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CALL TO ORDER

[Time: 00:00:03]

Mayor Ortega: I call the October 22, 2024 City Council Regular Meeting to order. City Clerk, Ben Lane, please conduct the roll call.

ROLL CALL

[Time: 00:00:15]

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

Mayor Ortega: Present.

Ben Lane: Vice Mayor Barry Graham.

Vice Mayor Graham: Present.

Ben Lane: Councilmembers Tammy Caputi.

Councilwoman Caputi: Here.

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Ben Lane: Tom Durham.

Councilmember Durham: Here.

Ben Lane: Betty Janik.

Councilwoman Janik: Here.

Ben Lane: Kathy Littlefield.

Councilwoman Littlefield: Here.

Ben Lane: And Solange Whitehead.

Councilwoman Whitehead: Here.

Ben Lane: City Manager Jim Thompson.

Jim Thompson: Here.

Ben Lane: City Attorney Sherry Scott.

Sherry Scott: Here.

Ben Lane: City Treasurer Sonia Andrews.

Sonia Andrews: Here.

Ben Lane: Acting City Auditor Lai Cluff.

Lai Cluff: Here.

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

Mayor Ortega: Excellent. We have Scottsdale Sergeant Sean Ryan as well as Detective Dustin Patrick and Firefighter Bobby Kohnen if anyone requires assistance. I also saw the police chief here. So that's even extra protection.

PLEDGE OF ALLEGIANCE

[Time: 00:01:03]

Let's begin with the Pledge of Allegiance, Councilwoman Kathy Littlefield.

Councilwoman Littlefield: I pledge allegiance to the flag of the United States of America, and to the Republic for which it stands: One nation under God, indivisible, with liberty and justice for all.

MAYOR'S REPORT

[Time: 00:01:28]

Mayor Ortega: At this time, I wish to draw our attention to the ongoing wars in foreign countries where they are fighting for their freedom and democracy. Also, keep in mind our military who are deployed in these dangerous areas. And so, with reflections on their safety, let's pause.

Mayor Ortega: Thank you. Moving on, applications are being accepted until November 1st for openings in various Scottsdale boards and commissions, including Historic Preservation Commission, Loss Trust Fund Board, Neighborhood Advisory Commission and a recently vacated position on the Library Board. Residents who may be interested in volunteering may inquire for more information, please see the complete list and you can apply online at [Scottsdaleaz.gov/boards](https://scottsdaleaz.gov/boards). And search there, or under boards and commissions.

Next, we have a team of well-respected city employees, and they have an amazing role in our city. Scottsdale has very high expectations and we try to make sure that all properties comply to keep Scottsdale beautiful. We have a proclamation regarding the code officers and code enforcement in our city. So, I will read it here and then they will come forward.

Whereas the American Association of Code Enforcement was established in 1988 for the purpose of providing ongoing support for code enforcement professional in the United States; and whereas, Scottsdale's Code Enforcement, inspectors and code assistants are dedicated, highly qualified professionals who share the goals of preventing neighborhood deterioration, enhancing and ensuring safety, and preserving property values through knowledge and application of municipal zoning codes and ordinances; whereas, code enforcement often have challenging and demanding roles and should be recognized for the job they do and improving living and working conditions for residents and businesses in Scottsdale; and whereas, code enforcement is called to provide quality customer service and excellence because they care about the communities in which they live and where they serve.

Therefore, I David D. Ortega, 12th Mayor of Scottsdale, do proclaim October 2024 as Code Enforcement Appreciation Month. In Scottsdale, I encourage all Scottsdale residents to recognize and appreciate the hard work and dedication of the Scottsdale Code Enforcement team. And if you need them, dial 480-312-2500, and you will get a courteous referral. Why don't you come forward now. Thank you.

Mayor Ortega: So moving on.

EXECUTIVE SESSION

[Time: 00:06:49]

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

Also, per our own Council Rules of Procedure, citizens attending City Council Meetings shall observe the same rules of order and decorum applicable to members of the Council, ourselves and city staff. Any demonstrations and even applause would just interrupt the flow of the meeting.

Additionally, the Council recently updated our Council rules. Councils shall not use electronic communications while attending Council meetings and we do have approved devices for use to access our files and so forth digitally.

PUBLIC COMMENT

[Time: 00:07:55]

At this point, we will move on to public comment. Public comment is the opportunity for any members in the public to come forward, advocacy for or against a ballot measure during a Council meeting is not allowed. The purpose of public comment is to allow the public to speak their mind about any non-agendized item. However, it would have to be within the jurisdiction of the City Council. No official action can be taken on any public comment and speakers are limited to three minutes to address us. If you wish to speak, you could register with our Clerk. We have one request. So, asking Steven Allen Sutton. Please come forward and state your address, and you will see a timer there.

[Time: 00:08:39]

Steve Sutton: Mayor Ortega, Vice Mayor Graham and Councilmembers, my name is Steve Sutton. It's 6637 North 81st Street in Scottsdale. I'm a native Arizonan. I graduated Scottsdale High School. I have lived most of my life in Scottsdale.

Last time I formally spoke to all of you was three months ago. I informally spoke to three of you three weeks ago. Before I say anything more, like the Mayor, I want to thank the many Scottsdale public servants who have been very professional and helpful during the preceding three months. People in Parks and Recreation, Records, Planning, Risk Management, the City Manager's Office, the City Clerk's Office, the City Attorney Office, the City Council office and the Police officers who sit above and behind us here. My thanks to all of you.

I am here to mention that we now have the largest, longest in duration and still continuing act of civil disobedience in the city of Scottsdale occurring. I know it sounds incredible, doesn't it? Right now, as I speak, people are engaged in this act of civil disobedience. Hundreds of people are doing this every week. It is beyond doubt the largest, longest continuing act of civil disobedience in the city of Scottsdale's history.

Fortunately, several hundred Scottsdaleans are organized to end this civil disobedience with the dedication and acumen of the public and that of Scottsdale's public servants this behavior should end near the end of November. It will take the cooperation of public and public servants, most importantly, it will require city public servants to accept and agree to provide what so many of the people are asking them to accomplish.

