signs will be 96 inches by 32 inches, vertically oriented.

The design will be done in house to save on costs. And we will work with the public works department for installation and removal of such banners and the display of the banners will basically inform the public of city services, programs offered by city departments and to identify the McDowell Road corridor. No commercial advertisements will be allowed.

The cost of the program -- so in front of the city council today, you have an option of approving a two-year program, which is about \$33,000, 26 light poles and the banner will be replaced quarterly. The council also has an option of adopting a one-year program, which would reduce the cost down to about \$18,000, 26 height poles budget the banners will be replaced semiannually. There is a possibility for at planning department's existing budget to absorb some of the of the program, if not, the staff will return to the city council for use of contingency funds.



And just a touch up on some examples, these are not final. These are just kind of examples of what a potential banner can look like. Again, these are only examples that we haven't designed them yet in house. And it would try to identify key points in the city's -- key points of the city's interest, especially along McDowell Road and try to publicize our city programs for the benefit of public. And a little bit more detail on how they would be installed on one of our street heights. They would be vertically oriented and maintained by the public works department. That concludes my presentation today, and I would be happy to answer any questions at that time council may have.

[Time: 01:20:12]

Mayor Lane: Thank you, Mr. Chi. I appreciate that. Actually, no cards on that. Before -- well, I will go ahead and let the council start with this. I do have some questions. I will be back to you. Yes, Councilman Phillips?

Councilman Phillips: Thank you, mayor. I didn't want to take something away from you, if you have --

Mayor Lane: That's all right. I know how you are.

Councilman Phillips: So I guess my first question, is I just saw that it's in the planning department budget. Is that part of economic development's budget?

Associate Planner Andrew Chi: Yes, it would be part of the community and economic development budget, if you were curious to know what part of the budget this is coming out of.

Councilman Phillips: So this is part of Danielle Casey's group?

Current Planning Director Tim Curtis: Mayor and Councilman Phillips, currently, as it's presented, is that it would be the department of community -- planning and community development, planning and community development's budget. That's been the plan right now, looking for budget savings and working with the budget office to try to find funds for this program.

Councilman Phillips: That was my next question. I didn't know you had a pot of money sitting around that you could do this type of thing. Where are you pulling this money from? Maybe not you specifically but the chief financial advisor could tell us.

City Treasurer Jeff Nichols: Mr. Mayor, Councilman Phillips, this happens quite often. During the budget process, the budget is simply a plan of what staff expects to do in the coming fiscal year. When a program like this comes forward, we encourage them to look within their budget first for any savings that may realize during the current fiscal year. We would keep track of this and at the end of the fiscal year, if needed, we would come back and request use of contingency for this program but this is fairly standard for something that comes up outside of the budget process.

Councilman Phillips: This is coming out of contingency then?

City Treasurer Jeff Nichols: Mr. Mayor, Councilman Phillips, no, this is not coming out of contingency. It would be charged to their operating budget.

Councilman Phillips: Okay. So they are willing to pull this out of their operating budget, tighten their belt buckle and do this for the good of city?

City Treasurer Jeff Nichols: Mayor Lane, members of council, councilmember Phillips that would be my expectation, yes.

[Time: 01:22:50]

Councilman Phillips: That's great. I appreciate that. This is an odd question, but are the banners going to come to council for approval or are we going to just see them. I don't want to have a bunch of emails and phone calls from irate residents that says what's this banner because of something it might have said.

Associate Planner Andrew Chi: Mayor Lane, Councilmember Phillips, the banner program, once implemented will be reviewed administratively by the planning department for design and for wording. Now, there is a possibility that if staff may not agree with some sort of design, administratively that the development board may be able to entertain the request for review. But we don't have those details yet worked out, but that is a potential scenario.

Councilman Phillips: We have this things come back to bite us in the past. My personal opinion is that we would say it's the one year so we are not busting your department for all of your money and it's more of a pilot program. So we would like to see how it goes first. So I will enjoy listening to other council people's comments.

[Time: 01:24:03]

Mayor Lane: Councilwoman Korte, please.

Councilmember Korte: Thank you, mayor. How are these banners tied with other marketing efforts?

Associate Planner Andrew Chi: Mayor Lane, Councilmember Korte, in regards to other marketing efforts, I was wondering if you could be more specific.

Councilmember Korte: Nice work. Nice work. Okay. So I will start out, being a long-time supporter of the McDowell corridor and willing to look at any and all things and return it to its vibrant nature. I sense that these banners are kind of an isolated effort with -- unrelated to any other efforts. So, you know, the pictures look great, but what do we really -- you know, what are they accomplishing? I don't understand the end value here.

Associate Planner Andrew Chi: Mayor Lane, Councilmember Korte. The goal, the strategic goal is to basically provide a sense of place for something that's going on with the McDowell Road, and the banners will do that public outreach information to tell the public, hey, something is going on the street corridor, if there's a particular city service that we would like to advertise or the library would like to do or economic development, for instance, they can do that. This is really just to give that whole stretch of roadway a sense of something is going on. Something is happening and connect it with everything, all the developments going on.

To answer your question, regarding other programs, yes, this is an independent banner program, separate from any other marketing or signage program that's out there. We do have a council approved 2011 program banner for particular special events. This is separate from that and it's separate from our economic development department outreach for businesses.

Councilmember Korte: So if it was going to accomplish marketing special events or what is happening in Scottsdale, then I would think that it -- they need to be changed out more than quarterly. And so is that really -- are we really accomplishing what we are trying to -- what we are saying here? I'm not seeing it.

Associate Planner Andrew Chi: Well, Mayor Lane, Councilmember Korte, the other program that basically identifies the city's various events that go on, has all of these strategic locations, and that's managed through the tourism and economic development program. This program is merely to show that we are entering into the McDowell Road corridor and that it's basically an idea to kind of lively up the streetscape as a way to, you know, promote the corridor.

Councilmember Korte: So it's trying to create a sense of place between Pima and 64<sup>th</sup> Street.

Associate Planner Andrew Chi: That's one of goals, yes.

Councilmember Korte: Thank you.

[Time: 01:27:37]

Mayor Lane: Thank you, councilwoman. Mr. Chi, if we look at some of our history of the banner programs, it's not really a good one. And that's when we were marketing special events, and that's when we were actually trying to revitalize the automobile dealership row. It was part of a multimillion dollars program. It didn't meet the needs of what we set out to do with it. So I'm skeptical.

