

Minutes of the Regular Meeting of the Mayor and Council of the City of South Tucson, Arizona, held Monday, August 11, 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
Anita Romero
Oscar Patino
Idelfonso Green
Miguel Rojas

Staff Present: Luis Gonzales, City Manager
Veronica Moreno, City Clerk
Marilyn Chico, Housing Director
Richard Vidaurri, Deputy Police Chief
Rey Alvarez, Fire Department
Lourdes Aguirre, Finance Dept.
Juan Ittuuralde, Finance Dept.

Guests: Sam Moore, Tucson Neighborhoods 4 Veterans
John Rodriguez, Tucson Marine Corps League
Joe Sarmiento, Wells Fargo Bank
John Vomlehn, Wells Fargo Bank
Kevin Cramberg, Fester & Chapman
Walter Ritcher, Southwest Gas Corporation
Dr. Soaring Hawk
Herman Lopez
Raul Green

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

ITEM #04 – ROLL CALL – All members of the Council were present, except for Councilwoman Soltero and Councilwoman Mendoza, who were excused.

ITEM #05 – APPROVAL OF MINUTES: REGULAR MEETING, JULY 21, 2014 AND SPECIAL MEETING, JUNE 8, 2014

Motion by Councilman Rojas to approve the minutes of the Regular Meeting of July 21, 2014. Seconded by Councilman Green. Mayor Diaz stated there is a correction to Item #11; the address for Leticia Hernandez should be 338 East 30th. Motion passed unanimously.

Motion by Councilman Rojas to approve the minutes of the Special Meeting of June 8, 2014. Seconded by Councilman Patino. Motion passed unanimously.

ITEM #06 - CALL TO AUDIENCE – No response from the audience.

ITEM #07 – EXECUTIVE SESSION PURSUANT TO A.R.S. SECTION 38-431.03(A)(1)(2)(3)

1. Legal Matters – City of South Tucson vs. Sylvia Salomon CR14-409886-MI

Motion by Councilman Rojas to adjourn the Regular Meeting and convene into Executive Session. Seconded by Councilman Green. Motion passed unanimously.

Motion by Councilman Rojas to adjourn the Executive Session and reconvene to Regular Meeting. Seconded by Councilman Patino. Motion passed unanimously.

Motion by Councilman Rojas that the Council instruct the City Manager to forward concerns to the District Attorney and continue. Seconded by Councilman Patino. Motion passed unanimously.

ITEM #08 – REPORTS

Mr. Gonzales introduced the new City Prosecutor, Daniel Nicolai, and the new City Magistrate, Albert Lassen.

1. Tucson Neighborhoods 4 Veterans, Inc. – Mr. Moore provided information on the newly formed Tucson Neighborhoods 4 Veterans, a non-profit corporation, which provides services for homeless veterans, veterans and their families, and children. Some of the services provided are transportation, health care, clothing, and a couple of employers who are providing part-time work. Mr. Moore has talked to the police department and requested if they come across homeless veterans, to give Tucson Neighborhoods 4 Veterans a call and they will provide assistance to the veteran. The phone lines remain open 24-7. The group plans to hold fundraisers in order to continue to provide services for the veterans. Mr. Moore and his wife asked that the City be supportive of their efforts. Mr. Rodriguez of the Tucson Marine Corps League, which is the only military organization in South Tucson, informed the Council that the Marine Corps League supports the Tucson Neighborhood 4 Veterans, and will be providing their facility for fundraising activities.

2. Wells Fargo Neighborhood LIFT - Mr. Sarmiento, of Wells Fargo Bank, addressed the Mayor and Council. He explained that Tucson was the hardest hit market in the housing crisis of 2009. The Wells Fargo program is the only program in the entire country which is providing this type of down payment assistance. An event will take place on September 5 and 6, 10:00 a.m. to 7:00 p.m., at the Tucson Convention Center to assist those who are interested in the program. Qualifications include: first-time home buyer, re-entering the market place, or 120% of median income. For a family of five, the income limit is \$73,900; for a family of four, the income limit is \$68,400; for three people, the income limit is \$61,600; for two people, the income limit is \$54,750, and for a single person, the income limit is \$47,900. The applicant must take

an 8-hour home buyer education course with Primavera. After 5 years, the customer does not have to repay funds. This home down payment assistance program is available for a limited time. The customer must register for the program and can register by calling Primavera, 520-308-3131; or by going to the website at www.NeighborhoodLift.com; or call 1-800-866-858-2151. The customer meets with the home mortgage consultant and if approved, they go directly to Primavera, who will approve their grant. The customer can leave the event with an approval in hand. In addition, if there are other down payment assistance programs available, the customer can “layer” those funds as well and use them to assist in down payments. After the customer has been approved for down payment assistance, they must find a home and have a contract within 60 days. Mr. Gonzales stated that Ms. Chico will be the liaison for the Wells Fargo Neighborhood LIFT program.

ITEM #09 – APPOINTMENT TO PLANNING AND ZONING COMMISSION - Mr. Gonzales stated staff recommends appointing Melecio Garcia to the Planning & Zoning Commission. Motion by Councilman Rojas to approve the appointment of Melecio Garcia to the Planning and Zoning Commission. Seconded by Councilman Patino. The following is the transcript of the discussion of Item #09:

Councilman Green: I think I've asked this last time and they were supposed to get some information on what the requirements are, the training requirements. I've yet to see anything come in, especially on something as critical either as the two previous appointments that we made and to this one.

Mr. Gonzales: Mr. Mayor, Mr. Green, I apologize for that. Planning and Zoning Director, who called in sick today, is not here to provide that information. However, the individuals that we've spoken to and they have been given all of that information. We'll get you that information as soon as I can this week.

Mayor Diaz: Thank you.

Councilman Green, nay vote. Motion passed.

ITEM #10 – APPOINTMENT TO BOARD OF ADJUSTMENTS – Mr. Gonzales stated staff recommends appointment of Escarlen Chavez to the Board of Adjustments. After this appointment, there will be one vacancy on the Board. Motion by Councilman Rojas to accept the appointment of Escarlen Chavez to the Board of Adjustments. Seconded by Councilman Patino. Councilman Green, nay vote. Motion passed.

ITEM #11 – RESOLUTION NO. 14-19 OF THE MAYOR AND COUNCIL OF THE CITY OF SOUTH TUCSON, ARIZONA, APPROVING AND ADOPTING THE SECTION 8 MANAGEMENT ASSESSMENT PROGRAM REPORT FOR THE FISCAL YEAR ENDING JUNE 30, 2014, FOR THE HOUSING CHOICE VOUCHER PROGRAM BY THE SOUTH TUCSON PUBLIC HOUSING AUTHORITY AND AUTHORIZING THE

MAYOR TO EXECUTE THIS RESOLUTION FOR THE PURPOSE OF AUTHORIZING THE STHA DIRECTOR TO SUBMIT SAME TO HUD – Mr. Gonzales stated this is an annual resolution related to the STHA Voucher Program. Ms. Chico was available to answer questions from Council. Motion by Councilman Rojas to approve Resolution No. 14-19. Seconded by Councilman Patino. Motion passed unanimously.

