

Minutes of the Special Meeting of the Mayor and Council of the City of South Tucson, Arizona, held Wednesday, January 22, 2014, at 6:00 p.m. at the City of South Tucson Council Chambers, 1601 South 6th Avenue, South Tucson, Arizona.

Council Present: Paul Diaz
Miguel Rojas
Mary Soltero
Ildelfonso Green
Vanessa Mendoza
Oscar Patino
Anita Romero

Staff Present: Luis Gonzales, City Manager
Veronica Moreno, City Clerk
Joel Gastelum, Planner
William Lackey, Police Chief
Dennis Rankin, Police Dept.
Edward Cajas, Sgt. Police Dept.
Marilyn Chico, Housing Director
Andrea de Castillo, City Attorney

Mayor Diaz called the meeting to order and led the Pledge of Allegiance.

ITEM #03 – INVOCATION – Councilman Patino led the Invocation.

ITEM #04 – ROLL CALL – All members of the Council were present.

ITEM #05 - APPROVAL OF MINUTES: SPECIAL MEETING, DECEMBER 16, 2013 – Motion by Councilman Rojas to approve the minutes of the Special Meeting of December 16, 2013. Seconded by Councilwoman Soltero. Motion passed unanimously.

ITEM #06 – RESOLUTION NO. 14-01 OF THE MAYOR AND COUNCIL OF THE CITY OF SOUTH TUCSON, ARIZONA, APPROVING AND ADOPTING THE CONTRACT BETWEEN THE CITY OF SOUTH TUCSON, ACTING ON BEHALF OF THE SOUTH TUCSON HOUSING AUTHORITY AND DESERT VIEW PAINTING FOR THE PAINTING CONTRACT FOR THE PROPERTIES MAINTAINED BY THE SOUTH TUCSON HOUSING AUTHORITY, AUTHORIZING THE MAYOR, THE CITY MANAGER AND/OR THE SOUTH TUCSON HOUSING DIRECTOR TO EXECUTE THE AGREEMENT – Ms. Chico

explained that the Housing Authority had originally awarded the contract for painting of exterior buildings to BCK Coatings. The contract must be rescinded as BCK could not come up with the required bond. Desert View Painting, the second lowest bidder, is interested in the contract and will honor their original bid amount. Ms. Chico assured the Council that HUD is aware of this situation and approves of selecting Desert View Painting as the contractor. Motion by Councilman Rojas that Resolution No. 14-01 of the Mayor and Council of the City of South Tucson, approving and adopting the contract between the City of South Tucson, acting on behalf of South Tucson Housing Authority, and Desert View Painting Contractor, for the painting. Seconded by Councilman Green. Motion passed unanimously.

ITEM #07 – SEXUAL HARASSMENT AND SENSITIVITY TRAINING SEMINAR

– Mr. Gonzales explained that all City employees will attend a Sexual Harassment and Sensitivity Training, including Council and all supervisors. Chief Lackey addressed the Council and explained that all City employees and volunteers are mandated to attend the training. He introduced Officer Billotte, Training Coordinator for the police department. Officer Billotte distributed policy and procedure manuals, and conducted the sexual harassment seminar.

Motion by Councilman Rojas to adjourn the Special Meeting and convene into Study Session. Seconded by Councilwoman Mendoza. Motion passed unanimously.

ITEM #08 – STUDY SESSION: MAGISTRATE COURT – DELINQUENT PAYMENTS PRESENTATION BY CHIEF MAGISTRATE JUDGE RONALD WILSON – The following is the transcript of Item #08:

Mr. Gonzales: Under the Study Session, you're going to have two items. They're both related, however separate. As you know, the City, as I've mentioned to most of you, is that we have some liabilities that are incurred because of what we call Accounts Receivable; that's debt to the City which has not been paid. In our case, we have one issue that deals with the courts. The other one deals with the City administration. So the first one we're going to go over is the courts. As you know, the latest items that we're dealing with in the court is transform the court into a community court. One of the issues that we've had is that there are a number of fees and fines that are owed to the court. It's a large number. We just recently changed the system of collections from, moving in from the City over to the courts because the courts have a system of collections with some tools on how to retrieve some of those funds that the City does not. So we're in that process now and I'd like, the Judge is going to give

you some information regarding what that particular debt is, how it's going to be addressed, and what that process is going to be. It's important that you understand this because on the City side, you, when this, Javier does the presentation, you'll see that there are some things that we're already doing to try and enhance the collection process. And in the last few audits, that you have your annual audits that you've had, on the City side of the collections area, the finding by auditors where we are lacking in terms of an actual system that is efficient enough to be able to take care of that item because what happens is you just continue to add liability that goes from one year to the next. It just continues to build. So that's a piece that I think will be the most interesting to you. In the courts section here, you'll find that that's already in process. There has been some collection agencies that have been hired by the court over the last nine years perhaps. But then that is also going to have a change. I'll leave it to the Judge to go over that. I'm sure that you will allow the Council to ask any questions in between, interrupt you if they wish.

Judge Wilson: Absolutely. Thank you, Mr. Manager. Mayor, members of the Council, what you have before you is a very brief presentation that myself and Ms. Christie Regan have put together. Ms. Regan is the collections manager for the Arizona Supreme Court. And I want to go through the document very quickly. If you have any questions, please feel free to ask any questions today. Or if you can think of any questions later, feel free to call me or come by the office or send me an e-mail. If I can't answer your question, I'll contact Ms. Regan and hopefully she'll be able to answer your question. One of the things that's a little bit different about the court outstanding balance is that the courts fines, fees, and restitution are sanction that are imposed as a result of a guilty plea or conviction. And so the Supreme Court views fines, fees, and restitution and they put fines, fees, and restitution in the same category as probation or jail. And they consider it a punishment as a result of someone being found guilty of committing a crime against the State of Arizona or a specific victim. So I want to make sure that we understand the difference between what a fine means and what restitution means and what a fee means as defined by statute. Okay? And I listed on the first page the two titles in statutes that refer to fines and trial courts in our jurisdiction to collect fines for those who've been convicted or plead guilty to misdemeanors or felonies. Right now, if you'll look at the Table A, the current payment profile, those offenders who plead guilty or who are convicted of misdemeanors in South Tucson is, in terms of payment profile, about 5% pay their fines immediately, which means that as soon as the fine is imposed, they pay that debt. About 95% of the people are requesting a payment plan. Okay? And a payment plan is what it sounds like. The people have an outstanding balance; maybe \$100, \$500, \$5,000, and then they make monthly payments usually on the same day every month, like February 22nd or January 5th. If they want to change the date for some reason, we allow them an opportunity to change the date. So if, for instance, we originally tell them that they need to be

on the 22nd of each month because that's the day in which the fine was imposed, but for some reason the 22nd doesn't work because the dates that they're getting their checks, or all their bills might be due on that same day, we'll be willing to move that date back or forth for them to help them out in regards to being able to make their payments to us. In Table, do you have any questions about that, either the statutory authority of the court to impose fines for those convicted of committing criminal misdemeanors or anything regarding the payment profile, the 5% that pay on time, or the 95% that request a payment plan? If not, if you'll look at Table B, the Table B payment plan offender profile, now what we do for everyone who requests a payment plan, to the best of our ability, is we give them what's called a Financial Affidavit. A Financial Affidavit extracts certain information from them regarding their residency, their employment, their assets, size of their family, their expenses, and then based on that Financial Affidavit, a payment plan is designed that's going to allow them to stay in compliance with the court order. The last thing you want to do is set people up for a failure. And so we have a Financial Affidavit, approved by the Arizona Supreme Court, that they fill out. Based on the results of that Financial Affidavit or the information that they fill out on the Financial Affidavit, we determine that about 5% of the people requesting payment plans are financially stable. Doesn't mean that they're rich or wealthy, it just means that they have the ability to pay and that they'll probably make their payments on time and they'll make whatever the minimum monthly payment is that they agreed to. However, if you'll look, about 90% of the people that we currently have on payments plans are either unemployed, and that's based on Federal Poverty guidelines that were published in 2010, they're either unemployed, have no job, or there's residency issues where they have no social security number, no address, they're headed to prison, they're homeless, there may be citizenship issues, etc. So if you'll notice, about 20% of our people fall into that particular category. All those categories added up equal 95% or 100% of those who are on a payment plan. Do you have any questions about that? If you turn to page 3, this is a chart that details the current fines, fees, and restitutions that we have outstanding. Right now, there are 4.5 million dollars that we've assigned to private collection agencies. And those collection agencies are Valley One and Alliance One. Those collection agencies have been working with the City of South Tucson for the past several years to try to retrieve any outstanding debt that we send, any outstanding balances that we send them. And currently, they've got about 4.5 million dollars in their system that they're trying to collect. About \$655,000 is, right now, pending assignment. And what that means is the Arizona Supreme Court has put a hold on that. They are requesting, they can't order, but they are requesting that we do nothing with that \$655,000 because they want it. And I'll tell you why they want it and what they plan to do with it in a second. But that's on hold, so we can't do anything with that until after this meeting I get some direction from you. And then there's about \$412,000 that are in the payment plan system. So these are people who are in good standing with the Court. Their total outstanding balances equal about

\$412,000, but they're making monthly payments on a timely basis. That's why they're not in collections, because our collections policy is if a person defaults, if they fail to make a payment and they have not requested a continuance and 30 to 60 days has lapsed after we've attempted to contact them, then their payment automatically goes to default and sent to one of the two collection agencies that we've been working with over the past several years. And so the total that we have in penalties that are monetary outstanding right now is \$5,492,000. Any questions about that?