But when I compare it with the multimillion dollars effort, and I look at \$33,000, if that's an accurate number, I mean, that really -- not that all money isn't important, but that's pittance in comparison to some of the efforts that I have heard. With that being said, it is still money, and it has to have, you know, really a desired effect.

First thing that struck me when you gave us the examples and I appreciate that because that would have been my first question, exactly how do we look -- how will these things look? Because one of the things, even with the semiannual change out that pretty ragged and ratty looking and that's an important element in the maintenance of it. But I noticed that it indicates McDowell Road corridor. Now, I don't know if you were here the evening that we discussed about the rebranding of the area and I'm not sure exactly where that may be going or not going at this point in time, but there's still an unsettled issue as to whether we want to brand the McDowell road corridor and the longer run, one year or two years or to sort of support that. This kind of branding program that we are talking about, whatever form and whatever is established, this might be a way of communicating it, you know, once that is decided.

But to say that we are going to advertise only city programs, I just don't quite see how that revitalized an area. There's not the excitement of an event or an area of entertainment, or of, you know, special type of merchandising that's going on in the area and we tag it as we did. Again, I think unsuccessfully, but nevertheless with the automobile dealerships, dealership row as it was. So I'm just really concerned no matter what the amount of money -- what was it motor mile? Motor mile, thank you. Okay. Not dealership mile. Motor mile. It was a lot catchier but it didn't take off.

It's not about amount of money but it's a valid effort if it will take off, but advertising city programs is dramatic and as dynamic as we think that is, it doesn't really revitalize an area. You know, see you at the senior center or something like that. Frankly, anybody who is looking for the senior center, they will not be looking at these banners. We will all be in danger.

I'm a skeptic. I'm a skeptic, irrespective of the cost and frankly if we were to do something like this I would rather it were in concert with some other marketing program and frankly, maybe even branding program. So that's where I'm at on it. Thank you.

Associate Planner Andrew Chi: No problem.

[Time: 01:31:11]

Mayor Lane: Councilwoman Littlefield.

Councilwoman Littlefield: I thank you. I have several problems with this. One is that the branding proposal that the council rejected in July, this is an example of form rather than substance, just as that one was. If there were real problems holding south Scottsdale back, we should do that, and not gloss them over with surface glitz. If we have \$33,000 to spend on branding and upgrading south Scottsdale, let's fix the problems. Let's spend it where it will do some good, infrastructure updating, neighborhood cleanup, things that will really make Scottsdale and the south look better.

But as I look at this program and I read through everything and I looked at it for quite a while, I see an even bigger problem with this. In all the time I have been involved in Scottsdale activities, I heard many times south Scottsdale residents complain that the city government streets Scottsdale as they would never street north Scottsdale and they are right. This is an example of that.

The city council report correctly notes that Scottsdale is unique in being the only city in the valley that prohibits nonpublic signs in its right of way. And that's a long standing prohibition that was enacted because our citizens throughout all of Scottsdale didn't want Scottsdale to be average or the same as every place else, but to be special, and better than other cities. I want you to imagine what the response would be if we proposed to pour banners down the streets in north Scottsdale. They would be down here with pitch forks and knives for our heads and those residents would be calling for recalls. Why would we relax our standards in south Scottsdale, when we wouldn't think of doing this in north Scottsdale? Let's do something better. Let's do something that fits all of Scottsdale. Thank you.

[Time: 01:33:46]

>> Mayor Lane: Thank you, councilwoman.

Councilwoman Klapp.

Councilwoman Klapp: The program has some merit, but there are some questions. It is premature. I concur with the mayor and the branding program. It will take place and it will take about a year for it to develop. At that point in time, there may be a need in conjunction with that to do some promotion of the area with banners.

So what I would recommend on this -- I'm not making a motion but this is the way I feel about it, is that something like this could come back to us in perhaps another year and we could then see if there is a way to tie the banner program to activities that are occurring then. I don't see a way to use it today. As we mentioned, there's not too many things we want to promote up there. Otherwise, we could put the name up there.

It's my feeling that this could be a usable project. It's got a lot of great elements to it. I think it's a little early and I would like to see it come back maybe this time next year. That would be my preference. Thank you.

[Time: 01:35:19]

Mayor Lane: Thank you, councilwoman. It doesn't appear that we have any further comments on this program. Mr. Chi thank you very much for your presentation. I would ask if we have a motion to accept or reject this item.

Councilmember Korte: Mayor?

Mayor Lane: Yes.

Councilmember Korte: I move to not adopt resolution number 10180 establishing the McDowell corridor revitalization street banner program.

Mayor Lane: The motion has been made.

Councilwoman Littlefield: I will second it.

Mayor Lane: And seconded. Would the second like to speak any further on it? Okay. Seeing no further comment. All those in favor of the motion to deny this McDowell corridor revitalization street banner program, aye, and register your vote.

Vice Mayor Milhaven: Aye.

Mayor Lane: The motion as stated is accepted, with 6-1, with Councilman Smith opposing the motion. So, again, thank you very much for the input, and the presentation on that and the dialogue.

### **ITEM 32 – ROCKBAR OUTDOOR DINING LICENSE AGREEMENT**

[Time: 01:36:330

Mayor Lane: We'll move right along -- right along? I'm not sure if that's accurate. Nevertheless, we will move along to item 32, the Rockbar outdoor dining license agreement. We have Mr. Worth here at the podium to speak towards that if you want to get us launched.

Public Works Director Dan Worth: Good evening mayor and council. The mayor mentioned I'm here to discuss one of our outdoor lining licenses and possibly get some direction from you regarding what we do to move forward with it. It's a license to the business entity known as the Rockbar. I've got a locator graphic here. The Rockbar is this large rectangle in blue on craftsman court, 5<sup>th</sup> avenue to the north and Scottsdale road to the east this large structure with all the cars is our third avenue parking garage. The small red triangle or rectangle next to the big blue one is the actual subject of this discussion. That's the license area. Rockbar corridor buys the large rectangle, the building with their business. They license from the city the use of 440 square feet of the adjoining alley on the north side of the building.

Earlier this year, on April 28<sup>th</sup>, Rockbar came before you with a request for an amount for their conditional use permit for the building not for the license area. They have a conditional use area for the building and live entertainment. They were requesting permission to operate live entertainment with serving windows on the north side of their building left open so that patrons sitting in a license area in the smaller area could hear the music better. During the discussion and the -- if you need to be reminded, the decision on April 28<sup>th</sup> to was deny the conditional use permit so they operate with the serving windows closed. During the discussion, however, it became evident that the Rockbar and the building no longer has a kitchen to prepare food on the premise.