Since I have a minute left, I would also like to add, I have been fortunate to observe over the last six decades that Scottsdale consistently has good leadership, and I'm very proud of my city. I'm a strong supporter of strong government and when I say strong government, I mean government that operates with an efficiency and a system that is inherently inefficient and we all need to remember that. I believe it was Otto Bismarck who once said that politics is like making sausage. It's messy. It's difficult and there's a lot of waste. I want to thank the Council, the Mayor, Vice Mayor for allowing me to speak tonight. And I thank you all for your consideration.

Mayor Ortega: Thank you, sir. Next, we have Barney Gonzales. Please come forward.

[Time: 00:12:04]

Barney Gonzales: Thank you, my name is Barney Gonzales. My address is 6349 North Cattle Track Road Scottsdale, Arizona, 85250. The reason why I'm here tonight is on behalf of the president of the Greater Phoenix Chinese Association her name is Helen Zhong. She's not able to meet and come tonight, but what we were doing is just notifying the city our intent to have a what we call a fall festival, all-Asian festival.

This is all inclusive and this will not only be for the Chinese community, but all the different Asian communities throughout the metropolitan valley of the sun. We tend to be use as many vendors as possible from the city of Scottsdale. We plan to do a net scheme of value; whereas, you know, after cost and infrastructure costs and everything for the festival, that we will be doing donations to the city 501(c)(3) corporations within the city limits.

The point that I guess the notification I'm trying to do is say that we're going to make application to this. We are actually looking to maybe try and do the fall festival during between sandwich it between the TPC and the before that, would be the Barrett-Jackson and we're trying to do that or maybe the first week of February or whatever venue we can establish at the time that, you know, worked with everybody. You know, the Chinese festival and everything, they themselves take about two and a half weeks to celebrate in China, the festivals so they don't have a real strong state start and date end. It's more on the lunar calendar, how they look at it and it changes from year to year. This is the year of the snake in 2025.

So, therefore we would just like to let the city know that we are moving forward with these plans, and that we hope that we can meet everybody's expectations and this with be a total cultural event for all the Asian groups, including the Taiwanese, Chinese, Islanders and things of that nature. Anyway, my time is up and thank you very much. And if you have any questions. Feel free to ask me anything.

Mayor Ortega: Well, thank you. At this point I would, and although you mentioned fall festival, whether it be spring or midwinter.

Barney Gonzales: Yes, it is the spring festival.

Mayor Ortega: Thank you very much.

Barney Gonzales: Thank you.

Mayor Ortega: And at this point, I would close public comment.

MINUTES

[Time: 00:15:19]

Next, we have an agenda item to approve the Minutes. I request a motion to approve the following: Regular Meeting Minutes of September 17, 2024, Special Meeting Minutes of September 24, 2024, Regular Meeting Minutes of September 24, 2024. Do I have a motion.

Councilmember Janik: So moved.

Councilmember Durham: Second.

Mayor Ortega: We have a motion and a second. Also note that that Councilwoman Whitehead is remote so please record your vote.

Councilmember Whitehead: Yes.

Mayor Ortega: Very good. We are unanimous and the motion carries.

CONSENT AGENDA

[Time: 00:16:01]

Next, we have Consent Agenda Items 1 through 21. There are accompanying files on all of these cases, and I do wish to point out that Item number 9 will be moved from the Consent Agenda to Regular Agenda. Also, there was a clarification on Item number 16 that was duly posted. So, I would for that item, it will be considered with the revision. At this time, is there anyone else who has a question about any Consent Agenda items? Oh, Vice Mayor Graham, go ahead.

Vice Mayor Graham: Thank you, Mayor. I had questions on item 10, Care Homes Text Amendment. Erin Perreault and Item 13, Mayor.

Mayor Ortega: So, we will have a staff member come forward and speak to those. So, describe the excuse me, at this point, these are just questions from staff, and we'll take a motion later. Go ahead.

Vice Mayor Graham: Thank you, Mayor. Oh, please, do you want to begin? Yes.

Vice Mayor Graham: I noticed in the packet, the Planning Commission had a divided vote. Could you share with the Council nature of the division?

Principal Planner Greg Bloemberg: Mayor Ortega and Vice Mayor Graham, I think this was just some hesitation because there was a letter submitted by an attorney at the time with several suggestions on what changes could be made to that particular text amendment. And staff, you know, was aware of the letter, and we informed the person who wrote the letter that it was beyond the scope of what we were proposing as part of the text amendment, and they just I think the Planning Commission was a little bit uncertain because of that letter. They thought this was some legal issue involved.

[Time: 00:18:18]

Vice Mayor Graham: Thank you.

Mayor Ortega: Okay. Carrying forward with the next item. And just a brief description of the Item itself.

Vice Mayor Graham: Yes, thank you. That was about the Care Home Text Amendment. And this item, item, Item 13 Mayor is conjection, conjection? Congestion mitigation and air quality improvement grant for the Goldwater Boulevard pedestrian and bicycle underpass at Scottsdale Road project. Hi Mr. Melnychenko.

Transportation and Streets Director Mark Melnychenko: Good evening.

Vice Mayor Graham: Do you, I guess you don't have any PowerPoint or slides for us tonight. I just can't, in the packet, I can't seem to tell where this is going to be a pedestrian underpass underneath Goldwater, is that correct?

Mark Melnychenko: We do have a short presentation if that would help with some visuals.

Vice Mayor Graham: That might be satisfactory if you would oblige us.

Mark Melnychenko: And what I would like to start off with is this is a really exciting, much needed project it connects the area that was bisected by the Goldwater underpass or overpass, between Rancho Vista and Chaparral. So, we have a disconnected sidewalk in the middle of downtown and probably one of our most active areas in the city. You can see the location here at the corner. And it's adjacent it's on the west side of Scottsdale Road.

Vice Mayor Graham: Very good.