ITEM #12 – RESOLUTION NO. 14-20 OF THE MAYOR AND COUNCIL OF THE CITY OF SOUTH TUCSON, ARIZONA, AUTHORIZING AND SUPPORTING AN APPLICATION BY THE CITY FOR A SHARE OF THE GAMING REVENUES TO BE DISTRIBUTED BY THE PASCUA YAQUI TRIBE FOR GOVERNMENT SERVICES THAT BENEFIT THE GENERAL PUBLIC – Mr. Gonzales explained this proposal is from the Fire Department, requesting \$473,658 to purchase a new fire engine. Fire Chief Alvarez was present to answer questions from Council. Motion by Councilman Rojas to approve Resolution No. 14-20 be forwarded to the Pascua Yaqui Tribe. Seconded by Vice-Mayor Romero. The following is the transcript of the discussion of Item #12:

Councilman Green: Mr. City Manager, the monies that we received for the sale of the fire truck, the ladder truck, I thought that was to be used in something like this.

Mr. Gonzales: Mr. Mayor, members of the Council, no. The money that we received from the sale of the ladder truck went into your General Fund.

Councilman Green: Thank you.

Motion passed unanimously.

ITEM #13 – STUDY SESSION:

1. FY 2013/2014 FINAL AUDIT – KEVIN CRAMBERG, FESTER & CHAPMAN

Mr. Fester: Thank you, Mr. Mayor and Council. Hopefully, you should have two bound documents that I'm going to touch the high points on; you have the annual financial report for June 30, 2013, and then the single audit reporting package, which is the federal part of our audit where you test your grant compliance. But I did want to kind of start by giving a little background on this audit process. And I think in a way of a thank you to Lourdes and Roy. Roy isn't here tonight but we were engaged to do the audit in December and we started (inaudible) in February and then our point of contact changed and we ran into a number of issues, which we reported in the report. And then Lourdes took over the process and through her hard work and diligence, we've gotten from that situation to being able to issue these reports. It was a lot of work, a lot of post closing entries she had to do to get to the point where we could get a (inaudible) opinion on the financial statements and I just want to thank her for that. So I'm going to start with the annual financial report. She should come up. She did all the work. I'm just here to take the credit. The annual financial reports, the bound document, it's roughly 50 pages. I'm

not going through every page, but I am going to hit the highlights, kind of give some tips on how to get information quickly and efficiently out of this statement as far as summarizing what the numbers are, key points from the audit report and then I want to talk about the single audit reporting package, which has the findings that we reported, which I think are more important for this discussion. On page 1, is the independent auditors report, page 1 and 2. That's really what you're paying for. On page 2, the opinion paragraph, that's our opinion on the financial statements. We do have an unmodified or clean opinion. That's what we, we're attesting to, that we believe the numbers that follow are materially correct and presented in accordance with generally accepted accounting principals, what we call GAP. And so that paragraph is key to the whole statement where we've done our audit work and we've given you, the Council, that opinion. The paragraph below that is the emphasis and matter paragraph that is unique to your statements and that we don't always have that, which is we're pointing out that we also did a prior period of restatement audit adjustments on the beginning balances, which we weren't engaged to audit that year. This is our first year we were engaged to the City. Following the financial statements is, on page 7, begins managements, discussion and analysis. And I'm going to kind of hit the high points here but to me, this is, I don't want to say the most important, but the most useful part of the financial statements. What this is is a summary written by management and audited by us that gives a summary of the financial position of the organization; kind of like bullet points of where you are. As you can see in the financial highlight section of the report, it talks about the City's, overall City's net position. You have a net loss for the year. This is a June 30th, 2013 audit, roughly a 1.5 million dollar loss at the (inaudible) level, most of which is comprised of depreciation, but there's several bullet points as you go down. You know, General Fund is described, you know, the expense is very unchanged almost, only up to 1% year to year, but very useful statistical data that summarizes kind of where the financial numbers of the City. A couple other areas of management's discussion analysis that are, I think, informative, on page 9, there's a comparative balance sheet on the bottom of page 9 where you can see the assets, liabilities, and net assets or net worth of the City. As of 2013 compared to 2012, you kind of see where you are year to year. You can see total assets virtually unchanged; it's \$31,000,000 down to \$30,000,000. But I think this is great information for Council just to be able to access quickly. A couple other areas in the management discussion section of the report, if you look on page 11 at the bottom, it begins the discussion of the funds statements. You have your government-wide statements and then you have the individual funds statements. And I know that can be boring you a little bit. I will speak through this but it talks about the General Fund. The General Fund actually did have an increase in fund balance for the year; it breaks up (inaudible) most crucial fund that's funded through your general revenues and just breaks down other information about the other funds within, the major funds within the City. And then on page 12, it's budgetary highlight a few major items that were, two major variances are identified between budget and actual. One was a favorable variance, City sales tax revenue actually beat budget by 244. Unfavorable variance, talking about personnel costs in the Public Safety Department was over budget. So those are, like I said, kind of the highlights of the financial information. I didn't want to focus too much on this because I know that because of the accounting issues that you encountered, this is, in essence, old news. We're looking at June '13 and you're already in fiscal year '15, but I did want to kind of

talk about the (inaudible). There are two notes to the financial statements that, and please, if you have questions, please stop me and at the end I'll answer questions, too. I'd like to answer any questions you have. Notes to the financial statements follow all the financial statements. There's a couple I did want to touch on. On page 39 is the contingent liability note. And what that means is a possible liability, has not been accrued. I know you've had a lot of discussion about the secondary sales tax. And that's what this note (inaudible). There's no liability in the books but it's required to be disclosed that it's a possible liability related to the three years that that was levied. And that's kind of a major issue that I wanted to, you know, point out. I know you probably (inaudible) discussed it so.

Councilman Rojas: Mr. Mayor.

Mayor Diaz: Councilman Rojas.

Councilman Rojas: I'd like to ask a question. On that particular item, would it be eliminated in increments of three years or can it be eliminated from one year to the next in terms of being carried over? Is that possible?

Mr. Fester: As a no disclosure?

Councilman Rojas: Yeah.

Mr. Fester: Because you've not accrued a liability. I want to make sure that's clear.

Councilman Rojas: Okay, yeah.

Mr. Fester: It would be, it has to be settled. And I know that it's unsettled. It could go all the way and not be disclosed in the future if it's decided that you do not have a liability. As long as it's in question, that's why there's a requirement for a contingent liability. So it's really unclear when, because these statute didn't have a remedy what's going to happen and that's why it's disclosed. But if the legislature, the State legislature meets and determines that it isn't, they can't go back, they're going to change it going forward and you don't have a liability, then that would no longer be required to be disclosed.

Councilman Rojas: Okay. So then it would be a zero in terms of the future audit.

Mr. Fester: Finding and disclosure.

Councilman Rojas: Okay. Thank you.