This is potentially an issue because the license for the city area, the small area outside has, in the recitals a statement that defines permitted uses. Permitted uses for license area are outdoor food and beverage service for immediate consumption of food prepared inside the grill building. And it

was pointed out by at least one councilmember that this appeared to be violated due to the fact that they no longer had a kitchen inside the building. They no longer had the capabilities to premier food on the premise to serve on the license area. It's complicated, however, by a further statement in the license agreement under the paragraph that identifies permitted uses, and I will read a very brief part of that. Licensee may elect to serve at the license area, food prepared at other locations outside the license area.

So you can interpret that in one of two ways. You can interpret that very narrowly, you can interpret it broadly. We have been interpreting it broadly, that the licensee and the city's license area, as long as they are serving food, even if they bring it in from outside and don't prepare it on premise is satisfying the permitted uses of the agreement. You can see the language is somewhat contradictory and inconclusive and that's one of the reasons why I'm bringing it back here to get your intent as to what you would like to do to help us clear that up.

One other fact that I want to introduce before I present some options for your consideration, as of this week, Rockbar and the building has requested and received a construction permit to actually build a kitchen in their building. So it's their intent to add that capability back so that they can, in fact, prepare food on the premises. It's not there now. It's their intent. They've got approved plans and a permit, and I would assume that at some point in the near future, they will have that capability restored.

The options that I would propose for your considerations for the license area, this covers basically the universe of options. The first two would be to leave the license agreement in place. Last one is don't leave the license agreement in place. The first two are variations on the same theme. You can leave the license agreement in place, and just continue to interpret it the way we have been interpreting it, make no changes or we could potentially modify the agreement. Of course, we would require a year approval to any modification. It would require the tenant, the Rockbar to agree to it, but we could modify it to add language for what we want the license area to be used for. The third option is if we don't want to continue to have that 440 square foot piece of alleyway licensed for the use of Rockbar, we could terminate and I would recommend if we chose to do that, we are not terminating for cause, because really it's inconclusive that they violated any terms of agreement. We would be taking advantage of the termination clause in the license agreement that allows either party to terminate for no reason with 60 days' notice. So those are the options, and I would be happy to take your direction or to answer any questions you may have.

[Time: 01:42:57]

Mayor Lane: Thank you, Mr. Worth, and we would undoubtedly have some questions of you, but we will go ahead and hear from some of those requests to speak and starting with the representative for the Rockbar, Mr. Court Rich, and in this case, in that -- in defense of the situation, Mr. Rich, you have ten minutes.

Court Rich: Thank you mayor, members of the council. And I have a brief presentation cued up. My name is Court Rich, with the rose law group. I'm here on behalf of John Eby who is the owner of

the property. He previously operated a bar, restaurant there, Acme Bar and Grill. I'm not here on behalf of the operators today, but they are here out of concern for their business.

Here's a big picture that I want to bring to you tonight. I will be able to show that you this is really pretty arbitrary and I will get into that. The city according to your staff has never canceled one of these licenses before, yet you are being asked to do it tonight when your own staff says that there's not a violation of that license. And the next one is they are not violating the license. I will get into that more.

The license does not require a kitchen. I got with me some examples of your staff knows to you to write an agreement that requires a kitchen and when it requires a kitchen, it very clearly requires a kitchen. I will show you those. And then as you already heard, they are building a kitchen now anyway.

Here are the 26 different licenses that are in the downtown area according to city record. All of these businesses utilize public space in public right-of-way. None of them have ever been canceled before. Some of them have been out of business for years but still retain their license. Some of them serve no food. Some of them serve some food. Some of them bring food in from outside to prepare and serve. And here on Craftsman Court, the area in question, left is the formerly Upper Deck Sports Grill. My recollection is it went out of business some four years ago. That license is still in place for that patio. In the middle is Dos Gringos which we know is in business, obviously. Then in the same alley way, the same alley way as the Rockbar is the BS West with a similar requirement or similar license. Here's from up above so I can give you some perspective. Think I just a local -- the absurdity of the idea of singling this out. I think it becomes pretty clear, even just on a local level when you look at. This you have BS West, they don't have a kitchen. They have Upper Deck. They have been closed for four years and then you have Rockbar there.

I mentioned earlier and if we can go to the overhead, I might use that in a second. Your staff knows how to write an agreement that requires the use of a kitchen. So Dos Gringos in Section 4.22, it says the licensee's use of the use areas shall at all times be conducted as an integral part of a full service sit-down restaurant within the restaurant building with a joint menu and under joint manager and operations with the restaurant area. In 4.2.4.2, it says when the kitchen is open, the business' main menu offers at least ten different entrees cooked in the kitchen and offered at prices comparable for prices for similar entrees offered by other restaurants in Maricopa County, Arizona. That's how you require a kitchen if you want to require a kitchen.

And, in fact, Mr. Eby is here and can tell you, when the staff came to him about potentially expanding in the right-of-way and going into the street, like Dos Gringos did, he said he would be required to keep the kitchen in place and have an agreement similar to Dos Gringos. I don't know if we can zoom in on that. Knowing that he was not certain about whether or not he would have his kitchen in use all the time, he didn't want to enter into that agreement, and instead stayed with the agreement that he has in place today.

I think it's also important to know that I understand some of you have many -- many of you have



strong feelings about bars. Should we have more? Should there be more intensity? Is there an area designated for them? I will ask you for a second that this is not about more bars or more intense bars. You have the question back in April about the use permit. You said no and that's totally within your prerogative and we may differ whether you should have or shouldn't have, but what you are faced with today is something totally different.

This is the city taking affirmative action. Not just saying no to someone who said no, but coming in and saying no, to something that Mr. Eby had in place for 15 years. The building is designed and you know full well about the windows. He's allowed to use those windows when there's no live music. You have the other businesses in the downtown. They hoped that the city would act fairly and treat them in a way that, you know, makes sense under their agreement and so he invested in designing the building. He invested in building the patio. Tens of thousands of dollars to do that and I think you know where I'm going with this.

I think I just ask that tonight you sent the message. They get the message that you need a kitchen, whether or not the contract requires it. They have pulled the building permit. They are starting construction on the kitchen. I have a copy of the draft menu they have put together about what they will be serving. The message was received. If that was your goal, message received and they are moving forward with that.

I had a chance to talk to Mr. Amrine, and I said how are operators doing it. He said they had an insanely low number of service for the downtown area. I have think that's a compliment to the operators and I will wrap up here.