Mark Melnychenko: And here is another view of an aerial of its location. And then also a rendering of what we look to accomplish with this underpass. It connects both disconnected sidewalks and it provides the amenities that are required in this area. And then I think we can go back to that. If there's any questions regarding...

[Time: 00:21:04]

Vice Mayor Graham: No. Thank you Mr. Melnychenko. I'm very excited about this program because that spot you know it's such a high traffic area, especially for tourism because you have so many resorts in that area. I just, if you can go back to that aerial or if you have, I can't tell from the aerial, under where under the road it will be burrowed. Where it will be carved out. Where is the entrance?

Mark Melnychenko: It's hard to tell on this aerial, but it is a short ways in. You can kind of see Scottsdale Road in this rendering. So, it's a short way in, but we are we'll be creating that a box underneath the underpass. We'll also put in lighting, art, landscaping and all to make it a completed project.

Vice Mayor Graham: So, is it going to go strictly underneath Goldwater Boulevard?

Mark Melnychenko: Pardon me?

Vice Mayor Graham: Is it going to be strictly underneath Goldwater Boulevard?

Mark Melnychenko: Goldwater.

Vice Mayor Graham: Okay. \$2.5 million, is that the original budget? Has that budget been revised?

Mark Melnychenko: The total budget which is in the CIP '24/25 is \$3,034,600. So, this this takes a large portion of that project funding.

Vice Mayor Graham: So, the lower amount you just showed on the screen that's only because it's a component of the whole project?

Mark Melnychenko: That is the total with the local match from the transportation tax, \$142,000 and the federal grant, but there are also other things that are included, some right-of-way purchase and that type of thing that are not part of this cost.

Vice Mayor Graham: Okay. Do you have to come back and get those approved from Council?

Mark Melnychenko: We may need at some point in time to do that, but right now, I think with the funding that we have, we're hoping to move forward.

Vice Mayor Graham: How long how long is construction on this project you think is going to take?

Mark Melnychenko: It you compare it to, let's say, the underpass being done at Chaparral...

Vice Mayor Graham: Correct.

Mark Melnychenko: That was an area where we shut the road down.

Vice Mayor Graham: That was my next question.

Mark Melnychenko: And gave them full access to the area, during three months in the dead of summer. This is in the middle of downtown, so I think the logistics are more difficult. So I think I would have to work more with C.P.M. on the exact timing of that.

Vice Mayor Graham: Okay. So you are not sure at this point.

Mark Melnychenko: Yes.

Vice Mayor Graham: How long do you think this project will take?

[Time: 00:23:45]

Mark Melnychenko: I would definitely say we would be doing the work in the off-season. We always try to do it to stay away from the events and the high activity season, but I would say four to five months.

Vice Mayor Graham: Are you going to have to shut down Goldwater, we were just kind of make talking about that or any of the streets?

Mark Melnychenko: I'm not quite sure of the utility impacts on the part of this project, there are some but we are working with water and other utilities in coordination.

Vice Mayor Graham: Kind of a tight space. Do you have enough space for staging, storage?

Mark Melnychenko: That will be part of the plan submitted by the contractor is to put together a staging area, we call it a marshaling yard so that will be part of the project.

Vice Mayor Graham: But you think it's not going to disrupt high season?

Mark Melnychenko: We are going to try not to, we try to do that in all respects on all of our projects to schedule them to minimize disruption for the public and our visitors.

Vice Mayor Graham: Very good. Last thing, we do a lot of overpasses in Scottsdale. Most of them are successful, sometimes they are not successful like the one on Shea and the one the Indian Bend that connects Seville to the McCormick Ranch Park. Are you familiar with the underpass on Indian Bend?

Mark Melnychenko: Yes, I know of it.

Vice Mayor Graham: Well that one is widely considered unsuccessful, would you agree with that?

Mayor Ortega: You know this subject is not what we are talking about right now, I will allow it, but, please, we can talk about other projects and other parts.

Vice Mayor Graham: Well, thank you, Mayor.

Mark Melnychenko: I don't have the numbers on the use of that so I couldn't answer that question well.

Vice Mayor Graham: It's widely considered unsuccessful because people don't know it's there and it's you know it's uncomfortable experience. I was wondering if you studied sort of the demerits of that project to make sure we don't repeat that for Goldwater underpass?

Mark Melnychenko: Part of our way of improving our whole network is we have a new wayfinding signage program that we are implementing. We have done it on a portion of our network thus far and that would be part of, say, the new underpass on Goldwater.

[Time: 00:26:01]

Vice Mayor Graham: Are you talking about people using technology to find the underpass?

Mark Melnychenko: No, they would be wayfinding signs showing the type of usage ahead and how this facility can connect.

Vice Mayor Graham: Thank you. Thank you, Mayor.

Mayor Ortega: Thank you. You can stay there. I really appreciate this project is coming forward. It is 94% funded by the federal government. And the other portion is our own transportation tax. So, when you look at the value for safety and the aesthetics that are proposed. It's very outstanding. We pay billions of dollars in funds for state and federal taxes. So, I commend the group to get the funding and have this done.

Sometimes, you know, projects are measured they are not really measured as months of construction. This is measured in decades of service for this area. We have plenty of access to Fashion Square. There's no concern about that because the next road over has the light. So, there's some inconvenience, but in the end, people will have safety and that's what we are looking forward to. Thank you. With that, I would I see no other Council people to speak or have a question.

I would, at this time I move to approve Consent Agenda Items 1 through 8, and 10 through 21 with Item number 16, 16 pertains to the Scottsdale Art Walk Palette event funding. There is a slight tweak on that. It was posted and is available. My motion for Consent Agenda Items would include the revision of Item

16. I'm also making note that Item number 9, again, is moved to the Regular Agenda. So, I move for the approval of Consent Agenda Items 1 through 8 and 10 through 21 as I just stated.

Councilmember Janik: Second.

Mayor Ortega: Thank you. Motion and a second. Anyone wishing, I see no one else wishing to speak. Again, Councilwoman Whitehead is remote. Please record your vote and we will follow up with Councilwoman Whitehead.