Councilman Green: Before it goes to collection, are you having any review hearings or cause hearings?

Judge Wilson: Well, yes and no. We send out letters to individuals, letting them know and reminding them that they have a payment that's due, and let them know what their payment due date is. We'll call them oftentimes to let them know, not all the time because that's a staffing issue, and then the defendant has an opportunity for a review hearing or to submit a motion where they can actually come in and explain their circumstances. So if they know that they're not going to be able to make a payment, or if they know they're going to miss a payment, they can come in and submit a motion explaining that there are some mitigating circumstances or there's something going on in their life and they would like that monthly payment to be excused or they'd like an extension for two weeks, 30 days, sometimes 60 days. We've gotten requests even up to 6 months from people who are going into detox or who signed up with the Salvation Army or, you know, other type of program to get their life together, and asked that the payment be pushed back until after they get out of the program.

Councilman Green: And what percentage would you say that you try to contact of these before they go to collection?

Judge Wilson: I couldn't tell you, to be honest with you. I know everybody who misses a payment is given a contract. And the contract is a payment plan that explains to them in detail what the terms of that contract are, where the payments are to be made, when the payment is to be made, and what the consequences are if they fail to make a payment. And every defendant who enters into a payment plan signs that contract. In addition to the contract, they also receive a minute entry which again has details and lists what their rights are, the agreement that they entered into, and what they should do if for some reason they cannot honor the terms of that agreement. So for the most part, the burden is placed on those who've again been convicted of these crimes, who've plead guilty to these crimes, to notify the court either of a change of address, or any situation that might change regarding their ability to remain compliant with the sentence. We do the same for those sentenced to jail as well. For some reason they can't go to jail on the day that they agreed to report to the jail, we'll give

them an opportunity to come in and request a new court date so that a warrant for their arrest is not issued for them not reporting to the Pima County Jail at the time that they agreed.

Mayor Diaz: Judge, on the \$412,000 that's in payment plan, will that figure go down eventually?

Judge Wilson: Yes and no. It would go down if we never put anyone else on a payment plan. Eventually, that \$412,000 would hopefully be paid off in full. But as people are paying off their fines, new fines are being put into a payment plan. But there are a couple different ideas that we have that we're discussing with the City Manager as part of the Community Court Program. One of the suggestions, Mayor you actually offered in regards to, and this involves educating these offenders who are requesting a payment plan on financial literacy. Many of those who request payments don't have checking accounts, don't have bank accounts, don't know how to manage their money, they're living from paycheck to paycheck, they have accounts with the check-cashing places. And so what we would like to do is before we put them on a payment plan, have them participate in a training much like the officer presented today, for half an hour or 45 minutes so that a professional can actually help them manage their money, and help them figure out how they can actually pay off their fines and at the same time, pay for their insurance, pay for their registration, pay their mortgage and any other debts that they have. And so that's one of the things that if we, and when we move forward with the Community Court, one of the programs we will be able to offer to those people who are requesting payment plans and our hope is based on the data we receive from the Department of Treasury, Federal Department of Treasury, the amount of people who end up defaulting will reduce significantly, close to 80% because we're educating them and we're empowering them and we're giving them the tools that they need to manage their money, fines, all the way to the food that they're purchasing.

Councilman Green: I have 2 questions. You say we are going to try to, who is we?

Judge Wilson: The Court.

Councilman Green: Okay. The Court.

Judge Wilson: Yeah, the Court, ...

Councilman Green: Okay. So ...

Judge Wilson: ... so we have a person on staff. And again, part of the Community Court Program, there's this module that's called Moral Reclamation

Therapy. And within this module there are a number of different classes that we can provide in the courtroom, or in the library, for free or at very little cost to the defendants because there is a booklet and materials just like Officer Billotte had provided. And an exam at the end to make sure that the people are learning the skills that we're teaching them. And that we can measure the success and if there are certain flags that come up at the end of the class, we can revisit it to make sure that they're getting it. So that's something that the court would have, a service that the court would provide.

Councilman Green: And the second part of the question would be, it says the \$412,000, or in current payments, that's the total amount? What portion of that \$412,000 are you receiving monthly?

Judge Wilson: Oh, I don't know.

Councilman Green: So it could be \$10?

Judge Wilson: Well, it's not \$10.

Councilman Green: No, I know. I know, but.

Judge Wilson: And I would say it varies from month to month. You know where we see the largest increase in the amounts that we receive is around, when people are getting their tax refunds. So the highest amounts, in terms of us receiving payments, is around the, around now, February, March, April. That's when you'll see the spike. But it varies, you know, it really varies from month to month. I haven't noticed any particular trend in terms of, you know, what each month looks like. But I can say that this time of year is when we're supposed to receive the largest amounts of payments.

Mayor Diaz: Excuse me, but Mr. Gonzales, do we have a record of that as far as financial?

Mr. Gonzales: I couldn't hear very well. Could you repeat it?

Mayor Diaz: Are we following that monthly any way as far as ...

Mr. Gonzales: No. As a matter of fact, Mr. Mayor, members of the Council, we are trying to put a, get a handle right now on how all of that is actually recorded. What you have here is a situation where a debt agency that does collections, who sends out a report to the court with a check attached. But in that report, as I understand, I haven't seen one, but from, as I understand the process, it then delineates out those accounts of the individuals who owe. The court then assigns that to those individuals. Once that check then goes over to the City, the

City then deposits that based on an amount of money that comes directly to the, to the city for the court fees that are paid. So there is no breakdown from our end. So we don't know exactly how much that is. We both need, if we can probably get a report from the agency itself that will give us a breakdown. That will be our next step to determine what that might be. Having said that, we're in the process of basically not engaging two agencies any more. So we don't know whether we'll be able to get that information or not.

Mayor Diaz: Because ...

Mr. Gonzales: But my intent is, is to continue looking further to try and answer some of the questions that you're asking because those are the same questions I've been asking the last couple of weeks.

Mayor Diaz: But it's, the ones that are currently in payment, the ones ..

Mr. Gonzales: Yes, ...

Mayor Diaz: ... that are ...

Mr. Gonzales: ... yeah.

Mayor Diaz: ... paying now ...

Councilman Green: They're here, ...

Mr. Gonzales: Oh, that's ...

Councilman Green: ... right?

Mr. Gonzales: ... a different category.

Judge Wilson: In terms of who's currently making payments, I'm not aware of a report that we can produce to tell you who is currently making payments. But that doesn't mean there is not one that, you know, doesn't exist or we can't find one. And so I can look into that. But we can tell you what the total amount ...

Mayor Diaz: Yeah, that ...

Judge Wilson: ... (inaudible) ...

Councilman Green: That's where ...

Judge Wilson: ... (inaudible).

Councilman Green: ... we're looking.

Councilman Rojas: Just a total amount.

Councilman Green: We don't care, with the names, you know. What percentage of the \$412,000 is being paid monthly?

Judge Wilson: Oh, I'm sorry. (Inaudible) ...

Councilman Green: If it's ...

Judge Wilson: ... (inaudible).

Councilman Green: ... ten thou-, or \$10, you know, like I was joking, or \$100,000, you know, out of the, you know.

Judge Wilson: I apologize.

Councilman Green: Oh, no. That's quite alright. No, that's quite alright.

Judge Wilson: It's, yes, it's the fee book that we produce every month.

Councilman Green: Yeah. Okay.

Judge Wilson: It's, yes, I can produce that on a daily basis. I can tell you how much is being paid every day.

Councilman Green: Okay.

Judge Wilson: And I can tell you how much is being, I can, we can even create, if you wanted to know from February 1st to April 12th, we can produce that document to show you how much money we received in total, that ...

Councilman Green: (Inaudible) ...

Judge Wilson: ... amount ...

Councilman Green: ... (inaudible) ...

Judge Wilson: ... (inaudible) ...

Councilman Green: ... basic spreadsheet, ...

Judge Wilson: Yeah.

Councilman Green: ... yeah,

Judge Wilson: But it's going to include some people that are in payments, some money that's been sent in from collections, some people who paid in full. But, and so breaking that down, that's what I thought you were looking for.

Mayor Diaz: You know, and ...

Judge Wilson: I, I ...

Mayor Diaz: ... it's ...

Judge Wilson: ... apologize.

Mayor Diaz: ... also in your current information that you should be receiving as far as the quarter budget and half year budget, it should be in there also.

Judge Wilson: So it's the remittance report (inaudible). Yes, sir.

Councilman Green: Okay. Thank you.

Judge Wilson: We do that and we can get that for you.

