

***PLEASE NOTE: Since the Glendale City Council does not take formal action at the Workshops, Workshop minutes are not approved by the City Council.**



**MINUTES OF THE GLENDALE
CITY COUNCIL WORKSHOP SESSION
Council Chambers – Workshop Room
5850 West Glendale Avenue
December 4, 2012
1:30 p.m.**

PRESENT: Mayor Elaine M. Scruggs, Vice Mayor Steven E. Frate and Councilmembers Norma S. Alvarez, Joyce V. Clark, Ian Hugh, Yvonne J. Knaack, and Manuel D. Martinez,

ALSO PRESENT: Horatio Skeete, Acting City Manager; Jamsheed Mehta, Interim Assistant City Manager; Craig Tindall, City Attorney; and Pamela Hanna, City Clerk

Mayor Scruggs welcomed everyone to the Glendale City Council Workshop meeting of December 4, 2012. She recognized and welcomed Ian Hugh in his first meeting as a Councilmember since he's been sworn in. The meeting was called to order.

WORKSHOP SESSION

1. COUNCIL ITEM OF SPECIAL INTEREST: RESIDENTIAL LOCK BOX PROGRAM

PRESENTED BY: Mark Burdick, Fire Chief

The primary intent of a lock box program is to facilitate quick access to residential homes during Emergency Medical Service (EMS) responses. Lock boxes provide Fire and EMS personnel the ability to expedite entry into a residence using a key rather than forcing entry through a door or window. In addition, providing a key for emergency responder access may limit damage as a result of forcible entry. In all cases, emergency responders will exercise their judgment to utilize the key or force entry.

Chief Burdick stated that they conducted additional research with the city's that do offer this program, Goodyear, Peoria and Surprise. Those programs have been in place from six months to seven years. The number of residents using the program in Goodyear is less than 100, in Peoria is 600 and Surprise is 1,870. Chief Burdick did speak of options available in case Council decides to approve this and also had some comments regarding Police participation and what the next steps would be to implement the program.

Councilmember Martinez asked if the City were to implement this program, what the cost would be. Chief Burdick said there were a couple of options and one option would require a request for proposal. One vendor advised they run and maintain a program which costs \$15 to the resident. They would register the address through Phoenix Alarm. This has minimal cost to the City. The City is just a pass-through. There would be about 40 staff hours to establish the program. The program that would have a cost to the City would be if the City purchased the lockbox and provided it to the resident, and that would be about an hour of staff time to get that set up.

Chief Burdick said if the City decides to pursue this; the best option would be to put out a request for proposal and see what vendors respond and the programs they offer.

Councilmember Martinez said this is a program that the City should have and they should go out to bid to see what programs are offered.

Councilmember Knaack agreed with Councilmember Martinez. She was a little concerned about the City providing this program from the liability aspect. She said it would be better if an outside vendor provided the program, especially with minimal cost.

Mayor Scruggs asked where would an alarm come in. Isn't this just the box? Councilmember Knaack said there is a liability risk if the City was to run the program themselves. If the lockbox didn't work and the emergency personnel couldn't get in, she felt there would be a liability issue for the City. Mayor Scruggs said she didn't think any city is installing them, are they. Chief Burdick said some cities were running this through their Fire Prevention programs. He said using a vendor would be best.

Mayor Scruggs asked when it says how many Glendale citizens subscribe to the rescue alert system, what is the rescue alert system. Chief Burdick said the Rescue Alert System is one of the vendors that would probably reply to the request for proposal. He said it was a program they have and they run the lockbox program. When you sign up to rescue alert, they come out to your home, install the lockbox, determine the best location and they would advise the City where the lockbox is located. Mayor Scruggs said well what does rescue alert do otherwise, because it says there are 52 users, but only 2 have a lockbox in lieu of a second alert unit. She was curious what rescue alert is. Chief Burdick said rescue alert has the alert button necklace that you can push to alert emergency personnel.

Mayor Scruggs asked if Glendale Police could also participate in the residential lockbox program and the justification, the thing about warrantless police entry. It says one such exception is in the area of exigent circumstances. This exception allows warrantless entry where police have probable cause to believe that there is an immediate, urgent and compelling need for police action, which this might be a person in serious need. This exception would be applicable to a situation where a citizen's life was in immediate danger, which is what was being discussed. In light of this, the public welfare is protected without the need for generalized police access by way of a lockbox, which tells me that means they are going to break down the door, which is what we are trying to avoid with the lockbox. So, you are saying police have a reason to go in without a warrant if there is immediate danger and it's all okay because they can break the window or chop

the door down, or do whatever, but we are trying to talk about how to avoid that for people who want to avoid that.

Chief Burdick said the reason that is put in there because when the public safety attorney was contacted about this, some cities have kept their police department separate because they don't want the perception that the police have a combination to their residence that they could enter for reasons other than emergencies. So, if a critical situation occurs, the police could absolutely go in, that is the exception. If someone is down and unresponsive or has hit the alert button, then the police would come in and use that lockbox. Some communities asked the question if someone could make a claim if a house was entered in a warrantless situation. If this process moved forward, the Police Department would be heavily involved to review what they are comfortable with.

Mayor Scruggs said maybe the person who wants to be a part of the residence lockbox program can check the form and say yes it's okay for police to have this information or no it's not. Chief Burdick said that was a good idea, depending on the vendor that is selected. Mayor Scruggs said her feeling was that this is something that is available. Not everyone is going to want this, but there are people who are going to want it and she didn't see where the City of Glendale has any right to deny people the opportunity to be part of this program if they feel this is going to make their homes, lives, and personal property safer or better able to be tended to in times of emergency and if Council says no it won't be offered in Glendale, the city could probably be sued for not letting people have a choice. There's a limit to how much the city was going to try to govern people's lives. She thought people should be allowed to decide if they want to have this or not have it. She didn't think the city should deny them the opportunity to do that and the city should go forward with it.

Chief Burdick said the Fire Department is simply giving the facts. He said any resident could sign up with one of the vendors to have that service and that information would be entered into the Fire Department's system. He said the issue was whether the City wanted a more formal program. They could provide a program such as the other cities have, but if they went through the RFP process and had a vendor do it; it allows the City to recommend that one vendor and makes it a little more consistent rather than having several different vendors.

Mayor Scruggs said let's go back to the rescue alert where anybody can have this by signing up with rescue alert. If she wanted to sign up with rescue alert, does she have to pay them a monthly fee to have the thing around my neck to press it? So, if she signed up for a lockbox, buy a lockbox, would she have this monthly fee. If the city was forcing them to go to rescue alert, the city was forcing them to buy a service they may not need, because the city didn't want to deal with the lockboxes. She thought the city should offer it to them, in some, and she wasn't saying in what manner. If you want to do the RFP, that's fine, she was not comfortable saying no we shouldn't try to offer it to them

Councilmember Clark said it is not available to the people if they wish to subscribe to the service. She thinks this will cost the City money. There has to be staff time to work up the RFP and staff time to review the RFP, staff time to administer the program even with the vendor,

because somebody has got to be the liaison with the vendor and enter data provided by the vendor. She doesn't think having or not having a vendor is an impediment to anyone subscribing to the service if they wish to do so. She said there is not compelling need for the City to get involved in another program at this time.

Vice Mayor Frate said it expedites entry into the home where seconds could save lives. He said if someone called having a medical issue, responders have to force entry and it might be better if damage wasn't done to their residence if it didn't need to be. He supports this program.

Councilmember Clark asked if an RFP is issued to secure a vendor to run the program, is there an assumption that the vendor will create charges for anyone participating in the program, because they weren't going to get a lockbox for free, or is the intent of the City to pick up the cost of the lockbox or the monthly subscription fee for the service.

Chief Burdick said the intent with the RFP, one of the vendors contacted would give the lockbox for free. He didn't know what the monthly service fee would be. Any fees would be brought out through the RFP process. He said they were very conscious of staff time and there were companies out there that would provide this service and they feel that is the best way to go.

Mayor Scruggs directed staff to move forward with the RFP and then bring it back to the new Council and they can make a decision whether to go forward with it or not, but at a time when so many things are going to be taken away from our citizens, she didn't see any reason to deny them a service they might want.

2. COUNCIL ITEM OF SPECIAL INTEREST: POTENTIAL USE OF THE GLENDALE ADULT CENTER AS A MULTI-GENERATIONAL RECREATION CENTER

PRESENTED BY: Erik Strunk, Director of Parks, Recreation and Library Services

The purpose of this staff report is to respond to Councilmember Martinez's request to discuss the possibility of converting the Glendale Adult Center from an age-restricted, 18+ or older facility, to a multi-generational recreation center, where it would be open to all age groups.

Mr. Strunk asked the Council for direction on whether to move forward with this or not.

Councilmember Martinez said it was not his intent to make the Adult Center a full blown multi-generational center. He was more interested to see if the available space could be used for youth classes, for example, the auditorium. He mentioned the computer room which possibly could be used for youth at specific times. He was interested in integrating some youth programs into the Adult Center. He mentioned the multi-generational use at the community center and how that has worked out well.

Mr. Strunk said the Glendale Community Center is one of four community centers the City has. The others are the O'Neil Recreation Center, the Rose Lane Recreation Center and Community Center North. About two-thirds of the day are programmed with adult/senior-based activities and the remainder of the day is programmed for youth/juvenile activities. He said there is a

nonprofit provider that comes in at no expense to the City and provides that for area youth. Youth come in and under supervision, play games, use the exercise room, computers, and receive mentoring. This is very different from the Adult Center. The Center was constructed with the assumption it would be a center for those 18 years of age and older. Many of the amenities in that center reflect that population base. Some of the rooms are not filled all of the time, so there are rooms available. However, a caveat to this is the City reduced the hours based on budgetary issues/constraints and now the center is open 8 a.m. to 4 p.m. and the center is no longer open on the weekends. There would be the issue of funding and finding the staff. Mr. Strunk also said the center charges a membership fee and would need to discuss with them the concept of doing that if they are going to seriously pursue this. The library is open right across the street and it is open to all ages and has all sorts of programming.