Ben Lane: Councilwoman Whitehead, can I get your vote on the Consent Agenda?

Councilmember Whitehead: Oh, I'm sorry. I was on mute. Yes.

Mayor Ortega: Thank you, we have unanimous. Moving forward.

REGULAR AGENDA - ITEM 9

We will go to the full presentation for Regular Agenda item now number 9, and then we have Item 22 also on our Regular Agenda. We have Greg Bloomberg representing staff and on Item number 9. Proceed.

[Time: 00:29:27]

Principal Planner Greg Bloomberg: Yes, thank you, Mayor Ortega and Vice Mayor Graham and Councilmembers. I'm here to give you a very brief presentation for Case 19-ZN-2002 Number 12, the Crossroads East Zoning for the Legacy North project. The site is located at the northwest corner of -or it's the 76th Street ultimately, this is 76th Street and/or Miller, depending on what your recollection is, and this is Legacy here. The Grayhawk community is directly north, and there is a well site to the west and the rest of that property around that area is owned by the state. Just a close up look of the location for you.

So, the request tonight is for affirmation and finalization of the zoning district boundary for the subject site, and if it's approved, the zoning would be Planned Community District, P-C, Multifamily Residential, R-5. There is no zoning change requested with this application. It simply fulfills the zoning adoption required for the zoning district that was assigned to this site by the state at auction. The auction notice includes the zoning that's designated for this site. So, this is simply an administrative action to get the zoning in question.

The project in question did receive DRB, Development Review Board, approval on January 18th of this year, 18-DR-2023. Again, if the application is approved, the zoning on this site will be P-C R-5. That concludes staff's brief presentation. I'm happy to answer any questions you may have and I know the owner is also here and may want to speak with you as well.

Mayor Ortega: Okay. We will proceed to hear from the applicant and then I will go into public comment and then any questions or motion from the Council.

The Dinerstein Companies Jessica Cassolato: Thank you, Councilmembers My name is Jessica Cassolato, I'm with the applicant, The Dinerstein Companies, and I want to start off by apologizing up front to the community and the residents. There was no intention to deceive the residents in the surrounding area. So, we sincerely apologize if there was perception around that.

And also, to be clear, we don't feel that we misrepresented what's going the subject in question is essentially what's going on between the buildings that are on the north side of the property, and the property line that is adjacent to the Village of Grayhawk that Greg just shared with us.

There's nuances between, what is an easement and what is a setback, and I understand that for someone who is not in the development world or planning world, that that might be a bit of a gray area. And I think there was some misunderstanding there when we were responding to some questions that came through from residents during the process.

So, to be clear, the required setback per the zoning is 10 feet and we are actually proposing an enhanced 25 feet easement that provides for pedestrian and bike access that connects into this future regional trail system. So, I wanted to be clear there. And I also wanted to be super clear that we want to work with the community and residents. We are not a developer that doesn't work in the areas where they are wanted. It's very torn have good relationships with our residents and the stakeholders in the community and we feel that we have addressed that through the appropriate forums which going through the Design Review Board process was our community engagement and community meetings as well as, you know, going through the Design Review Board process and getting those approvals.

So, through the Design Review Board process, we responded to neighbors. We placed the buildings further away from the property lines than we were required under the zone as I have pointed out.

[Time: 00:34:01]

We proposed lower density than what the zoning allows, and we even responded to comments from the residents about headlights facing into the Villages of Grayhawk community and planned 3-foot decorative seat walls to address those comments. And so, you know, we feel that overall we're complying with the zone and the development regulations under that zone and two, we worked with the community and the process that's outlined through the Design Review Board and I think very importantly, with relied on the Design Review Board process and the Design Review Board's decision on the project and the due process that went along with that and so, you know, respectfully, we do not feel that this zoning allocation and adoption process is the forum to address design related items because that was the Design Review Board process and that process has passed and the appeal process has expired. So we are requesting that the allocation of the zoning is processed tonight.

But all that to be said, we are happy to work with the residents that have specific concerns related to

this and come to a private understanding of what exactly will be programmed between the buildings and the property line along the Villages at Grayhawk and I'm happy personally, I will sit down with those residents, review our landscape plans and we are happy to come to a private understanding on any landscape screening that they would like, if they want to rework the kind of lineage for any of those trails to kind of create a better environment from their perspectives. We're absolutely happy to do that. But we do not feel that that is necessarily the the jurisdiction or, you know, what's in play for the decision tonight. Thank you.

Mayor Ortega: Well, good. Stand by. You have another five minutes. So, we appreciate your presentation. At this point, I'm going to open I will open public comment and then we'll go on to any questions by our Council. We have Richard Szawara here to speak on this from the public. Please come forward. Yes, thank you. State your place of residence and you will see a three-minute timer there.

[Time: 00:36:32]

Richard Szawara: My name is Richard Szawara. I'm at 19700 North 76th Street, Unit Number 2037 Scottsdale. I am directly adjacent to the property in question.

First of all, I want to ask did all of the start out by thanking the Mayor and all of the Councilmembers for the opportunity to provide this comment. Did all of you get the document that I submitted? Did anybody not get that? Okay, I'm just going to kind of summarize then. I appreciate that the developer doesn't believe that there was deception, but it all started with the letter we received. That was dated June 28, 2023, which said you are providing a 25-foot easement. As a layperson that's not familiar with all the details with all of this, the assumption is that there would be that 25-foot easement and no part of the development would be in that easement, to include patios. So, there was no reason to provide public comment or public input, because the developer had been forthright with saying we are giving you 25 feet.

In addition, there were representations made at the DRB meeting, and where you commented that there would be that 25-foot easement. No mention of patios encroaching. So, what I'm asking is that the Council, the city of Scottsdale enforce the stipulations. There are stipulations that were made for this development that there would be a 25-foot easement. I'm just asking for that. And I realize that you have a variance of opinion about what has happened here. But the public has been deceived. If the public would have known that we had the patios encroaching that easement, there would have been much more comment. We didn't know it was there. We didn't find that out until June, and then the community and then the information was communicated to the city of Scottsdale. I will answer any questions you might have.