Mr. Fester: It will be a reoccurring finding in '14 because it didn't, you didn't stop levying the tax until '15. It's one of those things that it was too late to correct. And then the other disclosure I want to bring up to Council is, if you turn to page 54, it's the very last page, this was important, I wanted to talk about it. It's the funded ratio on the pension just because it's so low now, and kind of some of the consequences that can happen

going forward. They've upped your contribution percentage to 72%. So on, that's, you know, that's a lot. For every dollar you pay in salaries, you pay 72% into the State Retirement, so that's a huge long-term financial burden that the City is faced with. And as you can see, it's going, getting worse and that's (inaudible) keep raising the contribution percentage to try to counteract that and turn that around. It is a trend that's affecting throughout the State, all the, your funded ratio is lower than most, but the trend is the same where it's, since 2003, the ratio, the funded ratio has gone south. Those are really (inaudible) issues that I know you've discussed and that you'll be discussing in the future but I did want to point those out. From here, I wanted to talk about the single audit reporting package. That's the part of the audit, because you receive federal funding, we also do what they call a single audit (inaudible). In addition to that (inaudible) financial reporting so your internal controls, that's where we had the, several findings that we reported. If you turn to page 9, similar to the MBNA that was kind of a summary of how the financial statement, the story of the financial statements, the schedule (inaudible) question cost is the summary of how this, the single audit went. In essence, they could call it one-stop shopping; you can get the results of this audit. Any entity that has a single audit has the schedule so you can see that we, as I discussed earlier, you have a clean unmodified opinion, clean opinion on the financial statements after the adjustments that we did. But we did report material weaknesses in internal control, which are described after this page; ten of those, two non-compliance findings, one of them was the property tax that I discussed earlier. And then two federal findings which were actually just related to late completion of the audit, not necessarily, very, you had very good controls actually and very good accounting over at the Housing Department. But one of the things that's required is that you submit this by March 31st, so you (inaudible) finding). (Inaudible) with Housing. So that was, that's kind of the summary of those results. I did want to talk about a couple of the findings that I think are the major ones and then, once again, open it up for questions when I'm one. Of course, the first one, on page 10, the secondary property tax, how these findings are written, I think, is very informative and it's described format which means we don't, we didn't make this up. It's required by OMV to do it like this, but you have your criterion for the finding. In addition, what was wrong, what the probable cause was, the effect, the recommendation and what I think the most important is the corrective action, which is actually written by City management so you can see for each one of the findings what corrective action that you've already taken, put in place, so that's very important. A couple of the other ones, page 11, (inaudible) partially when you went to Executive Session but depositing the cash, very important that that's done in a timely manner. There was no way that, you shouldn't have had that much cash on hand at your end. Part of what we did in response to that is actually proof of cash to prove to see how much of that cash ultimately got deposited. And you can see the results of that in the finding. This, you know, cash should be deposited daily. There's no excuse for that. And management has already responded to this, although we haven't audited that, we'll do that during next year's audit. They've already addressed this. Year-end close, that's on page 13, I bring this up because it goes to a lot of Lourdes and our staff had to do to get it to that opinion that I referenced. So when we got the trial balance in January to audit, this is, you know, kind of a summary of what needed to be corrected in there and all the work that went into that to get the statements in accordance with GAAP, Generally Accepted Accounting Principles. So that's kind of a laundry list finding of

what was (inaudible) there. I think that's the major findings that I'd be glad to discuss any one particular with Council for the financial statements.

Councilman Rojas: Mr. Mayor.

Mayor Diaz: Councilman Rojas.

Councilman Rojas: Just a question. Is there a way that there can be a trial audit six months after the finding of this one?

Mr. Fester: You could do, we could come out and do a preliminary review, looking at controls or ...

Councilman Rojas: Make sure that.

Mr. Fester: The key would be to, I mean that step is do-able but, and I've already talked about speeding up the process and not go beyond March 31st, which is the federal deadline.

Councilman Rojas: Keep us ahead of the train.

Mr. Fester: Yeah. Obviously you know there was a ton, significant amount of turnover, too, during the year we're auditing. I know we're speaking of the past, but this is the June 30th year end so you had the Finance Director leave after that year end and then the City Manager and so you've had a lot of changes since then. And the assistant is now gone, three (inaudible).

Councilman Rojas: It's good. Lourdes, you got a lot of work to do next year. Appreciate all your work, Lourdes. You and the troops.

Ms. Aguirre: Thank you.

Mr. Fester: I really think that once we changed who we were dealing with, then we really, the process opened up and we got a lot done, fixed a lot. And I think we've laid the groundwork so next year's audit can be done on time and much more cleanly. That's my hope anyway.

Councilman Rojas: It's our hope too.

Mayor Diaz: Okay. Any more questions?

Mr. Fester: Thank you.

Councilman Rojas: I have a question. Isn't it in order to file the report as the Council was presented since, or do, we don't have to move to file the report? What is your opinion?

Mr. Gonzales: Mr. Mayor, Mr. Rojas, no, we have already complied with all the requirements (inaudible) audits need to be sent to.

Councilman Rojas: Alright.

Mr. Gonzales: (Inaudible). All of that has already been complied with. There may be one or two that may request it because of the financial, possibly relationships that we may have. One of them may be the bonding company. As they ask for them, we will then submit them, ensuring that they are, you know, legitimately ...

Councilman Rojas: Okay.

Mr. Gonzales: ... qualified to receive those. I did want to make one comment before you move to the next item. I don't want the audience to go away with the wrong perception here. This audit is last year's audit. This audit ended in 2013. So it's important to understand that the majority of this Council, what you see here is what you inherited from the previous administration. One of the things that we're doing, we're working (inaudible) our Finance Department has worked very hard, continues to do that to correct all these deficiencies. There are some deficiencies here that are certainly very disturbing. Some are not as disturbing as others. But there are a number of these that have already been corrected and cured. The test is going to be six months from now, a year from now when you have your next audit, is going to then reflect what it is that this administration has done to correct those deficiencies. I want to make sure that that's clear because you know there are reporters out here and sometimes they write things that sometimes they don't totally understand. I'm not at all sending any messages here but the, I think it's important to understand that this audit that's been completed is last year's audit and this fiscal year that we're in now.

Mayor Diaz: One more thing, Mr. Gonzales, I do like the suggestion of doing a six month preliminary audit, or continuing that.

Mr. Gonzales: Well, Mr. Mayor, we'll look at that and then we'll come back to Council with some recommendations.

Mayor Diaz: Thank you.

2. SOUTHWEST GAS CORPORATION – FRANCHISE AGREEMENT, WALTER RITCHER, ADMINISTRATOR/CORPORATE AFFAIRS

Mr. Gonzales: As you know, we have been in some dialogue with Southwest Corporation regarding a franchise agreement. The franchise agreement that we're under now with Southwest Gas will expire in 2017, three years away. However, Southwest Gas has graciously agreed to look at this franchise agreement (inaudible) licensing and has come up with a proposal that perhaps will be something that we might be able to think about for approval in the near future. So today, with us, is Mr. Walter

Ritcher who is the Administrator for Corporate Affairs with Southwest Gas, and will go over the franchise agreement proposal that he's proposing to Council.