Councilwoman Mendoza: Yeah, I do have a question. I think because I'm more stuck on the people who are in collections versus the people who are actually paying. And I guess my question would be is there any other consequences that these defendants face, like warrants out or, you know, seeing as though they're not paying these court fines, I mean and they're in collections. So I, I, for some reason, I'm stuck on that part because that's the part that, I mean, obviously it's a significant amount and I don't know how the court system works, and whether or not they face any other consequences. I think I'm concerned about that.

Judge Wilson: Yes.

Councilwoman Mendoza: And maybe you can answer those questions.

Judge Wilson: Thank you.

Councilwoman Mendoza: Whether they do or not.

Judge Wilson: Councilwoman Mendoza, this wasn't scripted, by the way. But if you turn to page 4, it will answer your question and address exactly your

concern, as that is a concern of mine as well. The current process that we use with the debt collection agencies only allows for letters from the debt collection agency to go to the defendants indicating that they have this outstanding balance and then they could, I don't even think, do anything other than send out those letters. We're proposing that we move to a new program that's called the Fines and Restitution Enforcement Program. And this is something that's monitored and administered by the Arizona Supreme Court. So if you turn to page 4 of your document, you'll see that in the very first part of the document, it says "authorization". And these are the statutes, the administrative orders that explain and authorize what's called the Fines and Restitution Enforcement Program. So it's statutory. Next, below that, you'll see the background. And it details, Councilwoman Mendoza, all the things that you would like to see and I would like to see happen for those who have outstanding debt. So they would conduct, they would provide notice, they would conduct skip tracing. They could suspend people's driving privileges. They would have outbound collection calls. There would be credit bureau reporting. They would garnish people's tax returns at the State level. They can also put a hold on a person's vehicle registration. So there are several different things that the Supreme Court can do that the current private vendors can't. And so I have the same concerns that you have. And after talking with the City Manager, we are recommending that the court move from sending our debt to private vendors, to sending all of our debt to the Arizona Supreme Court and putting it in the fair program. And we worked with, and we've been discussing with the Supreme Court, a proposed timetable to make that transition. And there are other benefits, automation benefits, if you'll look on page 5, in regards to cutting costs associated with collection, if we automate the system rather than what we're doing now is, is, it's faxing minute entries and information to the collection agencies. And so we'll also be automated. This allows the Arizona Supreme Court to capture information and immediately dump it into the collection system so that all these triggers begin to go off in a certain timeframe so that they provide the notice, they make the phone calls, they give people an opportunity to respond. If they don't respond, then the consequences get progressively more severe. So that based on their recommendation, the likelihood of someone paying off that fine and coming into compliance increases significantly because you can see that they consequences are going to impact their job, their tax return, their ability to drive, their ability to get their car, you know, registered. And those are consequences that the current private vendors can't impose. And so an excellent question.

Councilwoman Mendoza: So we're just not doing that. We haven't done that at all? South, the City of South Tucson has never engaged in any other alternatives other than to just send them to a private collection agency?

Judge Wilson: The only alternatives available are private collections or the Fair Program. And so the Fair Program is being phased in. There are a couple

different things the Supreme Court does, because it's their program. What they do is they phase these programs in throughout the State on a timeline that is usually ten years. Like our operational reviews, for instance, those are every ten years. So they have to get through every court, updating our software. That's something I'm trying to work with them now, computers, printers. We might not get updates for five or six years. This Fair Program is fairly new and there are some significant problems with it when they first created the program, I believe, back in 2003. And so they ran pilots with courts that they identified primarily out of Maricopa County, different sizes, to find out what the potential problems are. They could test it, get feedback from the courts, from the defendants, from the different providers, and then try to tweek it to work out all the kinks. And then once that was done, I believe they completed it in about 2006, 2007, they phased it in throughout the city, or excuse me, throughout the State. And as you probably know, you know, South Tucson unfortunately, the court is no exception, you know, we're often at the bottom of the pecking order because of our size. And so we were not listed and we were not supposed to be on the list of having this program incorporated for another couple of years. And so I contacted the Arizona Supreme Court this summer, explained to them, you know, what we were trying to do here with the Community Court, the Council's interest and willingness, you know, to work with us to try to, you know, improve our access to justice. And because of the conversations I had with the Supreme Court this summer, they fast-tracked us. So now they are offering us this program. They're the ones that identified the numbers. They're the ones that provided the information and since it's an option that the City has, they wanted me to make this presentation to you to get your approval before we engaged in any next steps in regards to the timeline. Because they want to make sure, even though the Supreme Court is a governing body, you know, for the Magistrate Court, it's your money. You know, the fines don't go to the court. They go into the General Fund. And so, and they can't impose or dictate to the Mayor and Council what you do or don't want to do with that, those fines. And so they're recommending that the Mayor and Council provide some direction and feedback regarding us either staying with Option A, which is the current private vendors, or going with Option B, which is submitting all of our past balances and outstanding debt, and putting that in the Fair Program. And they can do that with the click of a button. And then from this point forward, any future debt that the court accrues would go into the Fair Program.

Councilman Patino: On page 3, you're going back from 2002 to 2014, on the 2002, do we have cases going back that far back? Is there a statute of limitation for people that have to pay? I mean I'm just.

Judge Wilson: Councilman Patino, that's an excellent question. One of the issues that we're going to have to decide upon, and I can work with the City Attorney and work with the City Manager on this, is that we need to create some

guidelines and policies. The City needs to create a public policy on how far back you want to go in outstanding fines. Because there is no statute of limitations. When a person commits a crime and they're convicted of a crime, they plead guilty to a crime, the sanction remains in force, in full force and effect, unless the judge suspends, sets aside, or they satisfy the judgment in full. So it can stay there indefinitely. And I have some suggestions on how we might be able to alleviate some of the concerns that I'm sure that you may have and work with the City Attorney and the City Manager on that in regards to maybe creating some policies. For instance, you know, when I met with the auditor this morning, I told him one of the things that I would like to see is for all debt to be forgiven for anyone who was born before 1890. He thought it was a novel idea. He said, he suggests that we forgive the debt of anyone born in the early 1900's. And then we said, you know what? Let's forgive the debt of anyone who is over 100 years old. So that was one of the things that we just tossed out. We also talked about forgiving the debt of anyone who owes us less than \$5 or \$10. Because the amount of money that it would take for us to try to retrieve \$5 or \$10, ...

Councilwoman Mendoza: To send a letter out.

Judge Wilson: ... it's going to be more. So we could come up with a table and a list of different types of cases, different types of fines that we would be willing to suspend. But they want us to make it public, give the people an opportunity to respond, and make any suggestions. But those are just a couple of the things that we could do to address some of the debt. Because there is no statute of limitations.

Councilman Patino: And what is the percentage that the contractors, the collection agencies are getting?

Judge Wilson: They had ...

Councilman Patino: And how much comes to, back to the City?

Judge Wilson: Councilman Patino, another excellent question. What they do is they add 20% to whatever the outstanding balance is. So if we send them a fine for \$100, they'll send the defendant a bill for \$120. When they pay the \$120, the debt collector keeps \$20 and then they send the \$100 to us. We then keep 15% and send 85% to the State.

Councilman Patino: So for all that, we wound up getting \$15?

Judge Wilson: Yes, sir

Councilman Patino: Okay.

Judge Wilson: Which is an issue that we will address in future Council meetings as we transfer into the Community Court.

Councilman Green: And the reason we receive 15% of it is?

Judge Wilson: Is because the base, the statutes ...

Councilman Green: It's A.R.S. instead of City Code?

Judge Wilson: Yes. And that's something that we're working on and we'll be addressing ...

Councilman Green: The Arizona ...

Judge Wilson: ... (inaudible).

Councilman Green: ... Revised, yeah, it's A.R.S.

Councilwoman Mendoza: And with this Fair Program, it comes directly to the court and then we, or it goes to, how does that ...

Judge Wilson: With the ...

Councilwoman Mendoza: ... (inaudible) ...

Judge Wilson: ... Fair Program, ...

Councilwoman Mendoza: ... (inaudible)?

Judge Wilson: ... excuse me, they, I believe the amount that they add to the outstanding balance is only 7%. I can check, double-check on that, but I believe it's only 7%, not 20%. And then they will send us the \$100 and then we remit the \$85, you know, 85% back to the State and keep the 15%.

Councilman Green: And if it was a City Code, what would we keep versus, and what would we send to the State?

Judge Wilson: Councilman Green, it depends on how the code is written but it could be up to 100% that we keep.

Councilman Green: So basically, I think the rule of thumb is 80%, 15? Or 80/20?

Judge Wilson: For the most part.

Councilman Green: Okay.

Councilwoman Mendoza: And that's the City Code that you have been discussing?

Judge Wilson: It's the Community Court structure that we've been discussing; fines versus fees, where rather than assessing fines for certain violations, we would give people an opportunity to pay a fee that would be pretty much the same as the fine. But 100% of the fee would stay with us. And then it allows us more control, allows the City Attorney more control over what happens with those cases in terms of pre-disposition, allowing them to perform community service, go to counseling, treatment, things of that nature. And then if they do not comply, we can impose a fine or a sanction where there would be the 15/85% that's split. So those are some things that we're discussing.

Councilman Green: So under the Community Court, if I'm understanding you, you're stating that we're going to do City codes? Convert A.R.S. codes to City codes?