Mayor Ortega: Thank you, sir. Are there any questions? Yes, Councilwoman Janik.

Councilmember Janik: Thank you, Mayor. So, in your estimation, had it been disclosed that there would be patio encroachment into that 25-foot easement, you feel that there would be participation from your condo owners at the DRB meeting; is that accurate?

Richard Szawara: Yes, and I believe some of those provided comment through electronically today. Unfortunately, there was a short window to do this. Yes, I believe there would have been significant public comment. You have to remember that easement is there for, I think from the from the neighbors' point of view to provide a buffer for noise, for light pollution, for plants, trees and I appreciate what the developer said, but the patios appear to be encroaching 10 feet and then a path that's 8 feet and trail that's 6 feet that totals 24 feet. That only leaves 1 foot for the vegetation.

Councilmember Janik: Okay. Then when did you start communicating with Planning Department concerning these issues and why do you feel or how do you feel that this issue was not maybe properly defined over time?

[Time: 00:41:39]

Richard Szawara: Well, I didn't find out about it until June, when the developer finally disclosed that.

Councilmember Janik: Okay. Would you say that the city maybe could have done a little bit more to clarify all of these issues?

Richard Szawara: Well, yes in hindsight I mean I wish the Development Review Board would have looked more closely at that. Unfortunately, that didn't happen.

Councilmember Janik: Okay and I would summarize it in that you can't object to something, if something isn't disclosed and I think that probably is the biggest problem with with what we see going on here. So, thank you. Thank you for your presentation.

Mayor Ortega: Okay. Councilman Durham.

Councilmember Durham: Thank you, Mr. Mayor. Once we sort of had the outside edge of the 25 feet, how close would that be to your residence or other residences?

Richard Szawara: My residence is 22 feet from the property line.

Councilmember Durham: So, there would be and is that the back of your property or the front of your property?

Richard Szawara: That's to my back balcony. Patio right below me is the lower unit. I'm in the upper unit. These are condos.

Councilmember Durham: How big is that patio?

Richard Szawara: I would have to estimate, 8 feet by 8 feet, maybe 10.

Councilmember Durham: So, like, that could be 20 feet from their patio, something like that?

Richard Szawara: I'm not sure I'm following your question.

Councilmember Durham: Well, I'm just thinking if they have a 10-foot patio, that leaves 15 feet to the property line and then I'm thinking the property line from the back of your units to the property line.

Richard Szawara: Yes, it would you are to remember there is an 8-foot path and a 6-foot trail.

Councilmember Durham: Right, but I'm counting that as part of the...

Richard Szawara: Yes, but that only leaves one foot for vegetation, trees.

Councilmember Durham: Right, but possibly the other party could reach an agreement where they put vegetation on your side of the property. I don't know if that's what is being suggested or not.

Richard Szawara: I'm not aware of that.

Councilmember Durham: Mr. Bloemberg. Can I ask a question of Greg?

Greg Bloemberg: Certainly.

[Time: 00:44:34]

Councilmember Durham: We had a similar case, I think, where a year or two ago where there was a complaint about patios into an easement and I think the conclusion that was reached in that case was that patios were permissible in an easement. I'm sorry I can't remember the details of that case. Perhaps you can remember what it was.

Mayor Ortega: Attorney Scott, please.

City Attorney Sherry Scott: Mayor and Councilmember Durham, I don't know of the specific case that you are mentioning, maybe Greg does. My understanding of this easement is it's a nonexclusive easement that's part of this project's property. So, it's a nonexclusive easement meaning, it's very different from city you know, just standard city right-of-way and that's why in this instance, it was determined that the patio could legally encroach into the nonexclusive easement.

So, the issue, I don't know if other cases would be apples to apples but the city's legal department did look at that issue and did determine that it would be okay for these patios to encroach into a nonexclusive easement. So, I do think that it's important for the public to understand and for this citizen to understand that there is a difference between a setback for the property, a setting back from the property line, and a nonexclusive easement.

Councilmember Durham: So, if the patios are allowed into a nonexclusive easement, the presentations before the DRB were not necessarily misrepresentation, because if that were allowed, it's more just a

misunderstanding?

Sherry Scott: I feel badly if this citizen didn't understand. Clearly it impacts his property more than others. I feel very badly about that. I certainly wasn't at the DRB. So, I can't comment on what was represented to the DRB, but it's my understanding that the patio placement was approved as part of the DRB process. Whether or not that was understood by everybody at the hearing, I understand that there's some debate about that. But that's my understanding, and I wasn't there. So, I would like Greg to correct me if that's incorrect in any way.

Greg Bloemberg: I would concur with the city attorney's summary of that. I think she's right on.

Richard Szawara: Can I make a comment about that, oh I'm sorry.

Mayor Ortega: You have the floor still.

Councilmember Durham: I think I'm done.

Time [00:47:46]

Mayor Ortega: You know, at this point, I would like the I have one question, and it is for you. Is there any trail easement on the where these condos are? So, the outer perimeter wall you have is right at your property line, is that generally speaking.

Richard Szawara: Yes, there's no trail on our property.

Mayor Ortega: Sometimes our property from time to time, there may be a question at the time of purchase to provide that. So, thank you very much. We will close the public testimony and if you could respond to any question. Oh, Councilwoman Janik, go ahead.

Councilmember Janik: Thank you. I think the problem is that there was somewhat of a lack of disclosure on this type of easement and when questions were asked, it became very murky. So, I would like to make a motion to continue this to the first meeting in November so that the two parties can get together and work out their differences. Jessica seems very willing to talk to the people involved so week clear the air, for I would just say misunderstanding and hopefully come up with a resolution. So, again, I would like to make a motion for a continuation.

Mayor Ortega: I second that.

Councilmember Littlefield: I will second.

Mayor Ortega: Now for a continuance motion. You may sit down sir. The applicant has an opportunity to speak because we haven't voted on the continuance yet, but please come forward and speak about the continuance.