Mr. Richter: Mr. Mayor, members of the Council, Mr. Gonzales and assembled City staff and citizens of City of South Tucson, I'm Walter Richter and as Mr. Gonzales has introduced me, I do local governmental relations for Southwest Gas throughout southern Arizona. And he correctly stated that our current franchise agreement, which is approved by voters, will expire in February of 2017. Mr. Gonzales and some of his development services staff had contacted the company about some other issues that were going on and during the course of that meeting, when I'm about to meet with a City I usually take a look and see where we're at with the franchise to see if it would be appropriate to begin a discussion, and in order for us to get this done before February 2017, it would need to be referred to the voters by Mayor and Council, and then the citizens of the City of South Tucson would vote up or down on whether the new terms of the agreement are suitable for the City. I appreciate the time to come before you to present the proposed agreement and to make myself available to any of you for any questions either this evening or in the future, as you see fit, to get a better idea of what it is that we're proposing. First of all, the agreement that I have been in discussions with Mr. Gonzales on is much closer to many of the agreements that we're doing throughout the State of Arizona right now. To give you an idea, right now there are three other agreements with the City of Globe, Town of Mammoth, Bullhead City are all something I've been working on and this agreement is very similar. Sometimes there are small variations, a word or two here and there, but this is very close to the standard agreement. This will not increase the rates for the gas for members of your city. That is taken care of through a separate procedure through the Arizona Corporation Commission, and they're the people who would approve rates. I think there are some provisions of this that the City would find very favorable. When we do an agreement like this, it is a 25-year agreement and we view our agreement with cities to be a partnership. In the most basic terms, a franchise agreement allows a company to utilize the streets, roadways, alleys, places where, in our case, we can bury our facilities so we can serve the customers from the City of South Tucson. And the other part of that agreement is the tax collection that we perform on behalf of the City. We collect and remit taxes directly. It's a pass-through that we collect for the City of South Tucson and remit to you. To touch on a couple of the details of this agreement, I'd first like to say that we've incorporated something into a modern agreements that allows all cities to accept a higher franchise fee if we offer one to another city, as long as you are willing to accept the terms and conditions that go along with that agreement. Many times when I'm talking with cities, there's always this, "What if someone else gets a better deal and we're locked in for 25 years?" This agreement, in addition to allowing the Mayor and Council to adopt a higher franchise fee if other cities, if another city is granted that, they're also open to the length of this agreement at the 5th and 12th year so with one year's notice, we can always revisit this agreement if there was something that, down the road the City management, Mayor and Council were to find objectionable, we do have areas in here, off-ramps if you will, for your agreement that is this long, we can take to renegotiate this. Beyond that, these agreements are somewhat complex and I would encourage you to please contact me directly or through the City Manager. I

would be glad to come out for individual meetings but I, are there any questions that any of you may have this evening about the agreement that I could address for you?

Councilman Rojas: We'll wait.

Mr. Richter: Excuse me?

Councilman Rojas: Is there going to be other more extensive information that we could read or is there, I mean is it a pretty general franchise?

Mr. Richter: Certainly. This, Mayor Diaz, Councilman Rojas, yes, I'd be glad to submit this in its entirety to you and I'll continue to work with the City Manager and, to come up with the agreement that Mayor and Council see fit to refer to voters. Again, in the end, the way this would work would be a call to the election that the Mayor and Council would refer this to voters. I think one of the, although it can be difficult at times, one of the best parts of the laws that govern franchise agreements are that the citizens of the City of South Tucson would know about this agreement very well because for 30 days prior to election, we will be advertising the entire agreement in its entirety, in both English and Spanish, in local newspaper. So your citizens will be aware of it. I don't know of any other laws on the books that have a complete 30 day disclosure, but since these are long-terms agreements, it's only fair that the citizens are fully aware of what it is they are going to vote yes or no for.

Councilman Green: Mr. Mayor, I have a question.

Mayor Diaz: Councilman Green.

Councilman Green: On the actual franchise, as you put it, the, is it the infrastructure that you're looking at as the pipelines and whose responsibility of those?

Mr. Richter: Mr. Mayor, Councilman Green, yes, it is the rules of the road, quite literally, if you will, there are sections in here on construction, on street repair, on everything that governs how it is that we interact with the City. So to give an example, you just heard a financial audit, we give the City full rights to audit our books at any time. We allow the City to raise other taxes, plus or minus, that we do not, are not directly impacted on. It has language, which I believe protects both parties. And reference one area that we tend to discuss a lot during these negotiations is street and road repair. And with an underground company like mine that buries the majority of the facilities, almost all of our facilities underground, it's very important that the City's roads and infrastructure are properly repaired when we go into cut a hole to do maintenance or whatever it is that we need to do. We put provisions in there that protect the City and call for us to do road repair per standards that are widely accepted. Just a minor point about the style of what something, natural gas company has over an electric, you'll find that we are cooperative in many ways where some other utilities that are not needed to build a building if you were. They might have different attitudes towards some of these things. For Southwest Gas, our style is to cooperate fully with cities, businesses, and citizens that we serve because if, quite honestly, if we become a bad actor and we're not

meeting the expectations of a City or just our general reputation suffers, we won't be in the buildings that we need to serve and continue to thrive as a company. So when we propose a franchise agreement, we do try to make it very much a partnership where we are partnering with you and I'm sure when you observe this agreement in its entirety, you'll find that there's certain penalties that are available to you if we are not submitting taxes on time, or if we're doing other things that the City would find objectionable. This agreement has been looked at by many other cities and this is pretty refined, at this point, to have a nice balance between the two.

Councilman Green: Okay, thank you.

Mr. Richter: Are there any other questions that you may have?

Mayor Diaz: No.

Mr. Richter: Once again, I'd like to make this available to you. If there's anything any of you would like to discuss pertaining to this agreement, I make myself available for you to continue the dialogue in hopes to eventually move this to, defer it to the voters of the City of South Tucson. And I thank you for the chance to present (inaudible).

Mayor Diaz: Mr. Gonzales.

Mr. Gonzales: Mr. Richter, one of the items (inaudible) question here going to the voters, do we have a timeline involved here if we wanted to say take this to the voters in say the next General Election that might be held?

Mr. Richter: Mr. Mayor, Mr. Gonzales, there is, I can build a reverse calendar, if you will. The only agreement that, the only stipulation that I know that I need to prepare for is to actually have the agreement translated officially into Spanish and to have it published for the 30 days. As far as election requirements building up to what I imagine would be a November election is, I believe as we discussed before that, would be (inaudible) Mayor and Council, we would need to be able to begin advertising no later than October 4th or whatever the Tuesday is prior to the election to give us 4 entire weeks for advertising. As far as other election requirements for putting it on the ballot, I think you should look at your own internal procedures. I believe there is still time to get this done before November if it is something that Mayor and Council are interested in proceeding with.

(Simultaneous conversation)

Mr. Gonzales: The question I believe is if Council decided to go ahead with this type of proposal which requires a vote of the electorate, it doesn't have to put it up, say, in a November election coming up. For example, if there's a bond election coming up in the County, we could slap it on there in November. That requires a timeline under which it has to have notice and all of that (inaudible). But what, if it were to go to a special election, for example, could it get on that ballot if there was a special election in the City of South Tucson? The City of South Tucson will not have elections until 2016 for any of

their elected officials. So there is no General Election scheduled as such, unless there is a bond election by the County this coming November, which is, it looks like they're going to be calling one pretty soon. So beyond that, if you went beyond that, if your understanding is can it go on a special election, which are basically consolidated elections.

Mr. Richter: Mr. Mayor, Mr. Gonzales, yes, it can. A special election is available to accommodate the franchise.

Councilman Green: There's going to be a primary, right, in November?

Mr. Gonzales: General election.

Councilman Green: That's a general election?

Mr. Gonzales: It's just a regular elections in November ...

Councilman Green: Oh, it's ...

Mr. Gonzales: ... (inaudible).

Councilman Green: ... (inaudible).

Councilman Rojas: It's over. (Inaudible). You forgot to vote?

Councilman Green: No, I (inaudible). I don't even know what day it is.

Mayor Diaz: Thank you. Mr. Gonzales, we do have a copy of the agreement, right?

Councilman Rojas: Yeah.

Mr. Gonzales: Mr. Mayor, I submitted a copy of the agreement to the Council last week. If you don't have it, I'll be glad to make copies again and put it in your boxes tomorrow.

Mayor Diaz: Okay. I have mine. Okay. Thank you.