Councilmember Martinez asked about nonprofits like the “Y” that could come in and possibly do some programming which wouldn’t cost the City money. Mr. Strunk said that is exactly what is happening at the Glendale Community Center. He said there were 119 different parks and facilities in the City. As a part of the services they provide, that is something they are considering at several of their sites. He said earlier this year, the second floor of the Adult Center was the subject of discussion. The City is moving forward with an RFP to see if there is any company or nonprofit that might show interest in some sort of a compatible use for that facility. Now that there are a couple of centers that are under-utilized due to budget issues, the goal is to see if there are any nonprofits interested in continuing to provide services at those sites. Ideally, some of that information would be ready in time for budget discussions.

Councilmember Martinez said he didn’t expect to be giving direction on this today, but he would support keeping this idea on the burner and see if something could be brought forth in the budget discussions.

Councilmember Knaack commented she understood Councilmember Martinez’s thoughts on this. She said her concern is she considers” the Adult Center to be the Adult Center” and that is why it was built. It is the only one in Glendale. She said the City has other community centers and libraries for youth. She said she doesn’t think the constituents would be happy having children at the Adult Center. The seniors want a place to go where they can play cards, use the fitness center. She thinks the Adult Center should remain the Adult Center.

Councilmember Alvarez said she was not aware that the Community Center, O’Neil and Rose Lane were open on the weekends. Mr. Strunk said those were rentals on the weekends, the centers were only open during the week. Councilmember Alvarez also said the entire area needs the community centers. If a vendor wanted to come in and provide services, she doesn’t understand how we can afford the electricity. She said a lot of volunteers ran the center programs. She wants services provided at all the centers, not just one. The person providing the services needs to have funding to provide the whole thing.

Councilmember Clark said staff was looking at all possibilities regarding all City assets, especially if it includes third parties willing to utilize the facilities and pay their way. Since the Adult Center hours are now more limited, there may be opportunities to find a vendor who wants

to come in and accommodate youth. She suggested pursuing all avenues with regard to third party vendors at all sites as long as they are willing to pay their way.

Mr. Strunk said this is what he hopes to accomplish through the RFP process. Right now, with respect to the Community Center, they have been able to continue a relationship with the YWCA who has been providing the senior services portion for a number of years. Because of the budget, they did have to eliminate the youth portion, but a local person stepped up to provide those services for a period of time. He said the intent of the RFP will be to see who is out there and what they can provide.

Councilmember Alvarez suggested forming partnerships with the schools to provide space and get volunteers to work at the school. The schools could provide pencils and paper and a lot of supplies. Mr. Strunk said they have worked with the schools in the past, but the schools have strict requirements and have to adhere to state legislation, they want paid staff and have certain reporting requirements. These requirements get in the way of using volunteers in many cases. Councilmember Alvarez said the City needs to have a meeting and talk to the Board regarding a partnership with the schools. She said the schools are community schools and kids are community.

Mayor Scruggs said she would like to ask Mr. Strunk about Community Center North, which, as long as she had lived in this City, has been about the most underutilized building the City owns, at least that's been her experience. What is going on with Community Center North now? Mr. Strunk said community meetings, HOA meetings, neighborhood meetings. He said this facility is programmed through the Special Interest Class portion of the Parks, Recreation and Library Department. The facility is rented out for youth, and there is a group that uses it regularly for youth programming. On the weekends, a room is rented out to a faith-based organization, but there is time available and it could be used during the day and sometime on the weekends. It is available for rental just like the other facilities. It is on the website as a site that can be rented out. Mayor Scruggs asked but does the city offer any recreation programs through our staff. Mr. Strunk said no. Mayor Scruggs said something that comes to mind is that this idea seems more about a designation for the building than a satisfaction of a need. She asked if he had any idea, in terms of the need for youth recreation programs in central Glendale, the Adult Center area and Community Center North, because the need is very great in the Rose Lane, O'Neil and Community Center areas, but the city was cutting back the programming that has been offered in the past. She asked if an analysis had been done to find if anybody wants to go to the Adult Center for youth programming or Community Center North. Mr. Strunk said that the analysis has not yet been done. They did do a comprehensive update of the Parks and Recreation Master Plan, but that was more about substantiating the types of services that can and are able to be provided. This was not necessarily based on location. They know they have to reinvent recreation in Glendale and they will do that by finding out what is of interest and what is at the City's disposal.

Mayor Scruggs said as the funding for community recreation continues to be removed, constrained, taken away, it's going to be a whole different world. It's no longer like it was at one time. What kind of park would you like, well I want a dog park, well I want an inline skating

park, and I want a hockey park, whatever. That's all gone, so there is going to have to be a focus of the revenues on where the need and usage exists. She supported Councilmember Knaack's assessment of the situation of why we have an Adult Center. When this was initially in the planning stages, there was a lot of talk with other communities and in the report, it says that a survey of Valley cities show there are approximately 27 senior recreation centers, of which 3 are considered multi-generational centers, which she thought if the Foothills one is one of those three or if that is in its own category. But, one of the things we learned as we went from place to place is not just is there time available, but the interaction of the adults and the young children. The children like to run down the halls, adults have walking devices or they are a lot slower. The compatibility is very often not there. The noise level, the rambunctious, whatever. Both age categories have the right to be the way they are, but they don't interact well and that has always been a major component. She commented that if some time is squeezed out for youth programming, she thought the adults would expect their membership fees to go down, because then they have less time available to them. Are we going to charge membership fees to the youth? She thought some people were still in the mindset that citizens get to get things for free and that's really not going to be happening. She agreed that the membership, those paying dues right now, has to be presented with this idea before it goes any further. She believed there needed to be a real assessment as to a need for this type of thing. Would the city do it just so it can be said it's open to everybody, or is there a need, or is the need better served by expanding what is offered in the Rose Lane, O'Neil and Community Center. If there are companies out there that will run programs, what is wrong with Community Center North? She commented it just sits there. Probably people watching this program are thinking what's Community Center North? Talk about being hidden. But, she remembered her daughter taking little dance lessons and tumbling lessons and stuff like that there many, many years ago. She also wanted to ask about a statement on page 2. It's in the second paragraph. It talks about the annual membership for the Adult Center is set at \$40 per year, per resident, \$60 per year for non-residents. Based on this membership fee and various room rentals, the Center is projected to generate \$180,165 in FY12-13 in which \$117,000 is used to help offset the costs of operating the center and providing programs to members. The balance of the revenue generated goes to the general fund. She asked if that was how the Foothills Recreation and Aquatics Center's revenues were allocated, because her understanding was that all of the revenues generated at Foothills went to pay operating costs of that building and programming.

Mr. Strunk said with respect to the fees increased earlier this year, the additional amount the fees were increased goes to the general fund. Mayor Scruggs asked for both Centers? Mr. Strunk said yes. Mayor Scruggs asked why? Mr. Strunk said that was the policy and the direction he was given when the fee study was brought forward for review. The balance stays with the Center. Mayor Scruggs said you may want, she didn't recall Council giving that direction, but those of you who will be here next year may want to revisit that. With diverting the revenue that is generated at those Centers to the general fund that money could now go to the general operation of the city while recreation services are being diminished. She really didn't remember Council did that, but she had no doubt if you say it was done, Council must have done it. If she was here budget time, she would support everything generated at a recreation facility going right back there so there would be less diminishment of programming.

Councilmember Martinez recalled that the only reason the Aquatics Center opened was because it was going to pay for itself about 73% or 74%. Mr. Strunk clarified the cost recovery at 78%. Until just now, he didn't realize anything over that was being diverted to the general fund. He also asked with respect to the Community Center, he asked the ages of the children that are involved in a structured program. He also said regarding the Glendale Community Center, it is not day care. He said there are two categories, juvenile and teen. Juvenile is 8 to 12 and then teen is 13 to 18. He said there are no unattended children running around. Mayor Scruggs said she didn't think that there were, but it's just that the activity level is very different. Councilmember Martinez said children running around were mentioned, and he didn't want anyone to think that is what was happening because they are in structured programs.

Councilmember Knaack said she thought when they did the fees it was to make it self-sustaining. She didn't know that any of the money was going back into the general fund for other purposes. She said she thought they were trying to make those facilities self-sustaining because they didn't have the money. She said even with the teen age group, some of the seniors, 75 to 80 year olds, don't want 13 year old children around. She thinks the seniors at the Adult Center want to have their own space.

Councilmember Clark said the hours have been shortened at the Adult Center, which closes at 4 p.m. She suggested a vendor who wanted to offer a program at 8 p.m., why couldn't that space be rented out at that time. She can understand the seniors not wanting to mix with the teens, but it might be a good thing for the teens. Additionally, if the Center is closed at 4 p.m. and someone wanted to offer a teen or youth program after closing, she didn't see a problem with that. Mr. Strunk added that is one of the reasons why they want to do an RFP for the facilities. They want to see what is out there. He said any group can rent a portion of the facility for any purpose. Some are rented for religious services and Community Center North is rented for a for-profit youth group. The question was raised does the City turn the keys over to any group or is there a need for staff to be present to supervise. Mr. Strunk said the responsible way would have a staff person there at all times in case something happens.

Mayor Scruggs said that was going to be her follow-up question was there no expense, but Councilmember Alvarez brought up the electricity, then do you just give your building to somebody and what liability do we have. In response, she recognized there are youth throughout the city. Her question is would they be interested in going there. The teens in the Mayor's Youth Advisory Commission have asked for a teen center forever. Where would you put it? They preferred somewhere they could walk to. So, the question is would they use it versus going to their church, which right now the churches have all sorts of activities for kids, their school, whatever. That was the question. Would you go there? Can you get there? She realizes there are kids everywhere in the city.

Mayor Scruggs commented the direction being given was to continue to look at how to best offer the services.

Mr. Skeete said they will provide the details of the revenues collected by the self-sustaining facilities, such as the Adult Center, as well as the fixed costs associated with these. That money

going into the general fund is going into the general fund to cover some of the fixed costs associated with those facilities. It is not going to the general fund to cover additional expenses elsewhere.

Mayor Scruggs said thank you that is helpful. She reiterated that staff would continue to look at the maximum utilization of all of the recreation centers and the way to best provide additional recreational opportunities for everybody at costs that can be managed within the budget and it is probably something that is going to be revisited as you're the budget is brought forward next year, versus going out and making any changes to the adult center at this time. Mr. Strunk said absolutely yes.