I'm happy to answer any questions that you may have, but I really hope that you will send a message to other business operators in the area that, you know, the city is not going to just arbitrarily -- and I think there might even be legal issues in acting that way, but that the city is not going to arbitrarily take away these rights that he's had for 15 years and other businesses have relied upon. I'm happy to answer any questions if you have them.

[Time: 01:50:31]

Mayor Lane: Thank you. And there may be some. We will call you back in that's necessary. In the meantime, we have some other requests to question. Thank you, though. Next would be Sonnie Kirtley.

Sonnie Kirtley: Good evening, my name is Sonnie Kirtley, I'm the chairwoman of C.O.G.S. Our address is on file. What you see on the overhead is a key question in this. We will have a homeowner -- we'll have a commercial property owner from the Craftsman Court speak next, I assume to talk about some of the violations and concerns that the merchants have had. In the meantime, I would appreciate it if the council would look at this question, is this a good business deal for the city?

As pointed out, by Mr. Worth this is the Rockbar area. This yellow area, 8-foot by 55 feet is the description of the property in the alley, the public alley, that the city has leased to the Rockbar. And

that area, looks like this. It's a very nice looking brick surface. They have added metal posts. These are not engrained into the ground. Easy to pull out at any point in time. Right now some of them are being held together by duct tape. Some the wires are also missing.

How much does it cost to have 440 square feet of the city property for a year? Pretty cheap! \$1,278.20. But wait a minute. Is that all that you are using? No. That is not all that you are using. At many times the entire alley is blocked off. The post of the fencing area, the 8 feet by 50-foot is removed and the entire area is used and decorated and used solely for the purpose of the entertainment and the parties.

So my question to the city is, again, is this a good business deal? They just took another 440 square feet. They doubled the license area, and another area the same size and what is the city getting? I think that's a question you can ask staff. Thank you.

[Time: 01:53:34]

Mayor Lane: Thank you, Ms. Kirtley. Next is Frederika Ranucci.

Frederika Ranucci: Good evening mayor and councilmembers, my name is Frederika Ranucci, I'm a property owner on 34 North Craftsman Court. I have an outline here of my presentation. I hope you can read that. The significant terms are highlighted. I wish had more time to talk about the craftsman court patios that have been put on the street referenced earlier, but we are just confined to Rockbar this evening. In the city council report, staff presents three options but there is a fourth option and that is to declare the lease terminated under Section 2.3, which is automatic termination which provides for when the licensee ceases operation for 90 days. That's precisely what happens when J.E. Southwest was operating the Acme. They ran the Acme Bar and Grill from 2004 to 2010, when it closed down and it was closed down for well more than 90 days. So the agreement terminated then and there, without any further action by either party. These were the terms that were agreed to, if you want to look strictly at the terms of the agreement. I think you have to. It terminated, period. When you think about it, what Rockbar has been doing in the alley patio up to this point is really a moot point because when they leave the premises, when they pulled out the kitchen, when they constructed all of their other improvements they do so at their peril. Why is that? Because the license agreement has already terminated. Their rights and obligations were totally dependent on J.E. Southwest and J.E. Southwest no longer had that agreement.

If you wish to look at the activity on the alley patio, this is the time the Rockbar has been there, the situation is really no better. Let's look at the provisions, 4.1, they shall serve food. We know it's pretty well established they have removed the kitchen and they haven't been serving food. 1.1 is violated. That records use limited to the area, and as the prayer speaker indicated, the public alley is frequently completely fenced off for events. But there's another issue as well and that's 4.5, which requires -- states that the licensee cannot place any item that's not conveniently removable and this is to accommodate access to fire and other emergency vehicles. You saw the photograph of the alley completely roped off. How do they dismantle that when every second counts in an emergency. No supplies, food storage, et cetera, in the license area. Now frequently, Rockbar has had vendors -- I

will show you a photo here. And I hope I can zoom in on that. But they have these food vendors would come in periodically this food wagon on the photo. All of that is prohibited and that's another violation. And finally, we have 4.1.0, standards of service first-class, inviting. That's in the document. Look at the condition. Now, Ms. Kirtley earlier showed a picture. I wish I could show you more. I would encourage you to take a look at the patio. But it's filthy. It's rusting all of this metal here, it's peeling. It's run down.

Mayor Lane: If you could, please wrap it up.

Frederika Ranucci: It's disgraceful. On a high-end street and an attractive street like Craftsman Court I'm offended that the city would permit this. So under the circumstances, and bearing in mind the goal of a pedestrian-friendly dining patio with an inviting look and feel, which was the original intent of this license agreement, the only option is to terminate the contract.

Mayor Lane: Thank you.

Frederika Ranucci: Thank you.

[Time: 01:58:04]

Mayor Lane: Thank you. Next is John Eby and he has some donated time from Brian and I'm not sure -- Rochinski. Is that even close?

John Eby: Yes.

Mayor Lane: It was a heck of a job on that. So kudos to me on that. With the donated time, I will give you four minutes.

John Eby: Mayor Lane and councilmembers, my name is John Eby, I only multiple commercial buildings in the Downtown area and am a Scottsdale resident. I'm the license older. I own that building the Southwest Group inhabited. I negotiated the contract specifically with no kitchen being required. There was -- back when I sold the business, to Rockbar, I asked how do you want the license kept? Do you want to put the license in their name or in mine? And after consulting with whoever staff consulted with, they said no, we would like it to remain with the landlord. So another point of order.

I have never been contacted. Staff copied me on an email sent to the business owner. Thank you for that, but I have never been contacted about any concerns with my existing license. To my knowledge, we are not in default. As I said before, I had a kitchen and the kitchen is not -- or was not opened all the time, staffed all the time. And in negotiating the contract, I said, you have a kitchen requirement. Okay, well, you are permitted to serve food. We won't put a requirement in there.

So the existing license does not expire until January of 2019. So I'm not sure -- I would like to find out why the license is up for discussion and I heard stuff about the kitchen, but I'm aware there's no

kitchen requirement. There's a lot of language in the 33-page license with default and cure periods for either party and notice, and again, I'm not aware of any concerns. So I negotiated the no food stip there. The city came and offered me a front patio in the parking spaces just like they did with Dos Gringos. I said I'm not able to fulfill those requirements, I don't take that license. They said well we need that because it's on the street. All right, I can't do that.