3. STRATEGIC PLAN – MAGISTRATE COURT

Mr. Gonzales: I'd like to ask (inaudible) Herman, Mr. (inaudible), Mr. Lassen to come and join us, come up here for a second. Mr. Mayor, members of the Council, as you are well aware, we have been working on a strategic plan for the City of South Tucson for the last approximately ten months, roughly. What that entails, and that entails a great deal of dialogue between all the departments, one by one, trying to discern what the goals and objectives would be of each of those departments. We'll have today is we're going to have the first part of (inaudible). What we've done is we've begun a schedule, these study sessions, so that Mayor and Council can go over each one of these

departments on their goals and objectives of that strategic plan. The strategic plan is put together to take you out to a period of four to five years as to what your goals are, what your objectives are, what the tasks are that it's going to take to get you to those objectives, and lastly, that the measurements by which to measure those goals and objectives. Today, we have the Courts first. What we've done is we've worked on what are the goals of the Court that they want to begin to work on to get to the point of making the Court more efficient and more effective. And one of those things that has come up is to take the current diversion system that you have within the Courts and enhance it. In the past, there has been many terminologies as to what to call these diversion programs. All Courts, that I'm aware of, have some type of diversion program within their systems. South Tucson has a diversion program that really needs a lot of work on it to get it structured for it to become more efficient. So what we've done is that one of the major objectives in the Courts is precisely that, beginning to implement improvements on that existing diversion program. Some people call it "Community Court" which is a misnomer, in my opinion, because it's really not a community court. It's a diversion program that already exists. And so what we're doing is that you're going to see another document that the gentlemen are going to pass out today that makes some changes in the original document that you have (inaudible) to each one of you so that you can begin to look at those. And those, and the document that we sent you is the entire plan with the exception of two departments. That would be the Department of Finance and the IT Department. Those two are now being finalized and as soon as those are done, then I'll copy those to you so that you will then have the complete document. As we go through these in the month of August, you're going to have every other Wednesday, I believe, I'm not sure what the schedule is, you will have each department and each department head come before you so you can ask any questions or whatever. Now what we want to do here is create a dialogue so that if there are items in here that you want to ask questions about or you feel that maybe there needs to be a change or whatever, this is a living document here. It's prone to change. And in the future, once you adopted it, if you do adopt it, then there will be changes because it will be flexible enough for you to be able to do that, depending on what happens during the course of time that they're in operation. So you're going to be going through this one today. I'm going to ask Judge Lassen to first give a couple of words regarding what his experience has been and what his vision is here. As we said earlier, we've already put him to work. He hasn't even started. He's not getting paid for this yet. But he's been gracious enough to help take a look at this piece of the strategic plan to give us some ideas and some recommendations. On the 13th of August, you'll have Police and Fire. On the 18th of August, you'll have Developmental Services and Public Works. And on August 20th, you're scheduled to have Housing, Finance and Information Technology. So assuming that we keep to that schedule, that's the schedule we will be following. So let me turn it over, first to Judge Lassen, then Dr. Soaring Hawk here who is a consultant helping us put all of this strategic plan together who had all the dialogue and conversations along with myself and others, with every department, Mr. Herman Lopez who has been working along with formerly Judge Wilson and currently now with us as a community liaison type person. And then we're going to have Juan Huralde who, Juan is now working in the Finance Department but at the time when Judge Wilson was here, he was working in the Courts. Juan has a great deal of experience in probation work, as well as finance work and a lot of computer

knowledge so he put together the data base, the assessment tool that, as you will hear a little bit about, regarding how that might work. So with that, let me just turn it over first to Judge Lassen and then you folks can (inaudible).

Judge Lassen: Mayor and Council, I think that some of you have heard about those (inaudible) before and he got involved again and I think they've gotten bigger. And he said it's a couple of weeks. Does anybody know anything about this? This is, it's going to go before the Council. It's not right to (inaudible) new judge even though you're not there and so in the past couple weeks, I've been busy and I have met with many people. I'm going to tell you about some of that. You know, you picked me to be the new municipal judge because I have lots of experience in the law and also lots of experience in interfacing with government and community organizations, and lots of experience in business. I admit a defect; I have little experience in South Tucson, except for enjoying the many fine restaurants and well, I have no experience in the South Tucson Court. I've never been here before I came to interview with all of you. One of the things that's happened is that I've been provided with a mentor about being the South Tucson Municipal Judge. As all of you know him, or most of you know him, his name is Judge Antonio Riojas and Judge Antonio Riojas is the presiding judge in the Tucson City Court. He's been a judge there for 19 years. He started his career as a lawyer, as a prosecutor here in South Tucson. The Tucson Municipal Court has 8 full-time judges and 15 part-time-, protem judges and 135 employees. Judge Riojas presides over all that. Additionally, Judge Riojas is the chairperson of the Arizona Supreme Courts Committee on improvement for Courts of limited jurisdiction. Judge Riojas is now officially my mentor as a new judge. First thing that Judge Riojas told me was that he advised that the new judge in South Tucson must take a couple of months to study and think and make a commitment that no big changes are going to occur or no big programs are going to be created unless it's absolutely necessary in some sort of emergency, that the Judge has to come with an open mind and learn what's going on and learn the (inaudible) of the land. I'm fortunate to have had the assistance in this past couple weeks of Don Luis with whom I've been able to talk and share most of the things I'm going to tell you about tonight. I'm also fortunate to have had the services and assistance of Dr. Soaring Hawk, Mr. Herman Lopez, and Mr. Juan Huralde. They've been meeting with me to help me to understand the process and, you know, I'm sorry you guys that have been working on this for a long time and I'm the newly come guy, but they've been very good at working with me and in understanding things that I see where I'm coming from and in helping me and even in agreeing with me about some of, about some of these things. Almost all of the courts of limited jurisdiction, and here's the distinction, there's the Superior Court which is the court of general jurisdiction and has control over everything, can do everything. There are courts of limited jurisdiction that are limited by statute to what they can do. South Tucson is a court of limited jurisdiction. It can only hear misdemeanors, DUI, criminal traffic, civil traffic, orders of protection. Generally, that's it's jurisdiction. It's a jurisdiction that is technically combined with the Pima County Justice Court organization and under the organization and superintending control of the Pima County Superior Court. In the Pima County Justice Court jurisdiction, almost all courts and I'm not sure that I'm aware of one that doesn't, almost all courts have some sort of a diversion program operating. The subject to diversion is well-defined and well-regulated by existing Arizona law.