3. COUNCIL ITEM OF SPECIAL INTEREST: PROCESS FOR PLACING ITEMS ON THE AGENDA

PRESENTED BY: Horatio Skeete, Acting City Manager

This is in response to a special interest item brought forward during the September 4, 2012 Council Workshop. The purpose of this report is to request the City Manager forward this item to Council for discussion and direction.

Mayor Scruggs commented that the current process doesn't work at all and that is why it was brought up. She was very amused at the reports of what other cities are doing. We will take the City of Peoria. Pursuant to the Peoria City Charter, requests by four or more members of the Council shall be placed on the agenda regardless of the concurrence of the Mayor. Well, that seems like it's a violation of the open meeting law, or at least as it is interpreted here in Glendale. Then, in Scottsdale, four or more Councilmembers may request to have an item added to a scheduled Council meeting agenda. Well, at least that's done in the public, so that is a little bit better. One of the options recommended is allow any three members of the Council to request adding an item to the workshop agenda for discussion by submitting a form with their signatures to the City Manager. She stated that was the way it used to be done. Then, it was declared a violation of the open meeting law by the City Attorney's Office, because, heaven forbid, you might send your little piece of paper and I send it to you and you sign, but she doesn't. Well, now I have to go find my third person, so I've violated the open meeting law. She didn't understand why that is offered as an option. She was interested to hear this conversation because quite honestly, the Council, the Mayor and the Councilmembers have been totally hamstrung, tied up in knots and made silent on the issue of bringing matters forward.

Councilmember Martinez indicated he liked the suggestion to continue with the Council items of special interest.

Councilmember Clark said she doesn't like Council items of interest brought up quarterly. She concurred with the Mayor that doesn't violate the open meeting law, according to the City Attorney. There is no opportunity for a Councilmember to get others to sign on to an item of interest without violating the open meeting law. She didn't know of any other ideas except to continue with items of interest.

Mayor Scruggs said there actually are other ways that are done in other cities. We got started this way because Councilmembers would bring up items of special interest to them and staff didn't like that because it was generating too much work or maybe there were ideas they didn't like. So, suddenly, Council had to be reined in and had to have this process. This goes back many years. In Avondale, for example, and the reason why she knew they do this in Avondale is because it has been adopted at RPTA, at the end of an open meeting of the City Council, a public meeting, they are allowed to state items of special interest that they want to bring forward. Now, that can become kind of a mess. You might have 27 different things, but if you read Scottsdale, Scottsdale allows any Councilmember to add items to a scheduled Council meeting. Items added in this way require a vote by the full Council as to whether the items will be placed on a future meeting agenda. So, it's kind of takes five months out of our process, or many months. Everyone gets to say whatever they want, then three months later Council comes back and everybody says yes or no; I don't want that to go forward. So, what they do, they just put it up there at the Council meeting, say what they want, Council votes, yes, I want that to be worked on, no I don't want it to be worked on, and it's over and done with. It seems somewhere between Avondale and Scottsdale, there must be a process that allows the elected officials of this city to have some say in what is going on around here and what issues need to be explored, studied, worked on, not what exists now.

Vice Mayor Frate agreed and said everything had to go through the City Manager. He said this has been a practice for a long time. He asked to hear from the City Attorney to weigh in on this. Mr. Tindall said the open meeting law prohibits Council as a quorum from discussing things in private. The City Attorney's Office does not make a determination of a violation of the open meeting law, the Attorney General's Office does and they assess a fine to the elected official which they have to pay personally.

Mayor Scruggs said it wasn't Mr. Tindall as the City Attorney that disallowed the previous practice, so don't take this personally. Mr. Tindall said if the discussion is held in open session, it can be discussed and the open meeting law doesn't come into play. If it is a monthly agenda item and the Council requests and sets dates on when something should come back, then that complies with the open meeting law.

Councilmember Clark agreed with the Mayor and said the closest model that would meet the Council's needs is Scottsdale's provision. This would allow Councilmembers twice a month to offer something as an agenda item and have discussion and vote to move forward. This satisfies open meeting law and provides more opportunity for Councilmembers to get their items addressed. It may not be perfect, but it is better than the system in place now.

Councilmember Knaack suggested it be done at a workshop instead of an evening meeting. Councilmember Clark said they had to vote. Councilmember Knaack asked if the Council could just give direction at the workshop and move forward.

Mr. Tindall said the vote in an evening meeting would be necessary for a legal action on the part of Council, so direction could be provided at either a workshop or evening meeting, but whether

Council wants staff to take some action is not really a legal action, it is a direction that is provided. It can be done at either.

Councilmember Clark had no problem with when it occurred, just that it did occur. Mayor Scruggs asked at every meeting or every other meeting? Councilmember Clark suggested to just pick two, the two night time meetings or the two workshops.

Vice Mayor Frate said this week he sent an email to the City Attorney requesting in the future they discuss in workshop the internal auditor independence. He asked from there, how would it get considered. Councilmember Clark said right now you would bring it up on Council items of interest. Vice Mayor Frate asked if he had to wait three months to be told yes. He said he was trying to do away with that. He said the issue regarding the internal auditor was discussed in great detail.

Councilmember Knaack asked if they come to a consensus right now, would that be the practice. Councilmember Clark said this would be the new policy, rather than Council items of interest quarterly, it would be at the end of every workshop.

Mayor Scruggs said there will be something on every agenda of the workshop that gives every member of the Council an opportunity to suggest something that they would like to have studied, looked into, researched, discussed, and then every other member of the Council will either agree that they think that should go forward or there won't be consensus. The consensus would determine whether it goes forward. Is that what everybody wants? Now, here's the next step. You need some sort of time frame in which this is going to happen, not three months. So, establish some reasonable time frame for staff to at least come forward and begin the discussion of what might be involved like the kinds of things we are doing here today. Councilmember Clark suggested a month time frame. Mayor Scruggs said and at that time when staff comes with what might be the beginning information, they may not have everything, Council may then say we don't want to go any further or yes we do. Not that it's necessary to finish in 30 days, but there has to be a follow up in 30 days. Councilmember Knaack suggested if an item of interest is brought up and it has the majority approval, it will negate someone constantly bringing up the same issue, which then has to come back.

Mayor Scruggs asked Mr. Skeete to prepare all this in writing as to what he heard the Council say, circulate it to everyone to make sure that what you have put down as the new process is what they have actually asked for and then everybody comment to him individually, yes this is what I was asking for or no it is not and then we will have the final process put somewhere in some practice. Councilmember Clark suggested putting it in the Council Handbook and said this could be implemented at the next workshop.

Mayor Scruggs asked about the Council Code of Conduct and Code of Ethics, not its Guidelines. She asked if those were adopted by Resolution. Will Council need to adopt this change by Resolution? Mr. Tindall said it would be need to be done at some point. Mayor Scruggs said recalled the guidelines were done by Resolution.

Councilmember Alvarez asked if these were comments that the community has requested from the Council. She thought the best way was going through the manager's office, but then it would need to be brought back to the Council. The first ones that have to pay more attention to the comments is the management office.

Mayor Scruggs clarified the use of Council items of special interest for new programs or changes in programs, such as the residential lockbox program. That's a new program, or do we not want to do it. The next thing we talked about was are we going to change how our Adult Center is used, so there are much broader issues that have to do with policies of the City of Glendale and new policies, changes to policies, elimination of policies. Issues from constituents go to the City Manager.

Councilmember Alvarez said a problem that happened recently is the racial profiling that was on TV that went nationwide. She hasn't seen any emails about what is being done. So as diverse as the City should be, just to ignore that and to say it didn't happen without letting the public know, brings in problems. That is of special interest to her, because she has been told there is no problem, but when she turns on the TV, the problem is there.

Mayor Scruggs said the next item on the agenda is future Council items of special interest.

4. FUTURE COUNCIL ITEMS OF SPECIAL INTEREST
PRESENTED BY: Horatio Skeete, Acting City Manager

This is the quarterly opportunity for City Council to identify topics of interest they would like the City Manager to research and assess for placement on a future workshop agenda.

Staff requests Council to identify future items of interest for follow-up by staff during the next quarter.

Mr. Skeete said the Police Chief and Assistant Chiefs and several others have met with the individuals and are in the process of developing some protocols and providing these individuals with additional information. Mr. Skeete asked Chief Black to come up and address any other issues.

Chief Black said they had met with the group represented by Mr. Reza and had established a liaison communication. She will continue to foster that relationship. They answered specific questions about the program that Councilmember Alvarez referenced and she reported to Mayor and members of Council what happened related to that program and she also responded to several media inquiries about that item.

Councilmember Alvarez said she is concerned because Glendale is not used to that. She said the City does not want to get into that role because they do report it nationally and the city needs to be clear that racial profiling does not exist in Glendale. That is why Mr. Reza is a local advocate that is very strong in the community and she doesn't want Glendale to be seen as a City that doesn't recognize Hispanics.

Chief Black stated she took the comments very seriously as well. She spoke to Mr. Reza prior to the Council meeting as well as after the Council meeting. They have opened lines of communication and she believed it would be a future item of Council interest and she can provide more detail, more specifics, and copies of policies that Council requested to resolve this question. Chief Black knew this story was portrayed as a very negative story. That question was addressed through the email about the stories, and she would be happy to provide any information the Council requests.

Councilmember Alvarez said she had a lot of calls, but after the meeting, there were no questions, just comments. She has always looked into the areas of need, they need to treat everyone the same. They were accusing Councilmember Alvarez of not caring and siding with the Police. She didn't side with anyone as she didn't know anything. She called and Mr. Dominguez responded to her. She doesn't think anyone wants to be accused of neglecting a certain area.

Mayor Scruggs asked Council what they would like to hear about in 30 days when this is going to come back as a topic.

Councilmember Alvarez asked if she could have something that she did call and did take care of it. They are not communicating this to Univision. She said Univision is the one that showed the whole thing to the nation. They need to approach the Council, the Manager before they send out a story like that.

Chief Black said they made many attempts and continue to attempt to have direct contact with the producers of that program. They are not responding to calls.