So I'm always available to city staff if there are any concerns or councilmembers if there are any concerns to talk about on this property. As a commercial property owner, again multiple properties in the downtown area and a Scottsdale resident, I hope that this is not a precedent setting for the city to arbitrarily pull licenses for review. Again, it's an existing license that's been renewed since Rockbar has been in there. I had two five-year renewal periods, though it's been renewed. So it's not in default.

Property owners and business owners base business models on contracts negotiated with whomever, or the contracts that they negotiate. If we can't count on the city to stick to their side of the agreement, just like we have to stick to ours, it becomes much more difficult to invest in Scottsdale and I hope that's not the precedent that we are setting here. Thank you.

[Time: 02:02:45]

Mayor Lane: Thank, Mr. Eby. No, I don't think we need anything further right now, unless there a question.

Court Rich: Can I respond to one thing with regard to the use of alleyway. I thought it was important.

Mayor Lane: Yeah.

Court Rich: The pictures of the alley way being blocked off, those were for permitted special events that the city has a special event committee, as you all know. The applicant went to that committee and has those, from time to time, approved. Fire and police sit on that committee and certainly would not approve something that created a dangerous situation. So I just wanted to clarify that for the record.

And then also just very briefly reflect on one comment that staff made. They said that there's no legal reason to cancel this and they told you that if you are canceling it, it is merely exercising your out clause and I guess I would look at your staff's determination that there has not been a violation and hope that that's a meaningful point when you are considering this.

[Time: 02:03:49]

Mayor Lane: Okay. Let's start with questions of the staff or frankly the lessee. Starting with Councilman Smith.

Councilman Smith: Thank you, Mr. Mayor. I think this may be coming to light because of comments I made when the applicant was here before us a few months ago. And in spite of the conversation, I think it's appropriate for us to take some action and I will explain why. First of all, I will go on record and saying, I support outdoor dining license agreements. I'm less fond of outdoor drinking agreements or if they are going to be outdoor drinking agreements, then I think they ought to say that. But typically the outdoor dining agreements that we grant in the city and the most recent one we did was, I think, back in October.

The recitals of the city are that we are committed to maintain and enhancing downtown to provide these community benefits and outdoor patios and similar amenities are important for tourists and prosperity, the heritage of the city. We are trying to create an ambience in the city and maybe we are awkward at doing it, but we are trying to create ambience of the outdoor dining and the casual lifestyle we have here in the city. I think was probably the objective back in 2004. This is one of the first outdoor dining license agreements that the city ever put in place.

I called the question a few months ago, what we hoped to have with outdoor dining and what we, in fact had for the few years and the previous setup where there was an existing kitchen was outdoor dining and it's what we stated in the preambles to the agreement in 2004, when we tried to recite what our objectives were. The licensor, that's the city, we are looking for a licensed area for outdoor food and beverage service, for food prepared inside the grill building, it doesn't say anything about grilling on the patio or bringing in food from the outside. It was clear what we wanted, what we expected and, in fact, what we had for a period of time.

The staff and others have made the argument that there's no violation of the lease, and to reach that conclusion they are relying on a line in the lease, 4.1, everything else that's required and needed and desired by the city, the applicant may serve food. Well, there's a lot of difference between what an applicant may do and what they shall do. I'm no lawyer on this. Just exercising what you may do, does not exclude you from what you shall do. I think there's clear violation of the lease.

I'm not singling this out to be arbitrary. I'm singling it out as the lease was entered into good faith to accomplish the desired and, we are not there anymore. Frankly, among the other 26 that Mr. Rich pointed out, if there are other situations where we have lease violations, I would be in favor of hearing from those and seeking correction or termination of those leases. So I don't think there's anything arbitrary. I don't think there's anything heavy handed. In fact, this lease has been going on for a great number of years without the city or anyone else calling attention to the violations. The fact that we are now calling attention to it is not arbitrary. It's just catching up with what we should be doing.

Somebody made the point that there is an automatic termination and that's true. I don't know where we came up with the 60 day clause, if that's what we want to in getting rid of the lease, give them 60 days. The license agreement is very clear, if you haven't met the permitted uses of the lease, it's an automatic termination of the lease. It's not 60 days or 30 days or anything else.

The statement was made that the lease is -- the options for the extension of the lease, it was originally

ten years, I think or five years and option periods have come and gone. The statement was made that these options were made, and we are in compliance. We can't find where the options were exercised. We don't even have evidence of that. Maybe the property owner has evidence of that. I think it is unfair to the citizens to take city property, and that's what this little alley is, to take city property and lease it to somebody, and not pay attention to the lease, whether it's violated or adhered to or achieving our objectives. We have the right, if it's not achieving our objectives, we have the right to terminate the lease. And as I said, the lease arguably is terminated on its own anyway. I don't -- I don't think it's arbitrary. I don't think it's heavy handed. I think it's something that's a responsible counsel to the citizens of Scottsdale, we should be doing and I would urge us to do it. Thank you, Mr. Mayor.

[Time: 02:10:04]

Mayor Lane: Thank you, councilman. Lest I step on anyone's toes on this, any other comments from the councilmembers? Excuse me. Pardon me. You know, as I look at this a little bit differently, I suppose, I'm concerned about the fact -- and this is not really to chastise the city or the city staff or even frankly past practices with regard to license and the way we have written them, the terms we have within them or otherwise, we do have a situation where there's someone who -- a property owner who has relied upon a lease that he felt was -- that he was operating within and every occasion where that didn't come up, of course, has come back to us and we have decided otherwise as was demonstrated just a few months ago.

This sort of by happenstance, I suppose, came up as a problem, and as we listened to it tonight, even though we may be dismissive of the lease language that says they may have food are from outside, that is just as much permissive from the standpoint of covering it, and it's even further demonstrated by the fact that if we were to choose to terminate this, it would be outside of the realm of what we were brought here to discuss. And it's been suggested, and I'm sure there is very, very valid legal reasons why it's suggested that we not terminate it on the basis of violations on the provisions that we are here to discuss. I have real difficulty with that.

Certainly there were a number of folks that don't care for these kind of operations, period, and so therefore, if we can find a hole in it, we will do it, and, you know, this particular establishment has been before us twice now, and in one case, they lost an effort on when they could have windows open and I'm not going to rehash that, but the bottom line, that was decided and I think we can have disagreements on, it but probably appropriately so under the circumstances of lease. In this case, I don't think -- I think that the lease is paid up. I think it's active. I think the lease language maybe is somewhat contradictory and maybe it causes for some concern, but I think by the advice we are receiving from staff, there's a clear indication that we don't want to be terminating it without exposing the city and thus the taxpayers to a problem, if we do.