Judge Wilson: Okay. Something that we're talking about or something that we're discussing but I would, we would have to get direction from the City Attorney regarding if we do make that transition, you know what does that look like. You know, do we have to rewrite the codes? Can we cite to A.R.S. and reference A.R.S. and that's something that, you know, she would have to research and provide some direction to Mayor and Council. But it is something that we are exploring.

Councilman Green: Yeah, cause that's one of the things that I've been asking for, I guess, since my first (inaudible) so.

Judge Wilson: And as you know, that role is the role of the legislature. The judge doesn't write the codes. We interpret them. And so that's som-, that's why it would be the City Attorney's responsibility. We would work with her.

Councilman Green: Okay.

Judge Wilson: And then if you will turn to, if not, if there's not any other questions, if you turn to page 6, you'll see the proposed goals of the South Tucson Fair Program. Real, three pretty simple ones. Implement the, the program, transfer all fines and fees into the program, and then place all future delinquent accounts into the program which is something that I probably mentioned to you. And then on the last page, you'll see a proposed timeline for

the transfer of all this debt into the Fair program if it's something that the Mayor and Council would like to see us do. We've already conducted the on-site review. We've had the Supreme Court here looking through all of our cases. That's where we've gotten numbers from. We've approved and identified those cases to make sure that the debt that the Supreme Court has identified is actual debt, the person hasn't paid it off or they haven't given the money to a collection agency and we just haven't gotten a check yet. Tonight, I'm making a presentation to Mayor and Council. If you would like us to move forward, the next step would be for the City Attorney to review the contracts that we have with the two collection agencies, and then provide a draft letter to those agencies explaining that we'll no longer be using their services. The good thing about it is both of those contracts have expired so we've been working with them on a month-to-month basis since we still wanted to send something to them but we had nowhere else to put it. But we were reluctant to enter into another contract knowing that Fair was an option that we'd like to pursue, and that we were going to be having this discussion. Once the City Attorney prepares that letter and it goes out to the collection agencies, you know, then the Supreme Court would begin the automated process of transferring all that debt into the Fair program. And this is just a proposed timeline. It's something that might happen sooner, but we wanted to be a little conservative in regards to the dates because there may be some technical issue that we didn't foresee that would need to get worked out. But for the most part, this is the proposed timeline. And then the expected outcome, of course, are we want to be in full compliance with any administrative order, any (inaudible) administration, any Arizona Revised Statute. It upholds the integrity of the court because the fines are sanctions. They're (inaudible) people don't pay their fines. There's no penalty for the crimes that they've committed. We also want to enhance the court automation capabilities which we all know is very important, the cutting down time, it cuts costs. And costs is something that we always want to look at. It also enhances staff efficiency so we're making better use of their time and we're incorporating technology that will allow to run reports and provide other types of information that's usable in regards to imposing some sanctions and enforcing our sanctions. And then it also uses, as Councilwoman Mendoza mentioned, it uses several different enforcement options other, rather than just the letter. There are a number of different things that the Supreme Court can do that a private vendor can't do. And so that's, that is going to really provide some dividends for the City in the long run.

Councilman Green: So when the data is transferred up to the Supreme Court, and let's say it is a moving violation, are they going to make the option of doing the suspension of license or registration, or is that something that we have to recommend and look at the outstanding files as they stand now, and make recommendations that these are the ones that we ask, you know, suspend registration and drivers licenses?

Judge Wilson: Councilman Green, it's an excellent question. Once it's been decided that this particular defendant has failed to comply with the contract and with the order in the sentence and we send that defendant's name to Fair, then they ...

Councilman Green: They, ...

Judge Wilson: ... have, ...

Councilman Green: ... okay.

Judge Wilson: ... that point forward, they got to deal with the Supreme Court. And all of these triggers then begin to get imposed progressively. But there are always, as a caveat, there are always opportunities for us to be compassionate and to be merciful and to work with defendants and to allow them to submit motions and to come to court to explain their circumstances. And at any point, if we deem it appropriate, we could remove a case from Fair without there being any penalties, financial penalties to the court or to the City. The Supreme Court, when they were tweeking and data testing the system, one of the things that, feedback they got from the courts was that they didn't want to take away all of the judicial authority from judges in regards to suspending sentences, setting aside convictions, and whatnot for those people who've turned their lives around because as you mentioned, Councilman Patino, there may be fines that are from 1998, you know, they're \$25, \$30 that could end up, you know, sent to Fair. And, you know, that individual may be in prison, or that individual may be an elderly person who is on a fixed income. And so we want to be able to tell the Supreme Court, "You know what. Remove that from Fair. We're going to suspend that balance and close that file out." So there will always be that opportunity for people, that personal interaction even though it's going to be primarily computerized, for them to come and request some leniency or mercy or compassion from the court. If there are no other questions, thank you, Mayor and Council, for your excellent questions and I'm always available to answer any others that you may have in the future.

(Mayor and Council took a short break)

ITEM #09 – STUDY SESSION: FINANCE DEPARTMENT – DELINQUENT ACCOUNTS RECEIVABLE PRESENTATION BY FINANCE ACCOUNTANT IV, LOURDES AGUIRRE – The following is the transcript of Item #09:

Mr. Gonzales: Ms. Aguirre is going to go over the packet she has put together for you. We've been working on this in the Finance Department (inaudible) and putting all of this information together. Ms. Aguirre has put together what I

consider to be a really thorough report of where we're at in regards to Accounts Receivables, and where we're going, and what we hope to accomplish with the (inaudible) procedures that are already in place, and we're working on those now to make this a little more efficient in terms of collections. Again, as I mentioned earlier that the audit findings, this is one of the audit findings reported in the, at least the last three audits that I've seen. I stopped looking after the third one. But it repeats time and time again that obviously (inaudible) something about it to fix it (inaudible) so this is a corrective action that we think is going to make that process a lot more efficient. And hopefully be able to get us to a place where we'll be able to have more of a stable collection system for people who get delinquent. As you go through this, you know, ask any questions that you want, on the item that your at because we're going to take it in parts. And then hopefully, there might be some suggestions that some of you might have (inaudible) process. So I'll let Lourdes take it from here.

Ms. Aguirre: Mayor and Council members, the purpose of this project, as the City Manager already stated, was to address that finding that has continued to appear in our audit, and also to be able to reduce the amount of delinquent balances in our system at the moment. This has also enabled us to go through and clean up our records. It's allowed us to update our system with some of the very important information that is found in the City Clerk's files for business licenses that will also enable us to run more accurate and a variety of different types of reports pertaining to the types of businesses that are licensed here in the City. We've also worked with management to streamline the billing process. This has included starting the process sooner, getting the bills out in the mail a little before the date, just to allow for the business to get the bills on time, allow them time to process the payments. So as a result, the table you see here, table number 1, shows the comparison of receivables over a four-week period after the date of billing. 2004, compared to 2013, I'm sorry, 2014, compared to 2013, so far since the billings went out, we've received \$5,714 more than we did over that same span last year.

Councilwoman Mendoza: So it's 2013, not 2003?

(Simultaneous conversation)

Ms. Aguirre: Yeah, it was 2013. As a means to streamline this process, notice we included with all of the statements that went out to these businesses is the one that you see here on the next page, marked Exhibit 1. What this notice was intended to do was notify the (inaudible) that they cannot renew their licenses unless all of their fees were paid. And we are also working closely with the City Clerk's office so that when payments comes through, or at their counter, they let the customers know, you know, it's not going to get renewed unless everything is paid. The next page is an overview of accounts receivables. It states the items

we bill for and the billing frequency. For example, on a yearly basis we bill for business licenses and sign renewals. Those are only billed once. The business license fee is actually a processing fee, or as stated in the City Code, it's only an application fee for the certificate to be renewed. The fees that are billed on a quarterly basis are the occupational tax, which is the privilege tax, and the rates for those are designated in the City Code, according to the type of business. Another one that is billed on a quarterly basis is the liquor license tax, which is a luxury tax. Tobacco license is billed yearly, and there is only a handful number of accounts that get billed for these two luxury tax fees. Refuse fees, we have unpaid refuse balances in our system that pertain to services that, as you all know, were suspended in August of 2011. People that held those accounts did not come in to pay them, and open balances are set to continue accruing penalties.

Mayor Diaz: That's 18% per year?

Ms. Aguirre: One and a half percent. Exhibit 2 on the next page shows you an example of a type of report that our system generates. This is a customer history report. You can enter an account number, you can enter a business name and it will pull up all this information. So as an example, this is a fictitious company here, ABCD Company. Go into the system, plug in this name, and it pulls up all the accounts that are held under that name. So an occupational license, a refuse account, a business license processing fee, and a sign renewal. For businesses that have liquor licenses or tobacco accounts, those would also be listed in here. This report contains all the history of everything that's ever been billed and all payments that have been posted to the accounts, as well as any adjustments that have been made.

Councilman Patino: What's the sign (inaudible)?

Ms. Aguirre: The sign renewal? It's for any businesses that are physically here that have a sign.

Councilman Patino: So do you charge for the sign?