Mr. Skeete recognized the Council item of interest and believes this may be an extensive discussion of what happened and what has been done to date. He has spoken to the Chief about putting something together. His intention is to bring it back in the second workshop of the month. He expects to be able to provide an in depth report as to what happened, where we are and what we still have left to do.

Mayor Scruggs said it was quite a while ago that Council was provided the background of the situation, what had happened and what Glendale Police had been doing, who you had talked to, who wouldn't talk to you, and so forth, so maybe an update.

Councilmember Martinez said he saw it on T.V. and the negative articles. He said there was some information there that might be shared with the public and asked Chief Black to very briefly describe what happened.

Chief Black said there was a film production that was aired on Univision. It was a national production where the intent was to identify an incident of a racially motivated traffic stop. They were pulled over by a Glendale Police Officer and it was filmed by both a separate camera and a camera within the vehicle. The traffic stop was aired in part. She said she doesn't believe the

entire film was portrayed in the program. The film of the traffic stop was in the context of other commentary, other meetings, and other statements which did not involve Glendale. There were references to Maricopa County and a meeting in Phoenix was filmed. Immediately after that officer made the traffic stop, for a Title 28 violation, impeding traffic, which was a car stopped at a stop sign to come onto 59th Avenue, where there was enough of a delay that other cars had to go around the stopped vehicle. He made the traffic stop. A reporter from the program contacted him with a camera and microphone and interviewed him at that time. He made a decision because he recognized this as not a violation that this gentlemen should be held accountable for, he did not issue a citation, and he issued a warning that this was a violation of the traffic code and to be more careful. He also said he was concerned about the driver, that he felt there might have been some distraction or some medical issue and that is one of the reasons he was motivated to stop this car. After the traffic stop, that officer notified the public information office per policy, so they knew about it immediately.

Chief Black advised the department made many attempts to contact local Univision as well as the national office, and did not have any success. She said the next thing they knew was about two weeks later, when a local T.V. affiliate contacted them and said that they were aware of this. In terms of the public aspect, there was an inquiry from Councilmember Alvarez regarding the program. Information that was known was shared with Councilmember Alvarez and they were able to find the film on YouTube. Within a day or two of that is when they were contacted by a local affiliate and they provided comment. That is when Mayor and Council were notified.

Councilmember Martinez asked if the person pulled over was a Glendale resident. Chief Black said she did not know. He asked if the officer observed more than one car impeding traffic. Chief Black said the officer reported the car in question had stopped and then other cars went around that car. Councilmember Martinez asked if it was more than one car and Chief Black said yes.

Councilmember Alvarez asked Chief Black when this incident happened. Chief Black said she does not have that information, but it would be part of the comprehensive report that she would present.

Councilmember Clark said she noted the same address was listed on all of the cards, which she copied down. Mayor Scruggs said south 7th Street in Phoenix, or something. Councilmember Clark said this does raise an issue. She said that they are familiar with most of the people that speak before them. She suggested developing some kind of process to check when someone unknown presents an address that is unknown to the Council. Mayor Scruggs asked is that your item? Councilmember Clark said yes. She asked that some sort of process be set up to verify addresses put on speaker cards.

Councilmember Knaack asked if it was a legal requirement when the Mayor asked for a speaker's name and address. Mr. Tindall said it was part of the guidelines that Council has adopted. Mayor Scruggs said she wanted to look into the Attorney General's open meeting law statutes and so forth, but it definitely became an issue on several occasions when people would step forward and make accusations or comment on very serious Glendale issues, but nobody

knew where they were coming from or if they were from out of City. For a while, in order to make people more comfortable, said the Mayor had asked for the speaker's name and address on the card, but they didn't have to say their address out loud. Then it became very confusing because we were getting so much input from outside of Glendale on really serious Glendale issues and so she went back to asking them to do that. This issue came up because the second speaker, who was addressing us in Spanish, but had an interpreter, kept referring to herself as a Glendale resident, over and over. She said I'm a Glendale resident. So, I looked at the card and she had South 7th Avenue, Phoenix address, which was exactly like the previous speaker had put. Then she looked and there were four more cards and they all had the same address. They kept saying she was a Glendale resident.

Councilmember Knaack said he filled those out for them. When she gave her address, even though it was in Spanish, it was a Glendale address.

Councilmember Alvarez said the address on 7th is a park and has the community center there. The City of Phoenix rents to them as an office. The name of the organization is Donatiera. Mayor Scruggs said he did not put that on the card. He should have put that on the card. That would have cleared things up. Councilmember Alvarez said that is why they put that address because that is their address that they go to get help.

Mayor Scruggs said going back to future Council items of special interest. Councilmember Alvarez, besides the racial profiling issue, is there one that you would like to bring up to be heard in 30 days or for any discussion to start. Councilmember Alvarez had no items. Councilmember Knaack had no items.

Vice Mayor Frate wanted to have an item about internal auditor independence.

Councilmember Martinez had no items. Councilmember Hugh had no items. Mayor Scruggs had no items.

Mayor Scruggs said this may be after the next Council is seated, we don't know that there will be another workshop and it is probably just as well. Councilmember Knaack said there is a workshop on January 8th. Mr. Skeete said January 8th is a regular evening meeting. Mayor Scruggs said January 15th would be a workshop, but they are going to do an evening installation.

Mayor Scruggs asked for the concurrence of the Council to move Item 6 before Item 5. Item 6 was then heard before Item 5.

6. CITY MANAGER UPDATE ON AN ECONOMIC DEVELOPMENT PROJECT

PRESENTED BY: Horatio Skeete, Acting City Manager

Dave McAlindin, Assistant Director, Economic Development

This is an opportunity for the Acting City Manager to provide the City Council with an update on an economic development project staff is currently pursuing.

Mr. Skeete said he had received information that the Arizona Cardinals wanted an alternative site for their preseason training camp. He asked Economic Development to work on some details of an RFP, which is due to be submitted to the Cardinals by the end of the week. He wanted to bring it to Council's attention that they were working on it. The entire process is in the beginning stages and there will be discussions in the future.

Councilmember Clark commented that Mr. Skeete might ask the Council if they were interested in participating or responding to a RFP and it should be framed in response to what their demands are and what the costs involved to meet those requirements would be. At that point, Council would make a decision whether they even want to move forward or respond.

Mr. Skeete said she was correct and that was the substance of Mr. McAlindin's presentation and the requirements of the RFP and to request guidance.

Councilmember Clark said the reason she brought this up was it sounded like Mr. Skeete was informing the Council as to how he was going to respond to the RFP and move forward. She just wanted reassurance that Council should make the decision if they wanted to take advantage of this opportunity.

Mr. Skeete said that is the intention of this afternoon's presentation.

Mr. McAlindin presented this special economic development opportunity which Mr. Skeete recently became aware of and that is the opportunity to respond to an RFP that was issued by the Cardinals organization to relocate their training camp beginning 2013. This is a special economic development opportunity. The RFP is due on Friday and they have had about two weeks to get this together. The RFP talks about facilities, accommodations, food service, concessions, and transportation. Glendale is in a unique position to address each of these items to provide the team and the fans a great experience. As the process continues, Council will be advised.

Councilmember Clark thinks more detail is required. She asked what kind of practice fields the team needs. She wants to know what the team is asking for. Mr. McAlindin said the team is asking for a number of things. He said the majority of what they are asking for is partnerships that the host community would be forming. An example would be accommodations and how the host community would provide those accommodations. A couple of Westgate hotels have been contacted and they expressed an interest in participating. Responses from the hotels will show how many rooms they will commit to and at what cost to the Cardinals organization. Councilmember Clark asked for more detail regarding transportation. Mr. McAlindin said they have asked for five vans. Sands Chevrolet, as one of the external partners, will provide a couple of vans. The Cardinals were looking for golf carts and those could be provided as well. Councilmember Clark asked what fields would be used. Most of the time, the team would be inside at the University of Phoenix Stadium. The City has been in touch with AZSTA, who was very interested in making a presentation to the Cardinals.

Councilmember Clark said so far there was no major cost to the City, but asked about security. Mr. McAlindin said he has asked the Glendale Police Department to provide an estimate of what costs would be, but there are alternatives. The SAFE organization provides security at the University of Phoenix Stadium and he will be speaking with SAFE to discuss their part. Councilmember Clark asked if we can anticipate some kind of cost associated with this for security. Mr. McAlindin said he did not have the final numbers yet. Councilmember Clark asked if there were other items that couldn't be filled with a public/private partnership that will create costs for the City. Mr. McAlindin said it appeared the largest cost would be security and traffic control. Also there might a cost for trash collection. If the youth soccer fields are used, one of the requests in the RFP is that they be set to NFL standards. He has not been advised what those standards are. He said the goal is to make it as inexpensive to the City as possible.

Councilmember Knaack asked what amount of revenue might come from this. He said it is very difficult to say because the City has no history with that. He said he can provide an economic impact analysis done by Northern Arizona University in 2010. He said direct revenue to Coconino County at \$6.7 million. Councilmember Knaack asked why the team was considering leaving Flagstaff. Mr. McAlindin said he did not know as he had not spoken with anyone regarding this.

Mayor Scruggs said a mayor of another city happened to tell her at a get together with other mayors, that they had been approached. His feeling of why is just there are just too many conflicts with NAU, the parking situation, the students returning to school. She didn't know if that was the actual reason, but that was his sense of why there was a potential move, or there was a move even being considered. There were just too many conflicts going on. She offered that as third hand information.

Councilmember Knaack asked if everyone would stay at the Glendale hotels if they are asking for accommodations. Mr. McAlindin said that would be correct as they team has curfews during that time, so they are not free to just go home. Councilmember Knaack said so they wouldn't go to Scottsdale and stay in a resort. Mr. McAlindin said no.

Councilmember Martinez asked about revenues and if they had any kind of a ballpark. Mr. McAlindin said there would be some costs and they would inform the Council before any contracts were signed. He said the Police Department, traffic control and sanitation would be the three variables that they don't have now. In addition, if the fields would be required to be brought up to NFL standards or what alternatives might be proposed to mitigate any expenses. Councilmember Martinez asked what the procedure was if the City proceeds with the RFP. Mr. Skeete said the RFP is not binding and responding to the RFP does not bind the City to fulfill the requirements of the agreement. If selected, there is an extended process to negotiate, review and present to Council the agreement. The City will also be able to analyze the economic benefit to take this process. Mayor Scruggs said and just think of all the business you would be bringing to Westgate. That's important right, especially in the summertime when people don't like to be out there.