Maybe some of you remember in my interview you said, "Well, what changes will the judge make?" And I said, "Well, the judge doesn't create law. This, we're already governed, we're highly governed as courts of limited jurisdiction by the laws, you know, the existing statutes and rules of criminal procedure. The judge just doesn't get to make things up." And in the case of the diversion programs, these are already pretty well-defined by the statute and court rules. The law limits and defines who can be eligible for diversion and lays out the framework for the operation of such programs. It's the job of the judge to make sure that the court complies with the law. Until recently, South Tucson did have some form of diversion program operating, at least to some extent, although I'm told this has not been operating at all since the retirement of Judge Wilson, perhaps for some period of time before that. And he had been sort of ill or in failing health and the program was not being developed. Pima County Justice Courts have, they already have in existence specialized diversion programs for homeless, for veterans, and for mental health matters. And believe it or not, the South Tucson Municipal Court is already technically within this umbrella and has somewhat, somewhat participated in the past, perhaps we have to participate more in the future. These programs already exist and are run by, some are run by the Pima County Justice Court, some are run by the City of Tucson Justice Court and they apply here. They can apply here. So I was presented with materials, and I think you've already had them for a while, about the Community Court. These are materials that were developed before my appointment and they were heavily into this term "Community Court", which in my opinion (inaudible) was for the most part simply a diversion program that's already defined by law and which has already operated to some extent here in the South Tucson Court. The materials and the proposal that were given to you and given to the community, I feel may have led people somewhat to believe that a new concept was being invented here. And in my judgment, that's not the case. And the term "Community Court" is generally just another name for the type of diversion programs that are already defined and authorized and currently operating with varying degrees and success in all of the courts in our larger community. So after discussion with all of the persons I mentioned, I asked the, all the existing materials be changed to simplify this matter and reflect that the plan for the South Tucson Municipal Court is simply to reinvestigate, redevelop, reinstate a diversion program that complies with Arizona law and the best practices within the South Tucson Municipal Court. When I start work on September 15th, and as I go through this get acquainted period, I'll begin examining what resources exist to accomplish the goals in this new method plan and get diversion back onto our tool belt. In addition to promising Judge Riojas, I promise all of you and the staff (inaudible) in attendance here, I don't come here with a pre-conceived agenda. I come here to learn and honor your community and understand it before I go implementing things or making changes. And so I have to end tonight by thanking the, even Mr. Nicolini (inaudible) and Mr. Lopez and Mr. Huralde and Judge Riojas and all of you for your understanding about this matter about the plan for your South Tucson Court, and I hope to be standing here before you in the future when we can all celebrate the success of our court. Thank you.

Councilman Green: I have a question. On diversion, ...

Judge Lassen: I've been asking for (inaudible). I keep saying every time I've been here, "Where is this guy Idelfonso?" I really like that name because the smallest and most (inaudible) in New Mexico which is Idelfonso. It's even hard ...

Councilman Green: The village.

Judge Lassen: A beautiful place.

Councilman Green: Alright, getting back to diversion. On diversion, yeah, you said that the tools were here, the tools were taken away. The tools were taken away by our own staff.

Judge Lassen: Yeah, that may be, that may be the case. It could be, you know, and I don't know the reason for that, Councilman Green, I, I don't have a reason for that. I know, only told simply that the program (inaudible) sort of left and went back. As Judge Riojas says, since May or whenever it was that Judge Wilson left. You simply had a series of visiting judges who don't have any investments in your community or any particular knowledge in your community. They just come here to do the job in front of them as simply and as quickly as possible and then go back to where we came from (inaudible) the interest in (inaudible). So I don't know what I'm going to see, what I'm going to find, only that, you know, for example, in the first meeting with Mr. Prosecutor Nicolini, I mean he gave me a couple of very good examples of (inaudible) that he'd seen in his brief service that surely could (inaudible) benefited by some kind of diversion. Not only could it save money by not jailing people, but I mean you, you've had, in one story he told me about, you had someone who was jailed and ended up being into the immigration net who never needed to be there at all. (Inaudible) in jail and didn't need to be, you know, I mean the whole thing could have been dealt with in some, in some form of diversion. So don't, don't get me wrong, Councilman, as a person who's practiced law for 41 years, a lot of it criminal law and been a prosecutor (inaudible) I'm telling you that there are some people who, for whom jail is the only answer. But there are, you know, there are a lot of people that we should have better or different answers for, and we have to have a way to find those.

Councilman Green: So basically what you're saying is that with the system that we have now it's, it suffices, it's just the interpretation between the prosecutor and the magistrate?

Mr. Lassen: Well, we may need some more resources. I don't know. I mean I know there are three staff persons. I've met them. I haven't even had the opportunity to take them to lunch yet, but sit down with them and say, "Tell me what you do," and, you know, "Who are you?" and haven't had the opportunity to work with them and meet them, and take them to lunch and, and I don't know what the functions of the court is. I saw that there was a time when you advertised, along with my job and Mr. Nicolini's job, you advertised for a position of Court Administrator and if that person doesn't exist and we don't know whether they will exist and/or whether we have the resources for that, I can tell you that for a while Mr. Juan Huralde, he actually worked in diversion programs in the Tucson City Court and the Oro Valley City Court, and here in South Tucson for

several years (inaudible). He knows a lot about this subject and for some period of time during his employer in South Tucson, he sort of operated and worked in the diversion program, such as it existed here in South Tucson, but now he, as I understand it, he doesn't have anything to do with that, but he's a resource. I mean perhaps look at some more of his time as we look into this because I can tell I'm already going to talk to him. He's got a lot of knowledge about the subject. I mean he's even gone so far as to develop intake assessments (inaudible).

Councilman Green: Okay. But the initial question that I had asked was between the prosecutor and yourself as the magistrate, you have the responsibility, even if it wasn't a community court or whatever you want to call it, you have the right for diversion.

Judge Lassen: Right.

Councilman Green: Okay. You have the right to look at the individual that comes before you.

Judge Lassen: Right.

Councilman Green: Assessments had to be made.

Judge Lassen: Right.

Councilman Green: Prior to it. So why are we, and the thing that I can't understand is looking at revamping a system that is already in place?

Judge Lassen: Well, I don't think it is in place any more. I don't think it is in place any more (inaudible) for a while. We were, you know, working on having this new system and for some reason that, you know, the work stopped on that new system. You know, I don't understand (inaudible) resources or we're going to have (inaudible) different kind of plan but I think (inaudible) have to do with this unfortunate departure of Judge Wilson who had been here for 12 years, as I understand it.

Councilman Green: Yeah, but the system is a system.

Judge Lassen: Did it operate well before? I don't know. I can't tell. I, I can't tell you. Only, I can tell you by report it doesn't operate (inaudible) report of Judge Riojas at the present time it isn't operating.

Councilman Green: That the prior system wasn't working?

Judge Lassen: Well, I don't know if the prior system worked or didn't work. I think Mr. Huralde (inaudible) ...

(Simultaneous conversation)

Unknown: Can I just say, and Judge Wi-, I think we have to review the history of the last six or seven months and actually, when Judge Wilson had his stroke, Mr. Lopez and I were with him at the time. And so, obviously, we could see he was quite ill and we both asked that he go to the hospital and he did so. And he texted, texted that he had a stroke. So he has been, he was generally, with all due respect to him, I think he would agree he was not operating at his full capacity. And what role that played in diversion, I'm not certain. But in the original plan that we submitted, diversion and strengthening diversion was one goal. And to your specific question, I think any well-run organization is continually reviewing and revising its policies. I think that probably what happened is that Judge Wilson was very committed to the Center for Court Innovations idea of implementing Community Court. As the consultant, I wasn't in a position to try to dissuade him from that. This is what he wanted to do and my job was to provide technical assistance in order to do that. When Judge Lassen requested a meeting with the group, he asked me, quite candidly, what I, what my recommendation was and I told him that I thought, under the circumstances, that Judge Wilson, being a very forceful and powerful advocate for the community court, having been, should we say, and I mean no disrespect to Judge Wilson, in fact I admire him, but I mean I think we all know he was generally incapacitated for a period of time before his resignation. I told him that I did not feel that it was prudent for him to try to implement a program that he was not, that he had not been part of the development of, spend a lot of time developing it. So I gave him that recommendation and he happened to tell us candidly that he was thinking along the same lines. He basically said, "(Inaudible) you're our consultant. What's your take on this?" And I said, "Judge, my take on it is that I think you should not go forward with the implementation of the community court. We have the diversion program here. It's already," it was already in the original plan. And he told us, he said, "I was thinking along those lines myself and I'm glad to hear that you support that idea and I believe that's what (inaudible)." And that's how we felt at that time that it would be better to provide you with an updated plan based on, even though the Judge hasn't taken his post yet, he will. So we felt that it would be fair to him to allow him to give his input into it and to revise it so that the plan, so it really has ownership of the plan as opposed to having him take Judge Wilson's plan that he really had nothing to do with the development of so the, it was my recommendation to him. He had the ultimate choice but he decided to.