Councilman Green: Yeah.

Ms. Aguirre: Yes. Mm hm.

Councilman Patino: I didn't know that.

Ms. Aguirre: Yeah, it's based on square footage and there's a formula that the City Clerk's office follows to charge.

Mayor Diaz: Is there a garbage fee on this?

Ms. Aguirre: On the example? The example that I pulled up did not necessarily have a balance for garbage fee. But there, they are in the system. If I were to pull up any specific account that has a garbage fee and an outstanding one, it comes up along with all the detail.

Councilman Green: But I know that in the past, one of the things that has happened, and I don't know if it's been cleared, certain businesses before Waste Management came in, had contracts, individual contracts with Waste Management or another provider, and, you know, because they had a contract with a certain company or the same company, the City was charging them and saying you're not paying. Is that, has that been resolved or do we know?

Ms. Aguirre: I was not aware of any case like that. So what you're saying is for those that were contracted with another provider prior to us suspending our service, the City was billing them?

Councilman Green: No, no. When the, prior to us suspending production of the, of garbage, these com-, or these businesses had their own dumpsters from other companies, or Waste Management. But they were under contract for two or three years. Okay. And the City enacted the ordinance and it was approved by Mayor and Council, and then what was happening is that the same business or businesses, were being charged as though, because they weren't saying, "I'm paying Waste Management on this contract so I don't need to pay you on this one. So I don't have to, because you're telling me what I need to do is go ahead and drop a contract and look at the penalties that the contract, for breaking the contract just to suffice or satisfy the City."

Ms. Aguirre: I see what you're saying. And that pertains to any delinquent balances with Waste Management. So ...

Mr. Gonzales: But then wouldn't that be a separate ...

Councilman Green: Hold on. Sylvia.

Ms. Solomon: Mayor, members of the Council, those were taken care of. Some businesses were receiving an invoice for automatic service as they would contact the City and they were asked to bring in proof that they had a contract with another agency.

Councilman Green: Okay.

Ms. Solomon: Then (inaudible). And then no further billings would go out to them.

Councilman Green: Okay. Yeah, that's, yeah, 'cause ...

Ms. Solomon: As long as they came in and (inaudible) other services we just ask for proof. They bring in the contract and their account would go away.

Councilman Green: Okay. Alright. That makes sense. Thank you.

Ms. Aguirre: Any other questions? So now going on to the breakdown of open balance accounts. In the system we currently have 721 active businesses that get billed. And as a part of this exercise we also went through and we analyzed the open balances on all outstanding accounts. Some of those accounts have been terminated as far back as 2001. As you can see, this is the breakdown. Of the total delinquent amount, or actually, I should say of the total open balance, unpaid balance in our system, the \$355,000, 51% of that is attributed to active accounts and 48% of that to accounts that have been terminated.

Councilman Green: Okay. So terminated, they're no longer in business in, or do business in, ...

Ms. Aguirre: Correct.

Councilman Green: ... in South Tucson?

Ms. Aguirre: In South Tucson. So we've established a process here that is made up different letters to address these different categories that we're looking at. So the active accounts, we adhere to the City Code to be able to determine which accounts were delinquent. In accordance with the City Code, grounds were cancelling a license or revoking it were no payment for two consecutive quarters. So any accounts in our system that had not had a payment posted to them in two consecutive quarters, those are the ones that are marked delinquent. Okay? Table 3 shows the breakdown. Of those \$183,000 that you saw on the first table, you can see 17% of those are accounts that are current. So they're making their payments on time; 13% of those were accounts that were two quarters delinquent; 43% of those were accounts that were more two quarters delinquent. We also sent a notice of unpaid refuse fees to about 15 different businesses. Their balance makes up the 8% of the total. And there are about 10 different businesses that are currently pending termination and further investigation because they have either ceased to conduct business here in the City and they have not notified us or they were set up to be billed way back when they started their business. They were set up to be billed for a certain fee that they felt did not apply to them. So in the Finance Department, we are currently

reviewing those accounts. The next page shows a breakdown (inaudible). So there's quite a few, a big chunk of that balance that's attributed to those accounts that are more than two consecutive quarters delinquent. A lot of those accounts may not be in business any more, but they have not notified us. According to City Code, we cannot terminate accounts in our system unless we receive written notification from them.

Councilman Green: So 43% of the system is on notice for final or for termination?

Ms. Aguirre: 43% of the active accounts.

Councilman Green: Okay.

Ms. Aguirre: They're on final notification. So we will be working with our Mayor and also with our Manager here to pursue other remedies. Exhibits 3 through 5 you will see examples of the letters that were sent out to these businesses. The pink letter was sent to businesses that were two consecutive quarters behind; basically tells them the amounts on their accounts, what's due, what may happen. And these letters were all attached to their statements when they were mailed on the 1st of this month. The following report gives you a breakdown of all of those accounts, totaling \$23,839. Exhibit 4 shows you a letter of the final notice. We requested that they respond by the 24th, which is this Friday. We have received some calls, not many, maybe a handful of calls to resolve this issue. And then the table after that shows you, in detail, all the accounts that make up the balance there for those that received the final notice; \$79,000. And most of these are accounts that have been contacted in the past and we've received no response, a lot of them are unresponsive.

Councilman Green: So this is the, there's a church that has a \$16,500 delinquent?

Ms. Aguirre: So that balance has been carried forward for quite some time. A few years ago, the penalty rate used to be 10% monthly on the balance that was unpaid. And it was revised very few years ago to 1½%, which has made a difference. But a lot of these accounts can be broken down between actual fees and penalties.

Councilman Green: When you say it made a difference?

Ms. Aguirre: In the amount that was compounded, the amount of penalties that were compounded.

Councilman Green: The 1%, so the ...

Ms. Aguirre: Versus 10.

Councilman Green: So the owner says well, I'll just hold off and pay 1% when I want. Is that what you're saying or ...

Ms. Aguirre: No. No, because when the 1% penalty was adopted, it did not revise the 10% that had already accrued over years.

Councilman Green: No, yeah, but I'm saying that the person when we reduce a penalty from 10% to 1%, they're less likely to pay a 1% that they are, to incur a 10%. Am I mistaken?

Ms. Aguirre: No, I wouldn't say that they're at liberties to do that. And certainly we wouldn't write anything off.

Councilman Green: Yeah. Okay. Thank you.

Councilwoman Mendoza: They weren't paying that 10% and they're not going to pay at 1%.

Councilman Green: That's what I'm trying to get to. And that's why you have a sixteen thousand five hundred and sixty-eight cent balance. And when's their business license, last time it was renewed? (Inaudible) and that's what we're trying to get to, right? You want to renew it? You gotta pay. Okay. Makes sense. Thank you.

Ms. Aguirre: The yellow sheet (inaudible) the unpaid refuse fees. To remind these people, the statement that's attached shows the balance, balance due, you need to pay.

Councilwoman Mendoza: Exhibit 7 yellow sheet?

Ms. Aguirre: Exhibit 5. It's right after ...

Councilwoman Mendoza: Okay.

Ms. Aguirre: ... (inaudible).

Councilman Rojas: Ten or 15 (inaudible) any contacts?

Ms. Aguirre: What was that again?

Councilman Rojas: January 15th is over so was there ...

Ms. Aguirre: Yes. Maybe two, maybe two accounts. That's it.

Councilman Green: And one of them was a \$16,500.68?

Ms. Aguirre: I wish. No. And these fees (inaudible) billed because the City (inaudible) for years.

Councilman Green: Say that again

Ms. Aguirre: The fees, the balances are for fees billed, rightfully billed because they were for (inaudible) service.

Councilman Green: Okay.

Ms. Aguirre: Now going on to the other category, the out of businesses. The oldest account sitting in the system with a balance goes as far back as 2001. So we've captured all of them. Here's the breakdown. We sent notices of unpaid balance, which you will see in Exhibit 6, letting them know we have you in our system as terminated as of this date and this is the balance that's on the account, as of that date of termination. Please contact us to resolve this issue by the (inaudible). We've received a few calls for some of the smaller amounts. Other ones that are categorized here are those that went through a transfer of ownership, meaning they were active until recently but did not notify us, letting us know they sold their property so they were active in the system. We went through and we looked up some of the County records for some of those accounts that we knew were residential rentals or commercial rentals, and we did our part to terminate the accounts in order to avoid them from continuing to bill because they don't hold the property any more.

Councilman Patino: So rentals are the ones that had people's names on there.

Ms. Aguirre: Yes. Most of those (inaudible). Exhibit 7 shows you an example of the letter that was sent out to those people. And we basically just asked for them to send us something in writing to further support the action taken to terminate the account. It tells them what the balance was and it also gives them a deadline to contact us by the 28th. The total of those accounts is on the last page, \$14,664, as of the date when they transferred their property.

Councilman Green: Now I have a question and I don't know if you, if you can answer. If they transferred the property or they sold the property a year and a half ago or two years ago, are they, and you're still collecting penalties and fines, is the service still being rendered to them or has the service been stopped and they're still paying?

Ms. Aguirre: Service as in, because we, we no longer provide the refuse service, so the only thing that would have been billing, 'cause you need to bill ...