Vice Mayor Frate asked if there were any parking requirements. Mr. McAlindin said there are parking questions in the RFP and in this case, the stadium would be the logical place for the parking to occur. He said he wished there could be 65,000 people there every day, but he didn't think that would happen. Councilmember Clark said she read an article that there were about 11,000 fans per day. Mr. McAlindin said fans who come up for the day spend about \$40 and fans who spend the night spend about \$110. Vice Mayor Frate asked about concessions during the games. Mr. McAlindin said there are questions in the RFP about concessions. The RFP also asks if the host community is looking for a revenue share and the City would say yes. Vice Mayor Frate said he didn't anticipate anyone staying in a hotel if the training camp was held in Glendale, as people drive to Flagstaff now to get out of the heat. If training camp was in Glendale, fans would drive right back home after the event. Mr. McAlindin said there would be hotel usage because not everyone comes out of the Valley. Cardinals do have fans from other states and many come from other states, so many of them would be spending the night in Glendale.

Mayor Scruggs asked if the city had permission to pursue this opportunity. And she thought it was probably going to be one of many, many, many proposals and they are certainly not all going to be from the Valley, because she knew others were looking at this. Vice Mayor Frate said the city has a unique site, but his concern is the upgrade for the training fields outside to bring them up to NFL standards. Mayor Scruggs said sort of like our Camelback Ranch standards of that stadium.

Councilmember Clark said the only advantage the City has is there would be an opportunity for the Cardinals to further enhance their relationship with AZSTA and the use of the Stadium that they may see as an advantage. The weather won't be an asset, but they may consider revenue enhancement more important than temperature. Mayor Scruggs said that would be great, because it would get all that money for public safety and transportation because those taxes are never forgiven.

5. RISK MANAGEMENT AUDIT UPDATE

PRESENTED BY: Sherry Schurhammer, Financial Services Executive Director, and James Brown, Acting Human Resources Director

This report contains information on the detailed action plan for addressing the findings of the Audit of the Risk Management Trust Fund completed by the City Auditor. This report also contains information about the action plan to address the funding level of the Workers Compensation Trust Fund. Finally, this report addresses the fund balance draw down of the Benefits Trust Fund and the information presented to City Council regarding this issue.

Mr. Skeete provided some background and historical perspective. The Risk Management Trust Fund was established in 1983. The Workers' Compensation Trust Fund was established in 1994. With the establishment of the two funds, the Ordinance establishing the funds provided for setting up in the City accounting system two separate funds and an oversight board to review the annual performances of these funds. Since establishment of the Workers' Comp Fund and the fact that the two trust fund boards were comprised of the same members, there has been a

consolidation of some of the administration of these board activities. The board meetings were convened collectively, agendas were consolidated and actions float from one trust fund activity and discussion to another. This happened for convenience, although technically, as recently advised by the City Attorney, separate meetings and agendas should be held and prepared for each board. This practice extended into the administration of the funds as well. As a result of that, over the last five or six years, a detailed analysis of the funding requirements for each of these funds was not completed as separate units. The funding requirements were consolidated and the budget presentation was based on a funding requirement for both funds. The separate needs were not identified and as a result of that, during the course of the last couple of years, there was need for transferring of funds between those two separate funds and that action is a result of the administrative process that was in place over the years by consolidating the management of these funds.

Vice Mayor Frate asked what year the consolidating occurred. Mr. Skeete said he only went back five years, but it has been that way for the last five years.

Mr. Skeete said another fund the city operates and administers is the Employee Benefits Trust Fund. This fund was created administratively in 2000. Though this fund was not created by an Ordinance and did not have a separate oversight board with it, city administrative staff operated this fund as a trust fund. One of the actions recommended today is that the process be formalized to bring the Employee Benefits Trust Fund in full compliance through an Ordinance and establishing a board and appropriate oversights that are required. Administrative practices regarding the operation of the two trust funds, meeting with the boards being consolidated and budget amendments show that some of the practices consolidating the two board activities and administratively transferring to meet the confidence levels of those funds during the course of the year was one of the observations made by the City Auditor during her recent internal audit of those funds. The observation stated that these transfers and decisions were made in the fund without Council's prior approval or the board's. This is true. Mr. Skeete said it was important to put that into perspective. Specific language in the City Code and the City Charter make it difficult for the city to be able to honor and follow that requirement. The City Code and City Charter require the City Council can only act on amendments to the budget during the last quarter of the fiscal year. Sometimes these transfers between funds and amendments to the budget may be required earlier during the fiscal year. Staff was presented with a dilemma as to how to make that happen. Staff chose the path of administratively making those adjustments to the appropriate accounts and then subsequently informing the Council of the actions done earlier in the fiscal year, during the last quarter and sometimes well into the beginning of the new fiscal year, during what was referred to as the clean-up audit.

Mr. Skeete said by taking that approach and not bringing it forward for discussion in some way, the pending needs of the funds and actions needed to be taken to continue to operate the funds during the course should have been handled differently. While staff could not have come to the Council to ask for a budget amendment in the first three quarters of the year, once it was recognized that an adjustment needed to be made, some kind of information process should have been developed to bring that information to Council, of dependent action and the subsequent

budget amendments that should be made at the end of the last quarter of the fiscal year which was the only allowable time for such actions to take place.

Vice Mayor Frate asked when that happened, someone in a managerial position should have said this isn't right, we see a problem, we need to let someone know and they should have notified the Council. He questioned why it happened and why no one saw there was a problem. He said it could have been discussed in executive session, so the Council was given warning. He was upset that the Council was never notified of any of this.

Mayor Scruggs said she sent you all a memo on June 6th. She resent it to you afterwards and she restated everything that she had brought to their attention in executive session on June 5th, that they had decided did not need any further investigation. She stated in the memo of June 6th, she was criticized because she brought to bring information to Council that she had been given mostly by Mr. Tindall over the previous months, and she was criticized because she didn't have proof of anything. She went out and she didn't like having to do this at this point when there was a bond issue going out, but by golly it's about time there's some honesty around here. She obtained as much information as she could on her own because Mr. Tindall said it was being withheld from him. He couldn't get this information. She sent a memo on June 6th outlining these very things Council now had in the audit. In addition, something that she still hadn't heard anything about was \$1.3 million in federal funds from early retiree reimbursement program, which she has not heard any mention of anywhere, but she was told that is something that was used contrary to what the federal program was about. She asked Council to please reconsider this and to consider it before they entered into the deal with Greg Jamison because clearly there were some serious problems here. The benefits trust fund was being drained down, the other funds were having money moved around, employee's premiums were going to places other than where they were supposed to be, but an executive session workshop was scheduled for a time when she had already said she was going to be in dental surgery, so that's the time that the City Manager picked for the meeting and you all agreed because you could be there. In fact, she had an email that says its okay; Ed says it's okay because Steve Frate can be there. You just ignored everything, so don't tell anyone Council just heard this now from the auditor's report, pages, pages and she had brought this up, so she resented the fact that now Council would not know anything if it wasn't for the auditor's report when it was all here in June.

Vice Mayor Frate asked if the auditor's report was here in June. Mayor Scruggs said the information was here in June. If anyone had wanted to know something, in fact, she believed the audit report was done in June. If Council had wanted, what she had asked in executive session was to give direction to find out why these things were taking place, which the City Attorney said, were not appropriate. She had various emails here.

Councilmember Clark agreed with the Mayor. She said she wished they had the audit when it was done.

Mayor Scruggs said Council gave direction in executive session, all of you, but she didn't know what she was talking about, to stop this, she didn't have proof of anything. She had no proof of anything and it didn't go any further because it was just hearsay.

Councilmember Knaack said she did not say that. Mayor Scruggs said the collective direction was to go no further with this, it was nothing but hearsay, and she had no proof. You can say whatever you want. It's on the record, its right here. She wrote to you then and said please reconsider. Here's the information and she went and got it from an employee who was leaving the organization who said the only reason they were going to give it to me then is because they were leaving and nobody could do anything to them. Vice Mayor Frate said but you had information. Mayor Scruggs said which she gave to you in executive session. Councilmember Knaack said the audit to substantiate all your, which you were correct, but it wouldn't have helped. Mayor Scruggs asked why you didn't tell the City Manager no one believes anything and to not do anything. Councilmember Knaack said we did not say we didn't believe any of it. Mayor Scruggs said Council gave direction to not go any further on this. Councilmember Clark said that's a lot different from saying they didn't believe it.

Councilmember Knaack said we are here now and now we have to figure it out. It goes to the newspapers, somebody sends it to the newspaper before they even send it to us, and you say you never knew anything about this. That's just not true, that's not true and she didn't have any information that she didn't share. The minute she had the information, she brought it to Council and they chose to do nothing with it. Vice Mayor Frate said any information the Mayor had was not the information. Mayor Scruggs said let's see, the information is in March 2011, the Benefits Trust Fund had a balance of \$3.7 million. In March 2012, the Benefits Trust Fund had a balance of \$60,000. In June 2010, \$1 million was moved out of the Benefits Trust Fund into the general fund. In June 2011, \$1 million was moved from the Benefits Trust Fund into the general fund, \$1.3 million in federal funds from the early retiree reimbursement program was taken from the Benefits Trust Fund and placed in the general fund contrary to the intended use of the federal program. The City is underpaying the employer's contribution into the benefits trust fund by \$83,000 per month. Vice Mayor Frate asked and you had that all substantiated with information other than just those sentences. He said now he sees emails, he sees people actually moving things and people signing checks and things like that, and its 1,000 pages and it's on a CD. There were so many pages requested. He said an investigative reporter at the Arizona Republic will probably sort through it.

Mayor Scruggs asked Mr. Tindall if he shared any of this information with any of the other Councilmembers. First there had been \$83,000 transfers an even number each month from the benefits trust fund to another account, Finance's only explanation is that it is building a fund to be used by other departments. That, of course, makes little sense and this is a trust fund to be used for employee health coverage and on and on, and all these others.