Mayor Diaz: Is this what we have here then?

Unknown: Yes, that's the new plan so it's ...

Mayor Diaz: It replaces ...

Unknown: ... (inaudible) ...

Mayor Diaz: ... the one that's in the (inaudible).

Unknown: Yes, there's three (inaudible). One of the original five goals always was (inaudible). And then if it's okay with you, Mr. Mayor and Council members, I think that Juan can really give you an insight as to the history of diversion in South Tucson.

Mr. Huralde: Mr. Mayor, Councilman, let me get down to the root of your question then really answer it.

Councilman Green: Thank you.

Mr. Huralde: The diversion program as it existed in South Tucson for over a decade to my knowledge, all went to a subcontractor. So when the prosecutor offered a plea of diversion as opposed to a guilty for, let's say an act of domestic violence that was misdemeanor, perhaps shoplifting, a minor in possession, those misdemeanor crimes that per statute are eligible for diversion, they were sentenced or actually tell the person, "Go report to this subcontractor." The subcontractor, which I worked for, and was actually a manager there for many years, conducted the diversion program for the City of South Tucson, for the City of Oro Valley, and also for Tucson Municipal Court. So the existing program that we had was really have a prosecutor refer, with the Judge's concurrence, the defendant over to a private company that run diversion/probation programs. Now for probation, those were guilty cases such as DUI. Diversion were pre-adjudicated cases that were deferred (inaudible) that required three things: one was payment of a fee or fine, or a combination of both; the other was counseling, as determined by the probation monitor, the probation or diversion company. And of course the other was to stay out of trouble and not re-offend. If you were able to meet those three conditions, then your case was dismissed, you were able to go on without having that stigma of a criminal record for say shoplifting, minor in possession of alcohol, misdemeanor possession of marijuana. Now, obviously, felonies went over to the higher courts. They were never part of this diversion program. Just before I got here officially as a part-time contractor, the company went defunct. It went bankrupt, it went out of business. So we had a vacuum. That's really the answer to your question. The diversion program, as we knew it, meant we had a subcontractor that was running it. The Court was sending the person, but we had no probation/diversion person within the City of South Tucson running the program, going through the assessment, walking the person through the system, checking up on them, making sure that they stay out of trouble, making sure that they stay off of drugs, making sure that they continue going to counseling. And once they earn the right or they earned that dismissal, we, and I'm saying we, back in my former life with my old company, would send over all the documentation necessary to get that case dismissed, or we would send notification that the person did not comply. Then the person was forced to come in and face the judge and the prosecutor, and go through the traditional court process. When I arrived, there was nothing here.

Councilman Green: There was no reviews, there was nothing.

Mr. Huralde: There was no, the resource was not here. The subcontractor was no longer around. So I came in to try to develop a diversion program that was in-house. Now this evolved into what many refer to as "Community Court", which is Mr. Gonzales and Judge, honorable Judge said was really a misnomer. It was just a way to have that same type of diversion program in-house without having to send the person out to a subcontractor. But have a person like myself, sitting within the Court, walking the

person through the system, however, we would have some enhancements. And that, I think is where Community Court came in. Community Court, I guess the apple pie in the sky thought with Community Court, through the Center for Court Innovation, and their philosophy is that everything would be in-house; counseling, social service interventions; so you wouldn't be referred to say COPE and La Frontera, a CODAC, you know, Compass Health.

Councilman Green: Pasadera.

Mr. Huralde: It would happen here. Now that really proved to be something extremely difficult and so what we're doing now, after looking at the process and talking with the resources and the new judge, Dr. Soaring Hawk, Mr. Lopez and Mr. Gonzales, and now that the new prosecutor, who I met today, is going back to diversion, forgetting this misnomer of Community Court. And we need that resource in-house to make sure that the person is walked through the process, given the classes that they need to take, establish the curriculum with the social service intervention. Now one of the things that I've already created is an assessment system. It's called STARS, South Tucson Assessment and Risk System. And what it does is it tries to identify what is the root cause of your action. You know, did you shoplift, did you commit a beer run at the Circle K down the street because, I don't know, you're a 19-year old kid and you're friends dared you to do it. You know, and you go out there, you do a beer run and what really is the root cause. What should we address? Well, that assessment, the point of that assessment is to say, alright, well, you're a young kid. You need some adult responsibility classes. Or are you a hardened alcoholic? Are you a homeless veteran perhaps? Do you have SMI issues? Are you living on the streets? Did you go into that Circle K to shoplift that alcohol to get rid of your delirium tremors? You know, should we send you to a place like La Frontera to detox like Desert Hope? And that's really what this STAR system is all about. So what we're doing is establishing or re-establishing the diversion program in-house. But we're also making sure that we address root cause so that we connect from a true corrective action, while at the same time lowering jail fees, keeping people out of jail and making sure that people get the help that they really need. So Councilman Green, really, the answer to your question is the diversion program was something that was referred to, referred out to a separate company. And when that company went away, diversion basically ceased to exist.

Councilman Green: But really, is it the court's responsibility to look at the root cause of the individual, why the action was taken? Or is it to look at the legality of the offense that was created by the individual? And then prosecute and then refer to the proper authorities? I mean to the proper agencies for help.

Judge Lassen: Well, what you said is first and primary. What you said is first and primary. The only thing is that ...

Councilman Green: Well, you know, ...

Judge Lassen: ... (inaudible) ...

Councilman Green: ... the thing is you have to understand the makeup of the community. The businesses have been inundated by excessive, you know, shoplifting, breaking and entering. I don't see any restitution for any of the individuals that are the victims. Everything is for the individual that committed the crime.

Judge Lassen: Well, those are all, those are, those are all important things and the community merchants are important people to be consulted and to have a say. Restitution of the victim is important. There is this other concept called Community, Visible Community Restitution", as well that may be appropriate. What diversion seeks to do, though, is to pick those people that can legitimately benefit by being diverted from the judicial system, not have a criminal conviction, not have a jail sentence hanging over their head. But at the same time, get all the consequences that you're talking about and we hope we're not going to see them again. And you know, under the law, Councilman Green, under the law, if you have previously participated in the diversion program, you now are ineligible to participate again. So this isn't some program for repeat offenders or (inaudible) offenders or any kind of ...

Councilman Green: So it's ...

Judge Lassen: ... (inaudible) ...

Councilman Green: ... first-timers.

Judge Lassen: You know, ...

Councilman Green: Yeah.

Judge Lassen: ... that's the Arizona law. That's what ...

Councilman Green: Right. And ...

Judge Lassen: ... (inaudible) ...

Councilman Green: ... see, that's what I'm saying. That already exists.

Judge Lassen: Can I interject something?

Councilman Green: Yes, go ahead.