Councilman Green: Okay.

Ms. Aguirre: ... the privilege tax and application fee, the business license application fee.

Councilman Green: Okay. Alright. Thank you.

Councilman Patino: Why wasn't this, for example, why wasn't the collections for the refuse attacked earlier instead of now, if I may ask that question. I mean what, I'm not (inaudible) but what was Finance Director doing at that time? Because of course everything had to come to him, right? So what was he doing that we're two years, three years behind on this thing?

Ms. Aguirre: All I ...

Councilman Patino: We're better ...

Ms. Aguirre: ... know, ...

Councilman Patino: ... in no comment.

Ms. Aguirre: ... all I know is that remedies that were available were not enforced.

Councilman Patino: So because this has been two, two years, three years ago, four years ago, are we trying to collect all of this or just a per-, hopefully we get a percentage of the monies owed to the City for the, for the refuse?

Ms. Aguirre: We are hoping to collect anything we can.

Councilman Patino: Well, I'm just ..

Mr. Gonzales: This is the tricky part on this is that we have had a few people who have already come in, contacted us based on the information going out, the billing that we have. What we do there, if the amounts are large amounts, is that we try to enter into a fair agreement, which basically most cases would be to dispense with, for example, the amounts ...

(Conversation in background)

Mr. Gonzales: ... (inaudible). So the penalties that ...

(Conversation in background)

Mr. Gonzales: ... (inaudible) for five years or whatever it is, and it's maybe \$1,000 but you owe another penalties, then maybe we can waive some of those penalty fees, not all of them ...

(Conversation in background)

Mr. Gonzales: ... (inaudible) something that's reasonable based on what we, in our interviews, myself, I'm not in the interviews, but Finance Department will be in the interviews and then they would come up with a reasonable payment plan. For ...

(Conversation in background)

Mr. Gonzales: ... example, if they have a \$1,500 bill ...

(Conversation in background)

Mr. Gonzales: ... (inaudible) reduce it down to say half of that then they give us a down payment ...

(Conversation in background)

Mr. Gonzales: ... and then there's an agreement that is put on with the individual. They sign off on it and the amounts would be spread over a period of time to pay that off. We try to work with the individuals to at least get some of that money back. Again, that's a negotiated arrangement with those. I believe we've had, I think, four so far if I'm not mistaken. Maybe four or five of those so far where we have been able to do that.

(Conversation in background)

Mr. Gonzales: Now one of the reasons why we're here tonight is because we need to know ...

(Conversation in background)

Mr. Gonzales: ... (inaudible) as to whether or not you think we're on the right track or not. Of course, from the perspective of staff, we would like to collect all of it, you know, because revenue to the City. But we also realize that we possibly cannot do that, that we won't be able to do that. And in the case where

you have debt going back to the number of years in some cases, it's better to collect something now than nothing at all. So we don't have a crystal ball that tells us what that amount is going to be at the end. Whatever amount it is, is money that you didn't have in the first place. Right? What we're trying to do is to get to the point, say six months from now, I think it's going to take at least six months, maybe more, to be able to have a real good picture as to what we've been able to collect (inaudible) not been able to collect. So that then we can identify the amounts of monies that we need to come back to Council so we can write off the debt. At some point, that's what we're going to do. Now we're presenting what we found because if you look at these numbers, they're substantial. They're substantial in the sense that you have over 50% of businesses out there are delinquent. The 48% of those that are delinquent, which are no longer doing business, is going to be a heck of a lot more difficult to retrieve anything from them. Then it will be the ones that are already active. But in an effort to treat people in a fair manner, you know, we'll even go into some kind of arrangement to get them current. So we think we're on the right track here to at least bring some of these up to date as far as we can between now and 6 or 8 months or whatever before we come to Council and say this is the amount that we think perhaps it's a good idea to write off. And then the next question is going to be for those that are left here, do we turn them over to a collection agency to continue trying to collect money so we can get them out of our hair and get them off your books. The biggest (inaudible) the liability as much as a liability (inaudible) books.

Councilman Rojas: Mr. Manager, are there any legal recourses?

Mr. Gonzales: There are. There are legal recourses that can be, ...

Councilman Rojas: Have we started them?

Mr. Gonzales: ... that can be done.

Councilman Rojas: Question number 2 is how is it determined that a business is out of business? Or (inaudible) out of business list, and how is that determined, or who determines that?

Mr. Gonzales: (Inaudible) can answer that question better than I.

Ms. Aguirre: The business owner or agent submits a notification in writing indicating the date when they went out of business. The City Code requires that they submit a notification within 10 days. But that's not the case. They usually submit their notifications much later than that.

Councilman Rojas: So my other question is does anybody here verify that? Or do we care?

Mr. Gonzales: Good question because that's where we're going with this. In the past, it appears there has been very little activity in that area. Now the plan is going to be quite simple. Once we understand and are able to identify those businesses, perhaps our Mayor (inaudible) but we may be still billing them but we don't know because they're still on the list. Once we identify them, then we've got an Inspector to inspect and find out whether or not they're still in existence or not. Or if they transfer to somebody else and that somebody else is doing business, so we can update our records and then bill the right people, you know, that are now at that location. In some cases, we don't know. We do know that we've had a couple of people who, as a result of the billings, would come in and say, you know what? I don't have that business any more. And I stopped doing business in "X" year, and I notified the City but it was probably never recorded so they appear on your list. And we find those, then we take the information that they have, and we take them off the list. You know, we have had a couple of those.

Councilman Green: On some of these that are rentals and they owe a substantial amount, can liens be placed against the property?

Mr. Gonzales: As a last resort, yes, they can be. The question is at what point do you make that decision and really get hard and tough and what have you. If you have businesses that are continuously recalcitrant and refuse, and on and on, and you know that they're doing okay, their businesses and what have you, that's probably a good idea to do something like that. But the individual businesses, just a little mom and pop that, you know, too significant, you know, you go through an expense that perhaps is not warranted in regards to what they owe.

Councilman Green: Well, here's an example, \$3,500 in refuse and \$620 in occupational licenses. So if you add those together, you're getting somewhere about a forty-one twenty-nine? That's (inaudible). Probably about the fifth or sixth down (inaudible) last page, Exhibit 7. Those are rentals, I believe.

Ms. Aguirre: These here that, the ones up here on this list are the ones we went and we verified on County records. So there was a transfer of ownership. Ms. (inaudible) no longer appears as the owner of record. So ...

Councilman Green: It's in the daughter's name now.

Ms. Aguirre: So when we come across things like that, we make a point to forward any leads from our Finance Department 'cause we can't go after these

people. We don't have, you know, (inaudible) we forward it to the City Clerk's office for them to follow-up.

Councilman Patino: (Inaudible) for example where we have Francisco and Alicia Robles business license was \$120, occupational license was \$1,100, refuse fees is \$21,000. How did that much get away?

Ms. Aguirre: That's one of the ones where, I believe if I remember the history on that one. They were being billed for refuse services. They had a rental property. And they didn't make payments.

Councilman Patino: Just one rental property or more than one?

Ms. Aguirre: It was one. It was one rental property. The problem with that is they weren't making payments every month like they were supposed to. Then, back then, the 10% penalty would compound on that balance monthly. Monthly, monthly. So if I would have split this up, I wouldn't be surprised to see a split of \$14,000 in penalties and \$6,000 in fees.

Mr. Gonzales: That's one that you can look at and say, if you can get the person to get here, you know, and talk about this, is when you will then begin to start making arrangements that will drastically reduce that amount. Under certain circumstances, every individual has different circumstances.

Councilman Patino: No, that's correct.

Mr. Gonzales: You know, so we need to take a look at that and listen, and begin to kind of clean up as much as we can. I know this one case (inaudible) it's a large number, but if you look at some of the others, you're going to find that there's another few of these that have similar situations. There's one for \$8,000. There's one ...

Councilman Patino: Yeah, there's ...

Mr. Gonzales: ... (inaudible).

Councilman Patino: ... (inaudible) Upholstery.

Mr. Gonzales: So they're there. Question is how do we actually approach this and how can we get them into the office without them being so fearful of retribution where we really want to work out some kind of (inaudible).

Councilman Patino: Of course because it's actually saying well, if you don't pay, then you're out of business. If this is what they're receiving. It says if you don't pay, you're out of business.

Mr. Gonzales: Yeah. Hopefully (inaudible).

Councilman Patino: I know we don't have that many businesses in South Tucson, but (inaudible) close down just because of a notice.

Ms. Aguirre: And just from driving down the street, I see businesses that are thriving, doing good. There's one case where I called them and said, "You know, I'm going to be sending you your statements. You need to pay. The City Code says you need to pay." And I kind of educated them over the phone. "These are the fees that get sent out on the statements. They're for this, they're for that." They said they were going to pay. Not once have they paid. And they're still out there. Thriving business. So that's the case for quite a few of them. So this was an attempt to get their attention.

Councilman Patino: (Inaudible).

Councilwoman Mendoza: Can I ask a question 'cause I'm getting headache just thinking about like, you know, why things weren't done before. And we're never, obviously, going to get to that.

Councilman Patino: Answers.