Jessica Cassolato: Unfortunately, I'm under, we are under a contractual obligation that requires this zoning adoption occur at this meeting before financial closing that's scheduled to happen next week. And so, I don't have the opportunity unfortunately to be continued. So, I respectfully request that we make, or we come to a decision tonight, but I'm on the record, committed and willing to meet with you, Richard to talk through this so we can come to a solution. We in no way want the community and the residents around us to be unhappy.

Mayor Ortega: Well, I will withdraw my second to the motion and we can take as much time as is necessary if someone else wants to second a motion for continuance in light of what is being said.

Councilmember Janik: May I ask another question?

Mayor Ortega: Sure.

Councilmember Janik: Okay, what day is your closing on this?

Jessica Cassolato: October 31, 2024.

Councilmember Janik: Do you feel it would be possible to have a meeting with the representative from Grayhawk prior to October 31st to hopefully come to a better agreement on this?

Jessica Cassolato: I'm committed to meeting prior to October 31st and preferably this week.

Councilmember Janik: Okay. Then I will change my motion to a continuance to October 30th, then just a well stipulation.

Mayor Ortega: You have to make a motion to approve with a stipulation that the parties we have no control over that.

Time [00:51:44]

Councilmember Janik: Correct.

Mayor Ortega: That they should meet. That they cannot control that. Let me so at this point, I'm just going to call on the City Manager to tell us what the score is here. It's my understanding that they are in either permit process on this or very close to being issued, based on the DR Board approval. So please brief us on this.

City Manager Jim Thompson: Thank you, Mr. Mayor, members of Council. A couple of items, if I may, while we are here before you this evening is to really look at the community planning district, which was approved for crossroads east back in 2018. During that time when that was approved it gave an allotment of different zoning rights and so this area here is the last piece of puzzle where we have to define the map of the area for the zoning class that they desire to have, which in this case is the P.C. and

the multifamily, the PC-R5.

The other portion of this, it's not a request for zoning change. It's not a request to review the DRB, because that was approved as well. It's limited to approving the map. So, that's the specific request in front of Council associated with the approvals that were actually granted in 2018 and then the DRB case which approved the design, which was on January 18th of this year. So really what we are here for in many of the state land pieces that we have along the 101 and in north Scottsdale, where they were approved, in this case in Cross Road East, they were approved an overlay of certain zoning. And in each parcel as it comes forwards gets assign that portion of it and so this is the last piece of that Crossroads East that needs to be assigned.

So again, all we are doing is approving the zoning district boundary which finalizes the current zoning and acreage identified in the original land use budget that was approved in 2018 and so it's not relevant to per se the project.

Now, to address the question on when we go through our approval process at the staff level, we will certainly take into consideration everything we heard this evening, the commitments by the applicant, as well as the concerns of the resident to see if we can find a good landing spot for all concerned associated with that but I wanted to just reiterate that we're somewhat limited this evening on what additional things we can and can't do because it's really assignment of a map and not the project specific and not the DRB approval and not the zoning which already all occurred. So, thank you.

Mayor Ortega: Well, thank you very much for clarifying that. Would anyone else like to speak.
Councilwoman Littlefield, Vice Mayor Graham.

Councilmember Littlefield: Thank you. Well, we're very limited tonight on what we can and cannot do. It sounds like, but I would like to make a request, and hopefully the my fellow Councilmembers would agree with me on this that you meet this gentleman and his neighbors and work out some sort of hopeful chance of making everybody a little happier, compromise of some sort and see that if that can happen before construction actually starts and before you actually get going on that I think it would be easier to do that before you start rather than during so is you could meet with this gentleman and some of his neighbors and some of the people interested in talking with you, that would be very helpful.

Time [00:55:48]

Jessica Cassolato: We are committed to doing so.

Councilmember Littlefield: Thank you.

Mayor Ortega: Okay, Vice Mayor Graham.

Vice Mayor Graham: Thank you, Mayor. I want to agree with Councilmember Janik and Councilmember Littlefield, this it's a big project. I think this episode has kind of disappointed us. At least I speak for

myself but I'm surmising that feeling is widespread. So I really hope that meaningful conversations can happen with the resident and that something meaningful, you know, beyond what we want to, we hope, we didn't want people to feel that way, a little bit more beyond that would be the desire of this Council. Thank you.

Mayor Ortega: Okay. With that, I would move to adopt Ordinance Number 4655 affirming the zoning classification approved as part of Case 19-ZN-2002 Number 6 and finalizing the zoning district boundary for approximately a 20-acre property located at 7550 East Legacy Boulevard as Planned Community District with P-C comparable Multi-Family Residential District, P-C R-5.

Councilmember Durham: Second.

Mayor Ortega: Okay, we have a motion and a second. The discussion is pretty well completed, and we really appreciate all the input we have tonight. Please record your vote.

Councilmember Whitehead: Yes.

Mayor Ortega: Thank you. The motion carries 6-1, with Councilwoman Janik opposing.

REGULAR AGENDA – ITEM 22

[Time: 00:57:36]

Next, we will move on to Item number 22, the National Forest Foundation Agreement. Gretchen Baumgardner is our Water Policy Manager, and we also have an opportunity for public comment. At this point, proceed Gretchen, thank you very much.

Water Policy Manager Gretchen Baumgardner: Thank you, Mayor and Council it's good to be here tonight. Yes, my name is Gretchen Baumgardner, I'm the Water Policy Manager for Scottsdale Water. And tonight, with me I have Rebecca Davidson, who is with the Senior Director for Conservation Programs for the National Forest Foundation.