Judge Lassen: As new judge, as I mentioned, we met and talked about a number of things. And I think one of the things that will come up with any diversion program is an initial screening by the prosecutor. And I'm glad to hear that there's going to be a STAR program for risk assessment. But, you know, among the things that Jose mentioned, certainly there's fees for the program. There's potential services to the participants. They have to stay out of trouble. But also, there has to be payment of restitution. That has to be a part of, if the person is diversion eligible. And they've shoplifted or broke something, criminal damage, you know, they've got to make restitution. That's certainly

will be part of that assessment and part of the requirements for participation. And the benefit, of course, the defendant, in the end, is they do get the case dismissed. But the benefit is to the victim is they'll get paid. And it's a big incentive for the defendant to actually pay the money because they're going to get the case dismissed. I had a fair amount of experience with felony diversion program with the Pima County Attorney's Office. And they were limited to certain, you know, non-violent offenses and first-time offenders. And I think this South Tucson Magistrate Court, the kinds of cases that we get here a lot, will be particularly conducive to implementing a diversion-type program because they're not going to be, well, you know, first of all, they're not going to be felonies. And if they are violent offenses like assault or domestic violence, you know, they're probably not going to be diversion eligible. But cases like shoplifting, minor in possession, you know, many, many cases for people who are eligible because there are a bunch of (inaudible) in the statutes, bunch of kinds of cases that can't have in there, can't have a domestic violence where somebody's injured. You can't have a DUI. You can't have somebody who has had three previous convictions possession of drugs or paraphernalia, for example. You can't have someone who's previously been in the diversion program.

Councilman Green: No, and I understand that. But I've seen, you know, the court system here and they'll just show up. They have sixteen counts against them. Fifteen are dismissed. One is reduced. And then they go on their merry way.

Judge Lassen: I don't know ...

Councilman Green: No, I mean ...

(Simultaneous conversation)

Judge Lassen: As I told, I've told every one of these people that comes (inaudible) and the other Council members, there's only one thing you can count on (inaudible) and that's that I gotta find new and different ways of doing things and you're going to wonder why or how I did that, but hopefully we'll (inaudible). You know, because I'm here to help you and all the rest of the people have an honorable and classy and compliant court. And also, by the way (inaudible) because I don't think (inaudible) ...

Councilman Green: No, we don't. Because we, you know, we've been the laughing stock.

Judge Lassen: (Inaudible) good business (inaudible) good training and good staff and good relationship (inaudible) and good relationship between the prosecutor and the judge and the members of the community and the Council. We're gonna do that. (Inaudible). If we don't, I'll be the first person to tell you that I'm not getting done what I think (inaudible) ...

Councilman Green: No, I think we're looking in the right direction. It's just, you know, I'll leave that for history to.

Judge Lassen: Well, remember though, I want you to remember this, I've already said this, I said it tonight, I said it (inaudible) and I made this commitment in the first couple months I'm not going to do anything different. I mean I'm going to watch and see what's going on and see what's over there in that office and I want to see what comes in and what's going on. You would want me to do that.

Councilman Green: Oh, yes, sir.

Judge Lassen: You'd want me to have some common sense and be a good businessman and ...

Councilman Green: Sir, you could not have reached the position you are without any common sense.

Judge Lassen: We would hope so. But there are a lot of people (inaudible) some in the judicial community who seem to lack it sometimes.

Councilman Green: Thank you.

Mayor Diaz: Does the staff have any comments, ...

Councilman Rojas: Question? Comments?

Mayor Diaz: ... comments? No?

Daniel Nicolini: If I may, are there any questions Council may have for me about this or any other aspect of this strategic plan, which I just saw myself tonight. If not, then I've got an appointment to meet my daughter for dinner. I'm going to take off.

ITEM #14 – CALL TO THE AUDIENCE

Mr. Green: Good evening, my name is Raul Green. I address is 307 West 36th Street. Mr. Diaz, we had a conversation a while ago. I don't know if you remember. We were talking about this same thing, this court program, this Community Court. By any other name, it's a Community Court. I had a problem that I discussed with you about a person who lives right across the street from the school. And he took off his pants in front of a lady and ...

Mayor Diaz: Okay. Mr. ...

Mr. Green: ... (inaudible).

Mayor Diaz: Mr. Green, from now on when you address the Council, you'll address the whole Council not me personally.

Mr. Green: Everybody ...

Mayor Diaz: The other thing is that if it's your personal comments, you'll have to not do that. The other thing is that you'll only have three minutes to do it with. And the other thing is that there is a recourse for you to take and that's to ask for public information and your brother can fill you in on that. If this is, that part ...

Councilman Green: Excuse me, Mr. Mayor, ...

Mayor Diaz: ... use that. And ...

Councilman Green: ... Mr. Mayor, ...

Mayor Diaz: ... (inaudible) ...

Councilman Green: ... don't bring me into this, please.

Mr. Green: Okay, Council, Mr. Mayor, I had a conversation with the Mayor about this guy who was (inaudible) himself, took off his pants, showed his ...

Mayor Diaz: Now I've asked you already ...

Mr. Green: ... (inaudible) ...

Mayor Diaz: ... to, ...

Mr. Green: ... (inaudible) ...

Mayor Diaz: ... Mr. Green, I'll call ...

Mr. Green: ... (inaudible) ...

Mayor Diaz: ... you out of order if you continue ...

Mr. Green: ... (inaudible) little girl. How am I out of order? And he came ...

Mayor Diaz: I'll call you out of order. I already explained to you that you can get public information by doing a public request. There's a police department also, too, that you can address to directly.

Mr. Green: No, but this is in regard ...

Mayor Diaz: Well, I'm telling you ...

Mr. Green: ... (inaudible) ...

Mayor Diaz: ... that (inaudible).

Mr. Green: This is regar-, okay, one comment about the Community Court. The Community Court (inaudible) and however you want to call it, it's an experiment. It's a, our community has been called poverty-stricken. It's full of poverty businesses and now we're going to have a poverty court. This court, we can't have a Community Court and a court that only has a community court as the only court in town. We need, the community court needs to be a supplement to a regular court. Before we, we had a meeting about this. You were not there. But we decided that we were going to do this community court one day a week and we were going to try it out and see how it worked. The judge, Judge Wilson, agreed to this. He's not here but that's what the community wanted. The community wanted one day a week to try it out. And four days a week of regular court. If it worked, we could probably increase it to two days a week. But I don't think that we should (inaudible) community court and have that as the only court in town. It just won't work. It's not going to work. And it affects the rights of the people. It affects the rights of the victim. It affects the rights of the person committing the crime. Since I can't talk about this guy who took off his pants in front of a girl, and then ...

Mayor Diaz: Okay. You're doing it ...

Mr. Green: ... (inaudible) ...

Mayor Diaz: ... again. I'm ...

Mr. Green: ... (inaudible) ...

Mayor Diaz: ... going to call you out of order. You're doing it ...

Mr. Green: Okay. I'm leaving. But this guy got two months with the court. And that was it. And, and ...

Mayor Diaz: Thank you much.

Mr. Green: Okay.

Mayor Diaz: Is there anybody else that would like to address the Council?

(No response from audience)

ITEM #15 – ADJOURNMENT - Motion by Councilman Rojas to adjourn the Regular Meeting. Seconded by Vice-Mayor Romero. Motion passed unanimously. The meeting adjourned at 8:07 p.m.

ATTEST:

Veronica Moreno, City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Meeting of the City Council of South Tucson, Arizona, held on the 11th day of August, 2014. I further certify the meeting was duly called and a quorum was present.

Dated this _____ day of _____, 2014.

Veronica Moreno, City Clerk