Councilwoman Mendoza: But I think what I would like to know, walking away from this, is what steps are we taking after we mail these letters out? What steps are we talking to make sure that we are following up after we mail these letters out? I mean it's more, I think, in my personal opinion, to show to your business and you have a past due this color on your door where everybody can see it versus mailing it when nobody else can see it, besides the mailman, you know. What steps, after the mailing, are we taking? You know, are we sending them letters out to say come meet with us, we're open to making payment arrangements. You know, ...

Mr. Gonzales: There's another ...

Councilwoman Mendoza: ... (inaudible).

Mr. Gonzales: ... there's another case here that we haven't yet discussed. Here's some detail. Every one of these businesses has to have a renewal for their license. One of the things that we can do and we have actually put it in one of these billings, that when they come in for a renewal license and you're

delinquent and we pull it up and you have delinquencies, you're not going to get a renewal of your license unless you finally pay your account or make an arrangement with the City to pay it. That's going through a little bit maybe much of an extreme (inaudible). But that's the only way that we'll be able to get that. You say you're two quarters, three quarters, four quarters, whatever it is, delinquent, and you're here to get a license renewed, we're going to enforce the Code. And the Code is very clear. You just won't get a renewed license and if that's the case, you might have an inspector tomorrow morning at 8 o'clock at your business and put a tag up on your door until you pay. That's being kind of a little bit aggressive in a way. But in a sense, there's no other way you're going to get to the point that you want to get to. Now if that doesn't get the attention of someone, I don't know what will. But that is the, where we're going. And this is one of the reasons why we wanted to do this Study Session, to go over what we have. And I'm a little bit like you, I get headaches also. I get more than you. But you know what? I don't want to look at the past. I know what it is. I think we have an obligation as a government, an elected body, a staff, to, what we really find here that might not have been done, we need to start doing it now, and correct it. I don't point any fingers at any one, but that's where we're at today.

Mayor Diaz: I'd like to make a comment. It's my opinion, too, that, you know, I've going a lot through some of these figures and stuff before, and we do have options. You know, we can go ahead and write off anything (inaudible) and then bill from there. So we do have a lot of options that we can implement, but we need to make sure that, you know, a business stay in South Tucson, ...

Councilwoman Mendoza: Right, right ...

Mayor Diaz: ... residents, ...

Councilwoman Mendoza: ... (inaudible).

Mayor Diaz: ... residents that are delinquent that are our neighbors and so forth, that they are somehow dealt with in respect to hey, you do have a responsibility. You know, what can we do? And like the judge is saying that there's classes for that and all this and that, that, you know, these people, you know, some of them do need it and some of them don't, you know. But those people like you mentioned that are thriving out there and not paying, I understand that we need to do something about them. But once you get to, you know, owing \$26,000 is absolutely, you know, ...

Councilman Green: Well, there's no excuse for that, you know, to get to that point.

Mayor Diaz: Well, but you're there now.

Councilman Green: Yeah.

Mayor Diaz: That's what I'm saying. So what are you going to do? You don't have any money to pay for it. You know, you're low income, you're this and that. So, you know, and it's going to be up to us to, you know, go after it, you know and take the property, make them homeless, whatever, you know, so you have options so think about the options.

Councilwoman Soltero: I have a question, Mr. Gonzales. What if these businesses go to the City? Can they open a business there or do they look in the computer to see if they're delinquent somewhere else?

Mr. Gonzales: Well, that's a good question. My guess is that they would be able to open their business at the City of Tucson if they wanted to. You know, we don't have a mechanism to send over to the City and say these people owe us. So the answer is more than likely yes.

Councilman Patino: 'Cause they can go under a different name.

Mayor Diaz: So, but there are still a lot of holes. For example, the occupational license, is that the one we have the contract with the State in regards to the TPT tax?

Ms. Aguirre: No. It's separate.

Mayor Diaz: Yeah, so you know, that's a tax I have to pay. So you're not getting that money or it's not recorded. Right?

Ms. Aguirre: We bill the quarterly.

Mayor Diaz: No, no, no. I'm talking about the TPT ...

Ms. Aguirre: Oh, ...

Mayor Diaz: ... (inaudible).

Ms. Aguirre: ... (inaudible) make those payments, the State remits those monies to us.

Mayor Diaz: Right, but what I'm saying is that if I don't pay, how do you know?

Ms. Aguirre: We don't know. Until we start retrieving reports.

Mayor Diaz: Right.

Ms. Aguirre: And it's an avenue that I considered looking into, looking at those reports that they generate on a quarterly basis to see, compare them against our lists of business license.

Councilman Rojas: Mr. Manager, do we collect liquor license tax?

Mr. Gonzales: There's a luxury tax.

Councilman Rojas: A luxury tax. Like we collect (inaudible) pay through the State and then we get it back from the State? We collect it here locally?

Ms. Aguirre: It's paid to the State Liquor Board.

Councilman Rojas: No, but I mean do we collect that tax?

Ms. Solomon: We collect the liquor license fee here.

Councilman Rojas: Here it says liquor license luxury tax.

Ms. Solomon: It's collected here.

Councilman Rojas: Collected here.

Ms. Solomon: Yes. And it all stays here.

Councilman Rojas: And El Dorado is being this bad about it?

Ms. Solomon: Yes.

Councilwoman Mendoza: I mean I also just kind of want to throw it out there, too, that I do agree with you, Mayor, that I think that we also need to be a Council who is business-friendly and stays that way because we don't want that business or money going to the city. We want it to stay here. So even if we need to sort of open ourselves up to holding something, we're inviting these people to some kind of forum or some kind of, you know, something. And this is just an idea or brainstorm as to trying to get them here to say, hey, we want to keep you here. We want your business here. How can we help you out? And, you know, it's getting them here in the door, you know, and we have to open ourselves up to that, you know. I think that that's an idea that we should entertain at least, you know, to sort of throw out there. Because I think that, you know, our ultimate goal is to be business-friendly here because it helps the residents out and ease

some burdens for them. So we have to consider that. You know, that's just an idea to maybe throw out there.

Councilman Patino: It's a wonderful idea to have some kind of session.

Mr. Gonzales: I don't mean to make a joke out of this but basically what you see right now, you have in front of you, you've been pretty damn business-friendly by not doing (inaudible) got. The question is how do you deal with those individuals who are really recalcitrant. And I think when you get to the bottom of it, is that you're going to find very few of them. When you start talking to most of these business people or whatever, I think you're going to find that they're going to be fairly cooperative in the way that you deal with them to come up with a solution. The problem you've had here in the past, again, is that we have accustomed people to this. We've done absolutely nothing in the process to give us the opportunity to deal with the business to let them know we're business-friendly. This is just one example of what you have. You know, if I look at two members of this Council who keep up with their business licenses and they keep up with their occupational taxes, etc. and then you have 48% of them who don't, that ought to tell us something. So what I'm saying here is that I think we are and can be business-friendly. And we're not going to go over the cliff in trying to get this done. But it highlights the problems that we have. And if you continue in that path, you will continue to have the problems.

Mayor Diaz: That's not what we're ...

Mr. Gonzales: How do we, together, reach the solutions as to what does it really mean to be business-friendly and to what point do you want to go? You know, we can very easily come to you and say you've got \$183 worth of accounts receivables and all these guys, and here's a resolution and you can say oh, that is dispensed with. If that's what you want, that's what we'll do. If you want us to move forward with the idea that we need to collect but be compassionate in the process, which is what we're basically putting forward here. The purposes of this session here is so that you can see what you have. I don't know if this has ever been done. I don't know if you knew that this was a problem. You know, I could read you a handful of other issues that are sitting there pending for people owing money and we're trying to get those corrected. What's hard, it is, this is just the issue before you because this happens to be an audit finding for at least the last three years, that you need to fix and it hasn't been fixed. So we have to come up with a solution. At the very least, a procedure process under which you can get over that hump. Because I don't want to see that finding on your next audit. You know, because that's the kind of thing that is going to hurt you in terms of your credit risks, financially.

Ms. de Castillo: Has there ever been a letter generated from the City Attorney?

Mr. Gonzales: Not yet.

Ms. de Castillo: Because that's 46 cents right now. And what I've found is when somebody sees that there's an attorney involved, things could change. I don't know, I mean of course I'm happy to offer letters if that's going to help. And then, you know, then I can explore the legal things about (inaudible) which go on property (inaudible).

Mr. Gonzales: Yeah, we're, that's not part of the package here but obviously that's where we're leading to. And, you know, you could have a form letter that the attorney signs off and it's sent out. Well, that's one of the legal remedies that Mr. Rojas had asked about. So, yes, there are those remedies. But at what point are we going to do that? I think we're pretty darn close to it.

Councilman Rojas: Mr. Mayor, Mr. City Manager, I would probably be interested just for the sake of it's getting close to 9 o'clock, is try to find out how many of these are that old, or really ancient, and seriously look at them and find out, you know, are they worth looking, going after, depending on the amount of money. And then, you know, and then how much of them are really within the last 10 years and really get serious about, you know, (inaudible) but it's, I mean if they were still in business, if they were still renting, if they were still selling food and liquor at El Dorado, they should be paying their thing. If (inaudible) Baker over there is still making business and selling meat, he should be paying his license.