Mr. Tindall said the conversation started in February, so it was over the course of a period of time. He said some information was provided to other Councilmembers. Mayor Scruggs said so they did have information early on, she was not the only one that had this information. She was just the only one that chose to try to dig in. She kept saying Mr. Tindall was trying to get it from other departments, but it was being withheld from him. She asked how can it be withheld from you, you are the City Attorney. She said the response was no I can't get it, even up to the day before the budget meeting, I can't get the information. She was the only one that tried to get this information and the blinders and the ear plugs went on. Mr. Tindall asked if that was from

management. Mayor Scruggs said no from him, when she brought it to him, but yet he had been telling Council all along this was going on.

Mr. Tindall said he had conversations with Councilmembers earlier in the year. He had brought it to other Councilmembers during budget discussions, because there were discussions during that time so questions could be asked and answered. Mr. Tindall didn't have the time and the knowledge to gather a lot of the information. He kept reminding everyone. He said there are questions that needed to be asked. He couldn't ask them because he didn't have the knowledge from an accounting standpoint and the information or the time to answer all these things. Mayor Scruggs said of course we would not have that knowledge from an accounting standpoint, it is very complicated and it can all be printed in books, but unless you know what you are looking for, it's very, very complicated. The point is, when she brought this to the Council in executive session on June 5th, they had already heard a lot of this through emails and conversations with Mr. Tindall, when they chose to direct Mr. Beasley to not go further... Mr. Tindall said there were a lot of discussions about the different funds and the transfers that were becoming apparent at that time. Information was being shared so answers could be obtained from the people who would have the answers, so Council could get the answers. There were lots of discussions on the budget information including the specific information that he had much more detailed conversations about the benefit trust fund.

Mayor Scruggs said she was just going to state that this is how it appeared to her. She recognized that four of the Council have locked in together, but this is the way it appeared to her. There were procedures that had been set in place years ago that seemed to be appropriate and they continued on that way. There were notations about these transfers in the budget books, but as you say trying to understand this unless you are intimately involved with the finances of the City of Glendale, no one is going to know whether it's okay to move money from the workers' trust fund to the risk management. You can see it happening. No one is going to know if that's okay. She didn't know whether the trust fund board members knew that was okay or not. There were practices and procedures that went on year after year, including the clean-up ordinances that may have shown these things happening, but again, how we would really put that in perspective of what it was.

Mayor Scruggs said suddenly, in the spring of this year, everything that had been done before was decreed to be wrong and not allowed by the City Charter and then all of these movements of funds or changes in how much money went into a fund that had been going on for a while were suddenly brought to the forefront. She found it alarming. She didn't even know the right word beyond alarming. She saw this organization in a situation that certainly was not appropriate and did everything she could to try to find out what was happening, try to bring it to people's attention and then roadblock after roadblock after roadblock was up. Suddenly, Council received the auditor's report, or the press gets the auditor's report and now we want to go hang people. We are going to go hang certain people that are not as well liked as other people, but yet this is something that has been going on year after year after year. When trying to find the information as to why, it was withheld. She thought there were a number of problems, but to say Council would have never known this unless Candace MacLeod's audit report, if you can call it that, got

to the media, is totally, totally untruthful. Vice Mayor Frate commented that was the Mayor's opinion. Mayor Scruggs said no that is fact.

Councilmember Alvarez said when she first came to the Council, she didn't understand, didn't know what transfers were. She knows it didn't look good to her. She asked was it legal and she was told it was. When she asked the question, she assumed it was legal. She then read in the paper the same fund was in the audit and then the opinion is this is not legal. She asked why she didn't find out before. She said she just didn't know if it is legal or not, everything that is in the transfer. She said that should not be covered up and if it is not legal, why do we continue do it. She read the last transfer they got. She had been told Camelback Ranch only pays \$2 per year. She was told this was because Camelback Ranch does all the upkeep. She saw a transfer of a large amount, so she voted no. She will continue to vote no because she doesn't know who to trust.

Councilmember Clark said she was concerned because Councilmember Alvarez asked for an opinion from the City Attorney's Office and was told it was legal to transfer and then the reporting in the paper said it was not legal. This has been a long time practice. If this was illegal, and she doesn't think they can claim not knowing about the transfers, because at the end of the year, there is a large list of transfers that occur and some are transfers related specifically to the Attorney's Office, so she thought the Attorney's Office had reviewed the transfers. She asked if this was an illegal practice where was the notification from the Attorney's Office that this is a practice that should not have been occurring.

Mr. Tindall commented that he was not certain what question she was talking about. He thought it was a question asked in a Council meeting about specific transfers. The answer to that question is yes because those transfers were legal. Taking that answer and applying it to all the different situations, is a very different circumstance and this is not an appropriate way to handle this answer. With respect to Councilmember Clark's question, the transfer directed to the City Attorney's Office was reviewed because those were the transfers that were made for the Attorney's Office and they would only request if they were consistent with the law. With respect to the other transfers, the City Attorney's Office does not do compliance in the City. The City Attorney's Office provides legal advice, when questions are asked; they do the research and provide answers to those questions. At the beginning of this year, questions were asked about how things were done. The Attorney's Office gathered the information, reviewed the documents and provided a legal analysis. What they determined was there were inconsistencies with the Charter and the state budget law that needed to be addressed and that is what was reflected in the memos at that time.

Councilmember Clark said on February 22, 2011, she inquired if there had been a line item expenditure that Council had approved during budget time to cover retirement costs for employees. She said she brought up the issue in 2011. If there were transfers occurring because this was in the context of approving quarterly transfers. She said Council was being led to believe back then that these transfers were being made to cover retirement costs for employees. So, back in 2011, they were aware of some transfers being made with regard to retirement costs

for employees. She asked Mr. Tindall why he didn't say these transfers were illegal back then when they say they are illegal now.

Mr. Tindall said his office was not consulted about these transfers at all, they didn't know the source of the transfers, where they came from. He assumed the policies and procedures in place were consistent with the law. He understands there are shifts that occur over time and there is the need to make changes. His office is not an office of compliance. They don't have the resources or the Charter direction to take an affirmative role to review all actions taken by staff to determine if they are consistent with the law. With respect to these transfers, his office was not consulted as to where the funds were coming from or how the transfers were made.

Councilmember Clark asked at what point did Mr. Tindall determine the transfers were illegal. Mr. Tindall answered when they were asked about it and provided information about it. Councilmember Clark asked if the information was provided by the Auditor. Mr. Tindall said his concern began earlier this year when questions were presented by Council, with respect to the Council's budget authority and questions about transfers. With those questions, his office began looking closely at the practices and procedures and made suggestions for changes.

Councilmember Clark asked whose responsibility was it to handle compliance if the Attorney's office does not handle it. Mr. Tindall said with the structure right now, this falls under the authority of the City Manager. He has the Auditor's office and the Auditor has a compliance role. The department heads have responsibility with respect to their professional standards and to know and understand what the laws are that apply to their specific duties. Councilmember Clark asked if the department heads and Auditor are responsible for compliance. Mr. Tindall said they have compliance responsibilities.

Mayor Scruggs asked Councilmember Clark if a member of the City Attorney's Office staffed the two trust fund boards that operated as one. Councilmember Clark said no. Mayor Scruggs verified there was never City Attorney staff there. Councilmember Clark said no, they had people from Risk Management and HR, but no City Attorney staffing of the meetings. She said she has been on the board for a couple of years and as the City Manager delineated both meetings were held together, she noticed the past several meetings, they are separated into the risk management and workers' comp as separate meetings. She said she wanted to stand up for the board. The board was in no different position than that of the City Council. They have taken the audit to heart. They have issued a series of recommendations. They have not always agreed with staff recommendations and have said no to some things or offered an alternative. The board is in a far different position than it was prior all of this occurring. She said she has great confidence in the board and it will provide an excellent job going forward. The board takes its responsibilities seriously and conscientiously and will be performing the oversight function that has been missing.

Mayor Scruggs said she thought they always took their duties seriously and conscientiously. Council received transcripts of three meetings. At one of those meetings, Mr. Tindall was in attendance and spoke with you and Mayor Scruggs thought Mr. DiPiazza was at one. Councilmember Clark said yes, Mr. DiPiazza gave an open meetings law review. Mayor Scruggs

asked if that was all and what purpose was Mr. Tindall therefor? Councilmember Clark stated Mr. Tindall explained the purpose of the meeting was to discuss with the trustees what it meant to be a trustee. Councilmember Clark continued that one of the results of that meeting was there was a manual being put together for trustees so they will have a book of their duties, responsibilities and have a better handle on what it is they are required to do as a board member.

Mayor Scruggs said let me finish one last thing. She addressed Mr. Tindall about when he started bringing these issues forward that he was very concerned about, about this money being moved around or money that was collected from the employees' premiums, but not going to the employee benefits trust fund, being \$3,000 a month. Mayor Scruggs stated her understanding of why this came to his attention was that certain people in the organization who would be in situations to know about this were reporting this to him. That is how he came to know. Mr. Tindall wouldn't have known this was going on otherwise. She asked if this was the first time here, in 2012, that anyone had come to him with these concerns, in 2012, and at what time does the City Attorney go into action to protect this City. She said Mr. Tindall actually asked Mayor Scruggs to not get involved, that he was going to research this, but no one would give him information, but he has said this is not Council's job, compliance. You are our attorney.

Mr. Tindall said if there is a manual being prepared, he requested the Attorney's office be involved in that because it isn't right now. With respect to the employees' money, that money did go into the trust fund. The compliance function in an organization is a very specific duty that is required to be applied on a consistent basis. The Attorney's office does not have compliance duties. They are to act as the legal advisor for the City. When questions come up or if they see issues that need to get into, they will, but they don't have the resources and there isn't anything in the Charter that gives them the authority to actively audit the management side of the City. If there is a legal issue, they will step in. He said he stated in conversations that he had been provided information and did have concerns, but he was not able to figure it out. He didn't understand what it was. Mr. Tindall said he didn't know if it was an issue or not. Mayor Scruggs commented he couldn't step in and say as the attorney, he has the responsibility for protecting this city from financial/legal, whatever, harm. Mayor Scruggs continued that she didn't ask him to audit, but as an attorney, if he sees something contrary to law, that's what Mr. Tindall had written, contrary to law, if he isn't the one to investigate it, then who is. She stated she thought the city needed a whole new Charter designation of what an attorney does, or a new attorney firm, or somebody because Mr. Tindall said the City Attorney is not a law enforcement officer. Their office has a very specific role and function in the organization and it is delineated. His opinion that it was contrary to the law, which has changed now because they have a lot more information, at that time he said he didn't know if there was a problem or not because of time, other requirements, lack of resources to get the information, even the knowledge to know what information to get, he couldn't come to any determination, but there are issues that should be addressed. The purpose of the communication was for Council to ask those questions during that period of time. Mr. Tindall states it is not the City Attorney's role in the City to start an internal investigation and if he was certain there were actions being taken that were contrary to the law, he will take action.