But there's one thing that really stands out a little bit when we talked -- when Mr. Eby mentioned the fact that as a property owner, you talk with the city as to whether or not they would want this license in the property owners' name or the lessee and I would have to say that I certainly understand why they would want it in the property owner's name and thus that's the way it was. And if all things are

correct in the representations that were made by Mr. Eby, no notice was given to him, this is a fairly substantial issue for a property owner, and one that's renting property on the basis of a lease that he feels is active to turn around and then suddenly not even notify him of some deficiency or fault on that issue is patently unfair and it builds in and this is something we fight all the time, the gotcha moments in law. And I don't want -- I don't want to be a part of a gotcha moment or using the law somehow to damage somebody under maybe questionable circumstances.

So from what I see and what I understand here -- I will leave one final thing. That representations of violations and, in fact -- again, this is something that we are going to the testimony that's given here that is not subject to a fact check, but the pictures depicted now reported were a special event, where the city determined that it was okay. Good, better or indifference, or whether it's good for the city, that's the process that the property owner went through and apparently that's how it operated. And frankly, last time when we were discussing another matter, it was pretty obvious that it was a point of concern, the number of special events but nonetheless, it's demonstrated with that.

So I -- I'm for option one, I suppose, other than the fact that if, in fact the city wanted to straighten up the language, they might modify it. I'm not suggesting that right here but in the future, it might make it clearer and make the city's options in enforcement a lot easier without having contrary or contradictory-type terms within in it. So with, that I would go to continue the lease. Councilwoman Klapp.

[Time: 02:15:19]

Councilwoman Klapp: You covered most of the things I would say, but I would just emphasize that the property owner should have been notified about this hearing. I don't even understand why we have a council hearing when the property owner had to find out about it through an email. That seems incredible to me, as a business owner. I wouldn't want that to happen to me. I'm sorry it happened to you.

I believe that this problem directly relates to the conversation that we had months ago about the windows being open during live entertainment which we determined they should be closed, but in that conversation, there was a comment that there was no kitchen. But you are putting a kitchen in. That's probably the best thing, so you don't have to fight that battle about not having a kitchen.

But the real thing that occurred in that conversation was when we discovered that the tenant not only had his windows opened for live entertainment, but that he had special events 48 days a year, and that's when everybody's eyes got kind of big. Okay, so that means it doesn't matter in the windows are closed on the other days because on those 48 days when he has special events, the windows and the doors and everything are open. He's apparently blocking off the alley because he's allowed to do that in a special event period. I really think that's where a lot of these problems are and we'll have a conversation next week about special events.

So, you know -- and I think we can delve into that, but in my mind, that's really where a lot of the complaints and the arguments and about Rockbar have ever come from, have been all of these things

that take place there outside of the normal course of business. And yes, there's a dining license and my feeling is that you have a license that you exercise your options in the valid license. I would not take that away from you. But I do believe that the problem that was unearthed when we talked about the windows about the special events that are held there so often, and the noise permeating the neighborhood, I think that's really the crux of the problem we are dealing with here. It's not the outdoor dining license. It's that the neighbors don't like all the activities going on around Rockbar.

So bottom line, I would not take your license away. I believe you have a valid outdoor dining license. We will sit another day to determine what happens at events at Rockbar and other places.

[Time: 02:18:11]

Mayor Lane: Thank you. Councilman Phillips.

Councilman Phillips: Of course, we all sat at the last one where we didn't allow them to continue to keep their windows open. And actually what happened there a year ago it came to us, and I believe it was councilmember Milhaven that suggested give them a year's probation, which we did and then came up and we felt like, well, they didn't live up to the agreement, so we didn't let them open the windows. So here we are with the patio now.

And, you know, I have mixed feelings with let's see if we shut this guy down and send a message to the other bar owners to straighten up their act. And to the owners -- the property owner himself. You know, back when you had the choice of should you keep the patio lease or give it to the business, and you decided then to give it to the business, I would be revoking it. But we are revoking your property license for your tenant's problem. I don't know if you knew about your tenant's problem and I don't know how much you know about what's been going on in the past year and a half, about what they have been doing but that's really what everybody is upset about.

And in the interest of trying to be fair about this. Everybody is upset with Rockbar. If there is a way to get Rockbar to play fair and be above board, then maybe you wouldn't be here tonight. Just like we did with the windows, I don't know if we can ask staff if the same thing applies to the patio that we could give them a year's probation for rock bar to clean up their act, to do the necessary improvements and see if they improved and then that's when we would revoke it. Is that a possibility? Mr. Staff?

Public Works Director Dan Worth: Mayor, Councilman Phillips that would be a possibility if I knew what there was to correct, but it's -- there's been several things identified that could potentially be construed as violations of the license. We have not seen things in our opinion is a violation of the permit. I don't know what we would be asking them to correct.

Councilman Phillips: I have a list here of violations. You have seen the list of violations up there. Just because staff didn't address them, doesn't mean that they didn't happen. But what I'm saying is we can go back to that, and we can get with the rock bar and the property owner and say, you know, we'll put you on probation for a year but we'll come back in a year if you will correct these violations.



It's not a difficult thing. We did it with the window.

Mayor Lane: Councilman, I think this is a matter of you making a motion if you wanted to do that, if you wanted to offer that.

Councilman Phillips: Okay Mayor. I appreciate that. Maybe it's a matter of a motion that I can make then. I have a question as far as the 48 special events. You come to the city for the special event. Can I ask what you pay for the special event every time? I guess Rockbar is paying that.

Assistant City Manager Brent Stockwell: Mayor Lane, Councilmember Phillips, when a special event permit comes in for public property, there would be an \$87 pre-application and review fee and then the use of the -- it's \$246 for the public right-of-way.

Councilman Phillips: So about \$250 for every special event. With this special event, is there also language in there that says if something is violate, there's going to be a penalty or a fine?

Assistant City Manager Brent Stockwell: Mayor Lane, members of the council, Councilmember Phillips. There are typically stipulations along with the special use permit, depending upon the individual permit. It's mainly due to items that if you don't clean up the event -- where they involve notifications or things like that. There's not to the best of my knowledge any terms in those stipulations that would cause a fine if you violated it. That being said, typically what occurred if someone violated the stipulations of the special event permit, that would be grounds for revoking the permit, if it was going to happen four times or grounds for not issuing a permit in the future. That's typically the way that control of the city has over that.