So tonight, we are going to be talking about our water supply as it pertains to watershed health. And, you know, I commonly come here and talk about the Colorado River with you folks. Every four to six months we talk about conservation programs and what has happened with other portions of our supply. And so tonight we're actually going to talk about the instate supply, the Salt and Verde supply, not very far from us but a really important part of our diverse portfolio. It's a different water resource. The water shed that is above us gives us 20% of our surface water supply, but there are components that we had partnered with the NFF through the Northern Arizona Foundation to make sure that that supply and that forest is healthy. So, one of the things that have been affecting the supply and the forest fires and Rebecca will talk about that in a second. Over the last couple decades the pattern that we've seen in the forest and fires and what it does to our water supply in the forest themselves. You will see that water quality is affected by a recurrence of bigger and more fires. It affects our treatment

processes, it affects our chemicals necessities, it affects our budget, but it also affects our water supply itself. There have been vast studies that talk about the forest health and how that really affects the water supply that comes down the stream. That fourth bullet there talks about the sedimentation that happens up on the Verde side. I came and presented to the Council many times about the Bartlett Dam stakeholder group and how SRP and the Bureau and the other 22 other stakeholders are looking at that supply and how we can find additional ways to utilize it and find more supplies.

One the reasons that we're here tonight is also to be good stakeholders to showcase to other stakeholders upstream how we're stewards of that supply as it comes down to us.

So, us and many other providers, including city of Phoenix, another big provider, and SRP, the National Forest, APS, and 30 other corporate sponsors are in collaboration to find ways to continue with forest health as we walk through an uncertain future.

So, since 2016, Scottsdale has been a good partner in this and some of the risk mitigation that the NFF looked to really do on the forest is to minimize the erosion and the sedimentation, to minimize the damage that happens with these forest fires, the risk, the post risk, and then just the general habitat and so Rebecca is going to talk about a little bit more in detail some of the ins and outs of some the projects that our money and other stakeholders' funds can really bring to the watershed.

So, before I turn it over to Rebecca and we talk about water supply, 31% of the west is forested and 65% of that public drinking water comes from. So, when we talk about Scottsdale and the Phoenix metropolitan area, our water supplies come from the forest. So, it's important to be good stewards of the upstream. And with that, I will turn it over to Rebecca.

[Time: 01:03:28]

National Forest Foundation Senior Director of Conservation Programs Rebecca Davidson: Thank you, Gretchen. Mayor, City Councilmembers, I'm really happy to be here tonight to talk to you about our long and enduring partnership with the city of Scottsdale. So as Gretchen indicated, there's a lot at risk with water supplies across the west, and that's really the same here in Arizona, and specifically when we're looking at these watersheds that serve the city of Scottsdale, and all of the other valley cities as well. And so, over the last few decades, you see here in this slide, is the rate of fire that has increased in scale and scope over the last couple of decades. And I want to mention that fire is an important and natural part of Ponderosa Pine ecosystem, these places where our watershed and our water supplies comes from.

However, that scale and scope is increasing and creating more and more damage and more impact, which also impacts the water supplies as we move downstream. And so, again, this is something that we're dealing with across the west, and certainly here in Arizona and in the watersheds that serve us.

So, there is a ray of hope. We're not doom and gloom. We've been working under what we call the Northern Arizona Forest Fund for almost 10 years now, it started as just a baby idea and we have grown

and we're really proud of the impact that we are having across the watersheds and really grateful to partners, including the city of Scottsdale, that believe in what we can do and believe in helping support the green infrastructure that really supplies the water here.

And so, we are working under this fund which is essentially a fund aggregator. So, through the city of Scottsdale, and through other partners, we're able to leverage every nonfederal dollar with federal sources of funding and other partners to do even more on the watershed. And so, we're really excited to say that this, again, has been successful, though there's all work to do. And over last ten years, we've funded a number of projects with 100 donors over five national forests, investing more than \$20 million. And with the city of Scottsdale, we have completed 11 projects. So, between 2016 and current, the city of Scottsdale has invested \$480,000 which with we have leveraged almost \$4 million. So, every nonfederal dollar is so important for the work that we're doing here, which is almost a quarter of the total investment. So, the Scottsdale funding leverages other funding, which does even more on the landscape. S

Do, I just wanted to point out a couple of really key cumulative impacts that the work that we're doing on the ground supports. The acres of treatment for the high-fuel landscapes where there's a high risk of fire. So, by doing this work, we are reducing risk of fire, not down to zero, because fire is natural, but certainly to mitigate the impact of these severe the severe systems that fires bring to us. We are, as Gretchen said, focusing on sediment reduction in our system. And so, we are working on projects to specifically reduce downstream sedimentation and erosion, and we're really thrilled with the benefits of that work. I will talk in a couple of slides a little bit more about that. And we're also working to replenish water to systems that have been degraded over time by millions and millions of gallons annually.

[Time: 01:05:20]

So as an example, we work and track our work every year. So, in 2023, we invested about \$10 million, we have reduced wildfire risk in the areas that we treated between 30 and 60%, again, not down to zero, but enough to really mitigate that severe risk, and we've reduced sediment transport by 40 tons in the project areas that we work.

And so, to give you a sense of 40 tons of sediment that's about the weight of a humpback whale. So, imagine a humpback whale coming downstream. That's what we are trying to do here is reduce that sediment coming down and keep it upstream, keep the water is supposed to be.

The other thing that I really want to give a shout out and that we are really grateful for is the city of Scottsdale helping to catalyze a program we call Wood for Life, and this is a program where we have our forest restoration projects. With are required to remove that wood from the forest to reduce wildfire risk, but in many times and places there's not a lot of market value for that wood and we have to find other ways to use the wood. So now we're able to move that wood from the forest to tribal communities who are in need of heating supplies. So, we are moving the wood from the forests to tribes across northern Arizona to help support their community needs and to support the needs on the forest. So, it's really been a win-win program of work. And the city of Scottsdale helped us leverage that and

catalyze that program and we are really proud of that work that we are doing that.

This gives you a snapshot of projects we are doing across the watershed. We are founded and committed, and we are really excited about our work on the Salt and Verde. Gretchen mentioned some of the conversations that you are having on the Colorado River supplies through our growth and through our work, we are starting to work in areas that are adjacent to the Salt and Verde, so helping to reduce fire risk across entire landscapes which then flow and benefit the flow on the Salt and Verde.