Mayor Scruggs said this goes back to what Vice Mayor Frate was asking in the beginning only she thought he was asking the wrong person. She would expect any employee of this city, any of you, if you think something is being done that is contrary to law that you bring it forward. That is her expectation and none of you have compliance as your responsibility. Wouldn't you do that; wouldn't you do that as a city employee, as an honest person? Wouldn't you do that? She knew that she tried to whether it's in her job description or his, something should have been done. As Vice Mayor Frate said, Mr. Tindall could have brought it to Council in executive session. Only, he was aiming that at Mr. Skeete and this was before Mr. Skeete was even the City Manager. This was way back when.

Vice Mayor Frate said he didn't appreciate words being put in his mouth. Vice Mayor Frate said at that meeting Mayor Scruggs was going after another manager and that is why they said it seems like a witch hunt and that she was singling out an individual. Mayor Scruggs said this was about information saying that there were things that were happening, coming from the City Attorney, that things were going on that were not appropriate and asking Council to direct that they be looked into. That's what it was about. Mr. Tindall commented that he wanted to make sure his comments and conversations were appropriate. He said he felt there were issues that he would like to have more information about and he thought the Council should have more information. Mayor Scruggs said that's what she asked for on June 5th, that Council needed more information. Mr. Tindall was running into roadblocks, she was running into roadblocks, that's what she was asking for. Mayor Scruggs commented she wasn't going after anyone. Mr. Tindall said one of the situations faced was this is a complex issue. The employees would step forward if they saw it wasn't legal. But since this issue is very complicated, it becomes difficult to determine when to step forward and when you shouldn't. In his situation and his role in the organization, he does have to be certain before he suggests there is an issue of illegality unless he is absolutely certain there is. If he is certain that there is or if he has enough information to take more action, he would step forward.

Councilmember Martinez commented he remembered the memo the Mayor referred to and agreed the Council did not take any action at the time. Speaking for himself, he didn't think there was enough information to push forward with this. He will take responsibility for that. There are things that appear to have been done which were not in accordance with established procedures. Once the audit came out, it showed things had occurred that shouldn't have been done. He suggested they move forward from this point instead of pointing fingers. He said he made a comment previously that these are the things we know about. He hopes there is nothing they don't know about. He said he would support an outside audit, but was concerned about the cost. He asked that they move forward and take action to correct it.

Councilmember Alvarez said the public has asked and asked for an audit, separate of what has been done. She said an audit is important, even though it costs a lot.

Mayor Scruggs said she has been on record as supporting a forensic audit for a very, very long time and she continues to support it. She didn't think anybody should even raise the issue of how much it costs. The way that money is being spent here, this is something that should be done, this is money well spent. Who knows, it might find even some money that is available for

services. To even talk about the cost of it after the contract that has been entered into, is beyond anything that is reasonable or rational. She hopes it will get done.

Councilmember Martinez said he made that statement about a month ago, and wouldn't support it then, but now he would support it.

Mayor Scruggs commented it sounded like Council was giving direction. She didn't know if any of the Council knows what the heck the audit is supposed to be.

Mr. Tindall said consistent with this, he believes they need to have an executive session. Mayor Scruggs said she thought the public needs to hear that the majority of this Council wants to have a full audit. She was sure that what the audit would do, it would be something that will be worked out in the proper venue with the appropriate people, but now the process has been started. Mayor Scruggs asked if Ms. Schurhammer wished to proceed with her presentation.

Ms. Schurhammer said this presentation is going to cover some selected key items out of the risk management audit. The detailed action plan is provided as a written document in attachment B which was included as part of the agenda packet. That covers all the detail. This is just covering the key items. There were five slides which dealt specifically with the risk management trust fund and some of the comments made in that audit about the workers' comp trust fund.

Ms. Schurhammer said the estimated cost of the ASRS assessment was related to the retirement incentive program that was offered in spring of 2009. That was in FY2009 and was offered then as a balancing measure because the City was preparing for the FY10 budget. In FY09, the economy started to slow down, revenues started to drop and there were significant changes. The question was how long was it going to last and how bad it was going to be. That began in calendar year 2008 and into 2009, which was FY09. Preparing for the FY10 budget, this program was offered. She said the estimated cost of the assessment as provided by ASRS through three different letters and how to pay for it was discussed with the executive team during the budget balancing meetings that occurred that spring.

Councilmember Knaack asked why this wasn't presented to Council at the time.

Ms. Schurhammer said in the budget meetings, they discussed the ASRS assessment and how much it was. ASRS initially estimated in January 2009 was \$1 million. By April, after budget workshops were completed, ASRS gave us an estimated \$2.5 million. A final bill wasn't received until almost a year later and that was \$2.6 million. Mayor Scruggs asked what was built into the budget. Ms. Schurhammer said nothing was built into the budget for FY10.

Mayor Scruggs asked Ms. Schurhammer why, she knew this was a law. The trust fund boards, unfortunately, were being led to believe that nobody knew this and so forth. You knew about it, you talked about it in staff meetings and you didn't put it in the budget, why? You estimate all kinds of other things that you put in. Ms. Schurhammer said discussions were held and the recommendation was to bring it forward, but that is not what happened. Mayor Scruggs asked why? At some point, should Council not have an answer to the one question why? Why? The

employees out there think that we, the Councilmembers, are the ones that caused all these problems and that we had to know everything, so answer that.

Ms. Schurhammer said as the management and budget director she recommended this be brought to Council. That was not the direction she received. Councilmember Martinez asked from whom. Ms. Schurhammer said what was brought forward was the City Manager's recommended budget. Mayor Scruggs said so it was a deliberate omission. You had given your best professional advice, Mr. Skeete has given his best professional advice and it was a deliberate omission. Ms. Schurhammer said the City Manager's recommended budget did not include it. Councilmember Knaack asked if it was Mr. Beasley or Mr. Skeete as head of Finance. Mayor Scruggs said the City Manager's recommended budget. Councilmember Knaack said she wanted to know specifically. Ms. Schurhammer said she recalled both she and Mr. Skeete made the recommendation that it go forward with a discussion about this item and it should have been included, even though they didn't know a final number, because the final number was going to depend on who was going to participate.

Mayor Scruggs said but you put, see this is the thing though, you put in an assumed number and a projected number of savings for a certain number of people to leave and you were able to come up with that. You were obviously able to come up with a projection of the incentive too, but you were just told not to put it in, but our budget did have a number that you didn't know would actually be the final number in terms of people taking the buyout. Ms. Schurhammer said they came up with an estimate. Mayor Scruggs said but, and just as you came up with an estimate for the, do we call it penalty, is that the right word? Ms. Schurhammer said it was an assessment. Mayor Scruggs said even though you had an assessment, an estimate of the assessment on the low side first. Ms. Schurhammer said it was \$1 million on the low side. Mayor Scruggs said but even that wasn't included, even though you had gotten that from the date, from ASRS.

Ms. Schurhammer agreed they should have been more transparent about it. Mayor Scruggs said because we had the memo from the City Attorney's Office that you can't be changing the budget mid-year.

Ms. Schurhammer said Risk Management department director and the manager of the Risk Management Trust Fund recommended payment of the ASRS assessment out of the risk fund, because that fund was funded well above the 90% confidence level, even though the recommended funding level by the Government Accounting Standards Board, which the City follows, is the 55% funding level. The Risk Management Trust Fund started FY09 with a fund balance of \$6.6 million and it ended with a fund balance of \$8.0 million. The 55% funding level which they follow at the end of FY09 was \$3.2 million, which means they had almost \$5 million more in that fund than was actually required based on the GASB Standard. Based on that, the managers of the fund recommended that we could use the excess fund balance to pay for the ASRS assessment.

Mayor Scruggs said you have explained to us where you went to find money because clearly we were not in a financial position as a City to carry out this plan that was recommended, this buyout plan, so you are telling us where you could find money. Where there was a sum of money

not being used. It doesn't fit the definition of the Risk Management Trust Fund. Anywhere in the Risk Management Trust Fund, is there anything that says you can use this to pay an assessment leveled by the Arizona State Retirement System because you are helping so many people leave the organization that it's messing up the fund, so now we have to pay an assessment. That's not in the definition of uses of the Risk Management Trust Fund. Mayor Scruggs continued that Ms. Schurhammer has explained to Council that was where you could go get money because it wasn't available in the general fund, but that was an inappropriate action based on why there is a risk management trust fund. This was not somebody who fell and hurt themselves or got run over by a sanitation truck. So, all you are giving me is an explanation of why you went there to find money.

Councilmember Alvarez said on the risk fund they did have the money, but there was a clarification in the rules that Risk Management and Human Resources received that there were certain things that you could not cover. This is one of the things you could not cover. Mayor Scruggs said the money was there, but this was not an allowable use for the money.

Councilmember Clark said there were irregularities with Risk Management, Workers' Comp, and the Benefits Trust Fund. The audit pointed those out. She said they are finger-pointing, and unless they are prepared to take corrective action against those who "hoodwinked" them, they need to move forward and talk about what they are going to do to make it right from now. What are the corrections that are going to occur? Where are the funds going to come from?

Mayor Scruggs said she agreed with Councilmember Clark, but these employees are going to continue to ask questions and the public is going to continue to ask questions, so you may not want to discuss this here and that's fine, but it is not going to make the questions go away by any means.