[Time: 02:23:32]

Mayor Lane: Let me interrupt for a minute because this is a little off the agenda. I think if we were just talking about what the cost of recovery on a special event, versus a lease payment, that's one thing but getting into the details of enforcement on, that we are talking about the lease here on the property, and I think -- pardon me for interrupting on that, but it's really not a point of discussion here.

Councilman Phillips: Well, there was a point made about the value that the city gets back for this property. And that's included in the cost of the event, which is why I wanted to know it.

Mayor Lane: I acknowledge that. But getting into the details of enforcement.

Councilman Phillips: I'm not done, mayor.

Mayor Lane: Certainly.

Councilman Phillips: So I guess the point being, and you brought it up yourself, was could I make a motion that we put Rockbar on probation for a year and part of that motion being that they get with the landlord, and surrounding tenants who have problems with this and come back to the council in a

year. It's not a technical way to say it. I'm sure the city attorney has a better way to put it up. What I would like to see is the property owner and the restaurant owner and the city get together and work out a deal and then that deal will be probation for a year, and we'll see if it comes -- works out for everybody.

Mayor Lane: That's the form of the motion? The motion fails for lack of a second. Anything further councilman?

Councilman Phillips: No, thank you, mayor.

[Time: 02:25:15]

Mayor Lane: Councilman Smith?

Councilman Smith: Thank you, mayor. I want to clarify some things. I think the comment was made, probably directs towards me, maybe others, that there are some that just don't care for these type of agreements. I tried to make it clear I think outdoor dining agreements can be a real asset to our city. I think they can add to the ambience. They can add to the attraction of the city, to the feel of the city. This just doesn't happen to be that kind of an agreement.

I think somehow we are shying away from our fiduciary responsibility of the citizens of the city. The still has a lease, and the lease has been violated and in whatever way it has not been lived up to. I don't -- I don't understand -- I mean, I appreciate the fact that the owner says he never had any idea we were having a meeting tonight. I can't believe he didn't know somebody took the kitchen out of his building! I can't believe he didn't know that they were doing barbecues on the patio out there on the leased property. We haven't even talked about that. That's an expressed prohibition of the outdoor cooking. You take pictures of the outdoor barbecue. Whether it's the owner or the operate or whoever it is, there has just been an effort to thumb their nose at the city and that's thumbing their nose at the citizens.

Now we are saying, gosh, we should have notified them. We should have told them that somebody took the kitchen out. We should have told them that somebody is barbecuing them in the alley. We should have told them that they are supposed to be dining outside. I don't understand what we are interpreting as our obligation up here. I consider my obligation to the citizens of the city, but not the owner of the building. It's not the responsibility of the citizens to accommodate whatever things he wants to pursue.

So I'm obviously not of a mind to approve the lease. Among the choices -- I don't even think we have an exposure to litigation that was suggested, I guess, by you, mayor, that if we terminate the lease, gosh being somebody may sue us. Well, Bruce needs the work. He can handle the lawsuit. To me, it's clear, the lease is in violation. If somebody wants no modify that to a 60-day allowance. That seems to be the only choice among the three.

I will make a motion that we terminate this lease agreement. Thank you, mayor.

Mayor Lane: Thank you, councilman. A motion has been made to terminate.

Councilwoman Littlefield: I will second it.

Mayor Lane: The motion and all second. Would the second like to speak toward it?

Councilwoman Littlefield: A couple of things. I can't understand why the owner of the property, who this lease is in his name was not notified directly and quite a while ago when the problems first started. That, to me, is something that the city staff should make sure that the owner who holds the lease knows what is going on. But I agree with Councilman Smith. Our fiduciary responsibility is to the citizens, and we allow the public property to be put in their name. If it is not appropriate, if it is not following the rules, then it needs to stop. I have no problem if they come back and fix the problems with the licensing agreement and reapply, once they follow the rules and the laws, that's fine.

Mr. Worth, you asked for an interpretation of how we felt about whether we wanted the broad interpretation of the food portion of the license or the more narrow interpretation and I will tell you my view of it is a little bit more narrow than what you have been doing. That's just my suggestion. You wanted a viewpoint and that's it. I will support this motion. I have no desire to stop Rockbar from having an outdoor eating area, as long as they obey the rules and follow the laws. And protect the public property of the citizens of Scottsdale. That's all there is to it. If they do it, fine, come back and we'll okay it. Or I will.

Mayor Lane: Thank you, councilwoman. Mr. Washburn.

City Attorney Bruce Washburn: The agenda is for discussion and possible direction to staff. The termination of the license would be an administrative act. And so technically the motion is to direct staff to do administrative expiration of the lease.

Councilman Smith: I will amend the motion to whatever the city attorney said.

Councilwoman Littlefield: And I will second.

Mayor Lane: All right. Councilwoman Korte, would you like to speak? We do have a motion to staff for the termination of this lease. There is no further comment that I can see that been made and seconded. Those in favor of the motion to terminate or to give guidance to terminate, please indicate by aye. And those a nay.

Vice Mayor Milhaven: Nay.

Mayor Lane: The motion fails. Thank you very much, fails, 4-3. I do have that other one in there and so I'm really thrown. So okay. So that motion has been made. Now, Councilwoman Korte.

[Time: 02:32:07]

Councilmember Korte: I guess I have been in business too long that contracts can be or are followed to the letter of the law, and to the language. And I believe there a couple of things. Certainly the lack of communication with the landowner, and the tenant, and also the fact that the lease terms are very unclear.

So I would like to make a motion. To direct staff to present a modified O.D.L.A. to the licensee that would clarify under what conditions the licensee may continue to occupy the license area, the patio which is the patio, and I would like to see a requirement of a kitchen and a food service included in that modification.

Mayor Lane: I will second that, and just to further clarify, I think I understand you to be -- it really goes to the points of having a lease that is clear, concise, enforceable and frankly that the proper lessor of the property is notified and is frankly on notice when these things come up, any of these things come up, with regard to tenants or otherwise. That may jeopardize your position on the property. But I think that's incumbent in just the exact direction that was given by Councilwoman Korte. That's my second on that end.

Unless there's further conversation on that, I think we are ready to vote on that motion and this motion would be with as amended, as indicated by Councilwoman Korte, to proceed with guidance on the lease in the affirmative. Those in favor, please indicate with an aye, those opposed with a nay.

Vice Mayor Milhaven: Aye.

Mayor Lane: The motion passes 4-3, with Councilwoman Littlefield, Councilman Smith and Councilman Phillips opposing. So I think that concludes our guidance to this point in time, and -- and certainly thank you, everyone, for your input on this, and -- and staff. Okay.