So, the kind of projects we're working on include invasive species work and other land recovery activities, community benefits projects, water restoration, sediment elimination and then, of course those fire mitigation projects.

So, I will give you just a snapshot, a quick snapshot of two projects that we're really thrilled that the city of Scottsdale has helped invest in. This is called the Little Green Valley fen. It is a relatively small high elevation wetland up on the Salt River watershed on the Tonto National Forest. And though it's small, it really is a huge benefit for the water shed function as a whole. It acts as a sponge. It helps ensure that we have groundwater infiltration. It continues to allow water to flow perennially, and over the last many decades, this particular wet meadow has been impacted. It's been head cut. All of that soil instead of staying on the landscape is moving downstream. And we're working with a number of partners to invest in protecting this watershed and this particular meadow so that we can support and regenerate that kind of water restoration into the system. We're estimating that this work on this small 80 acres will renew about 120 million gallons of water into the system each year. And so, this is just this small system alone.

Another really important kind of project that helps support sediment and erosion reduction is through our work on Oak Creek. As you may know, Oak Creek is a significant contributor to the Verde system. And so, what happens in Oak Creek has a direct connection to what happens downstream into our water ways and sediment across national forest lands is a largely contributed by roads and trails. So, they're not super-sexy projects, trails are fun because people have access, but what we are doing here is minimizing sedimentation through unauthorized trails where people park along Oak Creek and just sort of jump down into the creek, and what they're doing is creating sediment conduits directly into the system.

So, by restoring these unauthorized trails and rogue trails, regenerating a natural landscape, we are improving water resiliency. So, sediment is not moving downstream into our reservoirs and directly improving water quality because turbidity as you probably know is a direct source and conduit for e. coli.

[Time: 01:10:35]

So, we are looking at how we can reduce impacts to water quality and improve long-term water sustainability through projects like this. So, we're estimating with the program of work, we've conducted about a 99% reduction after we hit all of these trails across this particular project. We hit 300 trails.

We're still gaining access through improving resiliency and sustainability of trails that also exists so we're not cutting access off but really trying to create a system that works better for everyone and reduces that sediment loading. Gretchen.

Gretchen Baumgardner: So, in summary, I'm here a lot talking about things that are pretty scary and trying to figure out tools to lock in the future and make sure our community is resilient. So, it's really nice to be here tonight and talk about one tool, there's many that we're going to have to approach into the future, but this is one tool, how we keep the watershed, the in-state watershed healthy and how we can be a partner with several corporations and organizations and cities. As we reduce, so, we split this fund between my budget and water quality because it's this marriage between conservation supply and water quality and many areas of water intersect. This is just a really great project to move forward in that marriage. So tonight, I'm asking you to approve Resolution 13207, Contract 2024-147 in this agreement with NFF.

Mayor Ortega: Thank you very much. I would open public comment, seeing there's no request to speak for public comment. I do want to take an opportunity I see so many benefits for both upstream and downstream. So, it's wonderful. I do want to call on Councilwoman Whitehead in case she may want to weigh in with a comment.

[Time: 01:12:34]

Councilmember Whitehead: Thank you. Very good presentation. Thank you, Mayor. I really appreciate this presentation and the work that's being done. So, I'm supporting this.

Mayor Ortega: Thank you. Councilmember Durham.

Councilmember Durham: Thank you, Mr. Mayor. On page 12 and 13, we list some of the partners. And the only other is city I can see is Phoenix is listed. Are the other cities in the valley carrying their share of this?

Gretchen Baumgardner: So, I will also let Rebecca jump in too. So, we have been partners with the NFF since 2015. And back in 2015, there were other NGOs in the forest watershed game. So, everyone chooses who they participate with. So currently, it's us and Phoenix. I can't speak for some of the other cities and who they are participating with. I know we're having conversations with other cities and trying to get them on board. We can talk to Rebecca; do you have any comment on that one?

Rebecca Davidson: Yes, thank you for that. We had partnerships with the city of Peoria, the city of Mesa and the city of Glendale, but as Gretchen indicated, for a while, there were a lot of players in this field, and some of those partners with the other cities did go to other partners to support their work. That being said, you know, the city of Scottsdale and the city of Phoenix are longstanding, enduring and really important partners for our program of work. So, while we are absolutely continuing to work with other partners, and we would love to see the other cities come back to the Northern Arizona Forest Fund, we're just starting to kind of reboot those conversations and working with the Salt River Project as part

of that conversation.

Councilmember Durham: Thank you.

Mayor Ortega: Do I hear a motion. Councilwoman Littlefield.

[Time: 01:14:49]

Councilmember Littlefield: Thank you, Mayor. Yes, this is something I wholeheartedly can agree with, and I think it helps our entire state, not just Scottsdale but all of us who live here and need water.

I would like to move and approve, adopt Resolution 13207 to authorize Agreement Number 2024-147-COS, with the National Forest Foundation to provide funds and supports to improving the forest watersheds that are critical to the city's water supply. And number two, the Water Resources Executive Director or designee to execute any such documents and take any such other actions as necessary to carry out the intent of this resolution.

Mayor Ortega: Second. We have a motion and a second. I see no further discussion. Please record your vote.

Councilmember Whitehead: Yes.

Mayor Ortega: Thank you. We are unanimous.

Gretchen Baumgardner: Thank you.

Mayor Ortega: Please stand by for a picture with our Council. Don't leave too soon.

PUBLIC COMMENT

[Time: 01:16:03]

Next, we have an opportunity for public comment. Second opportunity for the public to come forward. Seeing none, I would then close public comment.

CITIZEN PETITIONS

We also have an opportunity for citizen petitions. Seeing none, I would close Item number 23. We have no citizen petition request. At this point, I request a motion and a second to adjourn our meeting.

Councilmember Janik: So moved.

Mayor Ortega: The motion and second.

Councilmember Durham: Second.

Mayor Ortega: Please your vote.

Councilmember Whitehead: Yes.

Mayor Ortega: Thank you. We are unanimous and we are adjourned.

ADJOURNMENT

[Time: 01:16:39]