Mr. Gonzales: Mr. Mayor, Mr. Rojas, as you know, there's two categories here; the category of those folks who are no longer doing business here. I think it's fairly easy to go in there and say, identify those who it may not be worth spending more money than what they owe; some who are in that general category that generating letters and generating more time and more staff time or all those expenses would probably cost us more than what they owe. And then we could come back with a list (inaudible) and that's where you begin to start identifying the write-offs on that perspective. On the ones that are active, my sense is that you put some pressure on them. Because those are active, they're doing business here, they have an obligation. Based on our Code, we use the Codes to do that and then we enter into fair agreements where we can. And we go from there. I think by doing that you're going to start seeing that you're going to be reducing that liability.

Councilman Green: And one of the things that you can see is that if one of the businesses is (inaudible) if they're losing their license or not losing their license, but are on the verge of losing it until they pay, the other business owners (inaudible). They'll see and they'll go, hey, you know they're getting serious. And that's the point that you have to get them to is that, you know, we may need

to make an example out of one or two. And I don't mean we're running them out, but I mean.

Councilwoman Mendoza: And I just, I just want to make a statement real quick about, you know, when I said us being business-friendly, because I don't, you know, want it to be an issue. I want to just make sure that the previous administration is going to take credit for being business-friendly. And here is a new Council that's come in and now all of a sudden, we're shutting down businesses because they're delinquent. That's the image that I don't want us to have. That's where I come from when I say we have to be cautious because we are a new Council. And all of a sudden, we're here for six months and then half of our businesses close or, you know, that puts an image on us. You know, a bad image on the new Council as not being business-friendly. So that's where I come from when I say that I want us to remain a business-friendly Council, you know, because who will take credit for being business-friendly. Not us. The previous administration will, ultimately, and then there we are, you know, looking like the bad guys.

Councilman Patino: Right, because we're still taking care of old business.

Councilwoman Mendoza: Right, but they're not going to see it that way, you know.

Mayor Diaz: The other part to that, to your comment, too, is that, you know, and some of the questions are relating to what are we going to do from now on, and I think you outline a good procedure that you're taking now even though you haven't written them down but if we follow those, you know, for those businesses that are, you know, can pay or we can go after, I think that process works. But our problem is going to be those before 2011. And I'm not necessarily advocating that we shut those completely, but there's some of them that if we look at case by case, you know, even by talking to them ourselves, they can make a case that, hey, my daughter lived there for, you know, all this time that I'm being billed for trash and, you know, it wasn't rented. You know, one of those things where your daughter comes back and.

Mr. Gonzales: I get the message. And I understand exactly where you're coming from. What I don't get from you is what is it that you're actually suggesting so if you can think about it a little bit and come up with a couple of ideas that you might want to recommend to us that would take you to a place where you'll give to the community a message that you're being business-friendly because I don't think we're being not business-friendly at this point. Then we would like to take those recommendations and put them into practice. I have a couple of ideas on how we can do things. But I'd like to kind of, you know, get into your brain a little bit because you bring up the issues that I don't think any of

us in staff are in disagreement. But we need to have some parameters here as to where you want us to go. For example, if you think that someone that owes \$1,000 bill that we should go and say okay, here's a deal for you, send them a letter and say we'll offer you this deal. Pay us 50 cents on the dollar and we're good to go. If that's the kind of thing you want to do, we'll be happy to do. But it's one thing, I think it's one thing to say I want to be business-friendly, all of us want to be that way. I think we all share that concept. And it's another to say what do we do to send that message that we are. And that's what I'm asking and that's why we're here because we don't want to be jerks about this whole thing. It's been going on for a long time. You know, a long time. This just didn't happen overnight so it takes a while to get to the point of getting fixed. But at the same time, I think we can be fair, but we also need to be firm on how we deal with this. Because the last thing you want to do is to treat 51% of them this way, and the other 48.5% the other way ...

Councilman Rojas: You'll be a Republican.

Mr. Gonzales: ... (inaudible).

Mayor Diaz: You'll be a Republican.

Councilman Patino: But instead of sending, ...

Mr. Gonzales: Thank you, sir.

Councilman Patino: ... but instead of sending a letter, and it's after your second, your second notice that you're going to send out a second notice, correct? That they're delinquent. What, why couldn't somebody from here make a personal visit instead?

Councilman Green: As a, as a (inaudible) ...

Councilman Patino: It's, you know, making a face-to-face contact versus just sending a letter and that letter just might go straight into the garbage can.

Mr. Gonzales: Well, there's only what, 700 of them?

Councilman Patino: (Inaudible).

(Simultaneous conversation)

Councilman Patino: There's a good 60 of them already in one week so.

Mayor Diaz: I would also suggest that we have a business town hall and get those guys here. Maybe they can put pressure on the businesses themselves and I'd be willing to chair a town hall like that.

Councilwoman Mendoza: A town hall meeting?

Mayor Diaz: Yeah. If somebody would volunteer to be here with me.

(Simultaneous conversation)

Councilwoman Mendoza: I guess the only question that I have left, because it is 9 o'clock, is, you know, when the letters are sent out and it's saying that they won't, we won't renew their business license, do we wait for their business license renewal date? Or what happens in the meantime?

Ms. Aguirre: So it's not at the point where if they haven't made an effort to contact us, then we have to address these cases on a case-by-case basis through these different avenues. Which may require, as the City Manager said, a visit from the Inspector.

Mr. Gonzales: Yeah, you know, we have that, as a City, as a whole, over time up to now, we haven't enforced that section of the Code. It has not been enforced. Staff has not been given that directive in the past. And when it has been brought up by certain members of the staff, it's been rejected by higher up individuals who make the decisions. So we're now at a time and place, we're at a crossroads where we need to do something. Okay? Whatever that something is, it needs to be something that, as I said before, it needs to be fair. And it's a process that is not abusive. A process that people can understand the reasons why it's there. And wherever we can make arrangements to make it happen, that's what we want to do. Now being business-friendly, it doesn't, to me, it doesn't translate into the manifestation that you forgive everybody. Okay? To me, it's working with them, understanding what their certain particular situation might be, and then working toward a solution on a one-and-one basis.

Councilman Green: Exactly. And one of the things that if we, if we were to go back and say we're going to excuse 50% of your, you know, write-off 50% of your debt, basically you're sending a signal to everybody else that if I become delinquent, I'm only going to pay half as much as I'm, you know.

Mr. Gonzales: Exactly. Because, you know, you're doing this and then how fair are you to those who, ...

Councilman Green: Exactly.

Mr. Gonzales: ... who are actually keeping up with, you know, and you're trying to make the ends meet just like other businesses. You know, that's the question before us. And I'm hoping that, to get some recommendations and suggestions from you, going forward, so that we can attack this problem because it is a problem. And it's going to continue to get worse if you don't address it. And you have other issues that will be coming up before you that are similar in nature, which are really going to give you a headache. So I think that we're in a place where we can do something. And we can be compassionate about it.

Councilwoman Mendoza: Thank you.

Ms. Aguirre: Thank you.

(Simultaneous conversation)

Mayor Diaz: I need a motion to return to the Special.

Motion by Councilman Rojas to adjourn the Study Session and reconvene to Special Meeting. Seconded by Councilman Green. Motion passed unanimously.

ITEM #10– REPORTS – none at this time.

ITEM #11 CALL TO THE AUDIENCE

Mayor Diaz stated that Anita has volunteered the Council to be in the Rodeo Parade.

Mayor Diaz: The other item that will show up in later session is the Election Consolidation Dates. So we have to do some public hearings on that and all this stuff too, so, and I just want to make a comment regarding conflict of interest and nepotism. You know that we're a small city and regardless of wherever you go, you're going to meet somebody you know that's related to this or that or whatever. And it's bound to happen in employment here. But the thing is that if it does happen, or if it occurs, I want to make sure that you understand that all the t's are going to be crossed and all the dots are going to be, you know, dotted. That we are, you know, abiding by the law and everything else and if there is, that no, and so forth so that's just a comment, but don't take a, you know, rumors or anything that this is happening behind your backs or anything. It's not. It was gone through the process and again, all the t's were crossed and all the dots were dotted.

Councilman Green: I'm not sure what you're talking about.

Mayor Diaz: Conflict of interest or nepotism.

Councilman Green: In what sense?

Mayor Diaz: In employment here.

Mr. Gonzales: I just found out I have about a 5th cousin the Fire Department.

Mayor Diaz: Yeah.

Councilman Rojas: And I had a nephew. (Inaudible). I'm just kidding.

ITEM #12– ADJOURNMENT - Motion by Councilwoman Mendoza to adjourn the Special Meeting. Seconded by Councilman Green. Motion passed unanimously. The meeting adjourned at 9:18 p.m.

Paul Diaz, Mayor

ATTEST:

Veronica Moreno, City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Special Meeting of the City Council of South Tucson, Arizona, held on the 22nd day of January, 2014. I further certify the meeting was duly called and a quorum was present.

Dated this _____ day of _____, 2014.

Veronica Moreno, City Clerk