### **ITEM 33 – RECEIPT OF CITIZEN PETITIONS**

[Time: 02:34:47]

Mayor Lane: Our next item, actually is the receipt of a petition that was discussed by Mr. Eubanks earlier. And I think everybody is familiar with it and has a copy of it in front of them. If I were to just make a point of order, I suppose on this, before we give direction, is that the very element that's incorporated within in this petition is something that we will be discussing in a week in our work study. So I don't know whether further direction is needed since we will be taking this under, other than I would -- I would make the recommendation that we take the items within the petition for consideration in that work study.

Councilmember Korte: Second.

Mayor Lane: So a motion has been made and seconded with regard to that guidance. Is that clear

enough?

City Attorney Bruce Washburn: No. I'm sorry, mayor. There's only three things you can do in response to a petition.

Mayor Lane: Okay. I'm giving direction to the city manager to incorporate these items within the petition within our work study considerations.

City Attorney Bruce Washburn: Okay. I'm sorry, but that's not one of the three things you are allowed to do. The three things you can do is nothing, direct the at the manager to agendize it at a future time or direct the city manager to prepare a report and come back to council.

Mayor Lane: Pardon me for wavering Mr. Washburn, but since we are having the work study, that's exactly the reason I put --

City Attorney Bruce Washburn: But the fact is -- I looked at the items in this petition and they are all within the language, the agenda language that's already setting up the work study. So you can talk about all of these at the work study.

Mayor Lane: Very good. I will amend it to say that we will take no action because it's already in process. Is that --

City Attorney Bruce Washburn: Thank you.

Councilmember Korte: And I second that.

Mayor Lane: Okay. Is that agreeable with either a nod or votes? All right. Very good. Thank you for that clarification. So then we are ready to vote on that direction of no action because we are already in action on the subject. All those in favor please indicate with an aye.

Vice Mayor Milhaven: Aye.

Mayor Lane: It's unanimous on that. So thank you. Now it's very important that we follow the procedural rules, Mr. Washburn. I think we had this conversation.

City Attorney Bruce Washburn: That's why I'm here, mayor.

**ITEM 34 – REQUEST TO AGENDIZE A DISCUSSION ON THE DISPOSITION AND USE OF REAL PROPERTY**

[Time: 02:37:23]

Mayor Lane: All right. Our final item is the mayor and council item and it's a request to agendize a discussion on the disposition and use of real property at the request of Councilman Smith and Councilwoman Littlefield. I will give you an opportunity, if you would like to add least speak toward

it, remembering this only to agendize. So if there's any explanation of what we are talking about, if one or the other want to mention that, but it's not to start the conversation. So there you go. That's clear. You can say whatever you want but don't open your mouth. Would you like to explain this?

Councilman Smith: Section 2-221 is the section that allows the city to dispose of property, whether it is land or buildings or whatever. And there are a couple of exceptions. Well, normally, it's by auction process but there are a couple of exceptions and sometimes we see these invoked but one is the sale to an adjacent property owner, as opposed to a sale by auction, and in other cases, it's an exchange of the property with somebody that has property that we wish to own and they want to own our property. Those two exceptions, the notion here is that we have a discussion of whether there is some limitation. The limitation by dollar amount or limitations by whatever are the rules on these two exemptions, because this is currently no limitation.

Mayor Lane: Okay. So if I could just, yours is a concern in that area, and that's what we need to discuss?

Councilman Smith: Correct.

Mayor Lane: Is that pretty clear?

Councilwoman Littlefield: We have had a couple of things come up over the past year, and there seems to be very little formalized procedures on how to deal with this, and I think it's worthwhile looking at. We have a great deal of land and value that we hold for our citizens and I think it's an important thing to talk about. It's merely a request to agendize.

Councilman Smith: If I may add, I don't have a personal preference whether it's an agenda topic or work study topic, it's whatever is the most feasible way to have this discussion.

Mayor Lane: I'm not sure what depth this would take. Well, I will tell you what, it will be your choice. I mean, if you want to make a motion one way or the other, it's fine to me either way, but I appreciate that.

Councilman Smith: I personally might direct a work study because otherwise, staff will say, I wonder what they want us to do, and this language is not giving any suggestion of what the limitations might be.

Mayor Lane: All right. I think that's reasonable. Do you want to make a motion to that effect then? You put it on the agenda, can we do that? Strict procedure. Does it allow us to agendize on to a work study?

City Attorney Bruce Washburn: Just vote on the item that's on there. However, I believe the acting city manager has heard the discussion.

Mayor Lane: Okay. All right. So essentially what Councilman Smith has said is part of the guidance if we agree with it. Is that --

Acting City Manager Brian Biesemeyer: That's correct.

Mayor Lane: And rather than try to take a vote on that, is that acceptable to everyone, or is there exception to that? Okay. Well, I guess we could if we had some formal -- on the basis of what Councilman Smith said, and I'm sure you want to second that attempt. Okay. Then we are already then to vote.

Vice Mayor Milhaven: I'm sorry, mayor, could you repeat the motion?

Mayor Lane: I knew that would come up, but thank you, councilwoman. We probably really deserved that. If Councilman Smith will go ahead and explain it again.

Councilman Smith: The motion -- well, let me say the preamble was concluding that the staff should be able to figure out the direction or come back with a response, but the motion specifically is that a discussion and possible direction to staff regarding amendments to Scottsdale revised code Section 2-221, particularly Section 2-221 (b) (1) and Section 221 (b) (5) and come back to the council on placing restrictions that allows disposition of real property interests without public auction.

Mayor Lane: Councilwoman Milhaven.

Vice Mayor Milhaven: Yes.

Mayor Lane: I presume you have that language in front of you and the only other issue is whether we use a work study or a council meeting. There's some consideration for that and we might just put that on the table as well.

Vice Mayor Milhaven: Thank you.

Acting City Manager Brian Biesemeyer: That's correct, mayor. I got it.

Mayor Lane: So all those in favor of advancing that, please indicate by aye or nay if you oppose.

Vice Mayor Milhaven: Aye.

Mayor Lane: It's unanimous that we will bring this forward then. All right, that concludes our agenda. If anybody wants to talk off agenda, it will be a violation, but, no.

**ADJOURNMENT**

[Time: 02:43:38]

I would accept a motion -- may we have a motion to adjourn?

Councilmember Korte: Move to adjourn.

Council: Second.

Mayor Lane: All those in favor of adjournment, please vote aye.