Councilmember Clark asked what is the point. Mayor Scruggs said we can move on if that is what the Council wants, she continued saying the problem was not going to go away. Councilmember Clark said they had no authority and no ability to deal with hired employees and aren't going to fire anyone. She asked what do the employees expect of the Council. Mayor Scruggs said they expect to know the truth finally. They are hurting and they are going to be hurting more. The citizens are hurting and they are going to be hurt much, much more and they want to know why.

Councilmember Alvarez said she doesn't want anybody to be fired, but there should be corrective action once the outside audit is completed. She would like to see an outside audit done. She is not going to be vote for employees to be fired.

Councilmember Clark said they are indulging in an exercise in futility. She said this has been laid out for the public and employees since June. She wants to move past laying blame and talk about how to fix this problem.

Councilmember Knaack remembered the Mayor having questions and getting the memo from the City Attorney. She had questions too, but had nothing to go on. Mr. Tindall was unable to get

the information that was needed. She talked to Mr. Beasley in May and told him she wanted Ms. MacLeod to provide them with the information the Council wanted. She did do the audit, but the Council didn't see it until months later. Ms. MacLeod is the compliance officer. Councilmember Knaack wants the public to know that the Council trusts people in the City to do their jobs. The Attorney and Council weren't informed of several things, including the management plan to fund the ASRS penalty, the Workers' Comp premium holiday, the Risk Management Trust Fund premium holiday and the Employee Benefit holiday. This all had an effect on this. They can't know everything and have to trust the staff to give them the proper information. They trusted Ms. Schurhammer when she told them the transfers were appropriate.

Ms. Schurhammer said what she told the Council was the honest truth as she understood it at the time.

Councilmember Knaack continued that she wants the public to know that they are aware of the problems that have occurred and want to do something about it and the staff wants to do something about it as well. Councilmember Knaack said she is supportive of an audit.

Councilmember Clark believes there was a failure to disclose by various people in the organization, either at the direction of the City Manager who made the final decision or someone else. Having acknowledged this, the failures that have occurred have been recognized and they are prepared to take the action necessary to make sure these failures don't occur again.

Mayor Scruggs said she didn't know, she has read new information that Council never had before. It's not just old stuff.

Ms. Schurhammer said the purpose of the presentation is to present the facts as we know them and that is what they are trying to do today. She said it is not a justification of the fact that it wasn't disclosed. It is just trying to explain some of the reasoning that was behind the decision at the time.

Ms. Schurhammer went on to discuss Audit Observation No. 2. The practice of transferring between the Risk Management and Workers' Comp trust funds occurred routinely over many years. That has been the practice, but that has now stopped. She clarified a sentence in the Council Communication that was a little unclear and offered clarification. The sentence was, should an extenuating circumstance arise during the fiscal year where an emergency cash transfer is needed for the Workers' Comp Trust Fund to bring its fund balance up to the required level at the end of the calendar year, and this is important because the Industrial Commission switched from the fiscal year to the calendar year. Now the Workers' Comp Trust Fund has to be measured at the end of the calendar year. Mayor Scruggs asked when did Ms. Schurhammer find out that a switch was going to take place. Ms. Schurhammer said it became effective with the end of calendar 2011. At the end of that calendar year, the City was ok. Mayor Scruggs said her question was when were you informed about the change, was it 2010? Ms. Schurhammer said she did not know. If an extenuating circumstance comes up because of how this one fund is measured, they were working with the City Attorney's office to figure out how to accomplish that.

Mayor Scruggs asked how did the City Attorney's office get involved in this.

Mr. Tindall said discussions had been held regarding this year's transfer. Mayor Scruggs said you are talking about this year, not when they found out the law went into effect, which was a couple of years ago. Mr. Tindall said since the beginning of this year, they have had a lot of discussions about different ways of addressing this and making the practices consistent. Mayor Scruggs said still, it's very important to know this was known before the current budget was prepared, this new law, this change in the law.

Ms. Schurhammer said the City didn't have a problem at the end of calendar 2011, they are expecting to have this year. Mayor Scruggs said well when you prepared the budget that we are in right now, you could not have foreseen. Even though the law went into effect, you could not have foreseen there would be this problem?

Mr. Tindall said the Risk Management Trust Fund and the Workers' Comp Trust Fund are very hard to budget because claims come in that are not anticipated. Running it close to a 55% confidence level creates some issues that you might have to put money in there. With respect to the budget laws, these funds are accepted from the appropriation issue because the state law recognizes that these funds can't be budgeted. You are going to have claims you don't anticipate to come forward.

Mayor Scruggs asked so you can move money during the year.

Mr. Tindall said you can move money during the year. He said there is a difference between money and appropriations, so they are working through all the issues to address this. This has been ongoing since the beginning of this year. Going forward, there may be some cash transfers into these types of funds to make sure they maintain the appropriate confidence level because of unanticipated costs.

Mayor Scruggs asked but they were drawn down in the first place because of the ASRS assessment issue, which was not budgeted when it should have been, so the funds that had the money had the money taken out. The Industrial Commission changed the law in terms of when you have to do your reporting and the budget that was developed this year, while you were having these discussions, did not take into account the fact that fund would have to be brought back up to the confidence level after being drained down for the inappropriate use and uses.

Ms. Schurhammer said at the time the budget was developed, they did not know what the 55% confidence level was going to be because the report that gives that information, did not come out until the end of April.

Mayor Scruggs said Council hasn't had these problems before when we ran a balance, but when you drain it down so low that you are cutting it at the edge.

Ms. Schurhammer said switching to the Workers' Comp Fund, at the end of the FY10, the Workers' Comp Fund fell too slightly below the required confidence funding level. It was a few

hundred thousand less. This was fixed with a transfer from the Risk Management Trust Fund during FY11. At that point, the Industrial Commission was still on a fiscal year, not a calendar year. The fact that the Workers' Comp Trust Fund was not paid its premium in FY10 was identified in the annual report to the trust board and to City Council, but that was after the fact.

Mr. Brown addressed Audit Item 6, which addresses repair service contract claims. Repair service contract addresses claims, items for damage to residential or commercial property. Those are things such as a damaged fence, mailbox, landscaping and things like that. When those damages occur and those claims are presented to the City, in the past, the City has considered each of those claims individually. Those claims would not exceed the \$50,000 mark. Because those claims were looked at individually, that contract was not taken to Council. This process is going to change and staff will consider those claims or repair services cumulatively over the course of the fiscal year rather than per claim, which would require the contract to go to Council. These repair claims can run around \$600 on average. It certainly depends, but cumulatively over the course of the year, those could exceed \$50,000. They are working with Materials Management on an RFP on a new solicitation for these services. Once that bid process is complete, a new contract will be presented to Council for consideration.

Ms. Schurhammer next discussed Audit Item No. 7, which gets back to the Risk Management Trust Fund and the issue of salaries and related administrative expenses which were paid out of the Risk Management Trust Fund in FY11 and in FY12. This will not be done any longer. To make things right with the Risk Management Trust Fund, the general fund will repay the Risk Management Trust Fund about \$490,000 for the salary expenses that the Risk Fund paid in FY11 and FY12. In addition, the three FTEs that are currently in the Risk Management Trust Fund will move to the general fund. These two actions, the general fund repaying the risk fund for the prior fiscal years' salary expenses and moving those FTEs over to the general fund as of this fiscal year, will be brought to Council as part of the items discussed for the December 11th meeting. The additional general fund expenses will be covered by savings from vacant positions in the general fund that will be eliminated as part of the mid-year expenditure reductions that will be brought to Council on December 18th. They were already included in the FY13 amended budget column. These costs were already incorporated in the financial summary documents. They are going to be covering this with the expenditures they plan to do mid-year.

Mr. Brown discussed Audit Item No. 9, external financial audit.

Mayor Scruggs asked if you were going to experience savings or you were trying to achieve a certain reduction in expenditures, and those vacant positions were part of achieving that goal, now you are moving people into them, doesn't that create a new amount of money that you have to take out of the general fund somewhere then.

Ms. Schurhammer said we already incorporated into those numbers that were shown on the 27th and the 20th, when we showed we had to do somewhere between \$4 and \$6 million in cuts, these additional costs were already incorporated in there, so that takes all that into account.

Mayor Scruggs she was thinking back to the amendment from June. Okay, then that's not what you are talking about, you were talking about the November scenarios.

Mr. Brown said with regard to the annual external audits. Annual financial external audits have been conducted over all city funds, which included the Risk Management and Workers' Compensation Trust Fund. While annual external audits capture and report out on those trust funds, that external audit's focus is far broader. He will be working with Finance and the City Attorney's office to insure that annual external audits meet the Ordinance requirements.

Councilmember Martinez is unclear as to whether an external audit is required. Mr. Brown said that is the language that was in the audit and that is the observation. They have consulted with the City Attorney on the Ordinance and what the external audit requirement might be and there has been an opinion. They do conduct the external City audit annual, but it is very broad. It doesn't narrow in on those two trust funds. Moving forward, they want to narrow in on the trust funds more and have separate reports.

Councilmember Martinez asked who conducts the external audit.

Ms. Schurhammer said the annual external audit is conducted through a competitive RFP process. The auditor that has been on contract for five years is Heinfeld Meech. They are going out to bid for the next annual audit. The contract is up for re-bid.

Mr. Tindall interjected that the issue was not that an internal audit needed to be done, but whether it was satisfied by what Mr. Brown was talking about, the larger audit. The question was does there need to be a separate audit of the Risk Management Trust Fund. Because the code requires that the trust fund is specifically audited. It is well known that they have another audit. The Attorney's conclusion was it does call for a separate audit. That can be satisfied by either a separate auditor doing it or by a specific scope within the audit that is done comprehensively that says go and do a specific audit while you are doing this comprehensive audit. The Workers' Comp Trust Fund has the same requirement.

Councilmember Clark said one of the board actions from the last meetings was they understood their audit was part of CAFR. They specifically asked that the scope of the CAFR include a more specific and narrow focus on the trust funds. They also recommended that every five years, out of the Risk Management Trust Fund there be an allotment to pay for a separate external audit of the trust funds, so for four years, they will be satisfied by CAFR by changing the scope of CAFR and in the 5th years, there will be a separate external audit of the trust funds. In addition to that, they also asked that staff follow up and select a peer group to audit policies, practices and procedures as well. The board has asked for more than what staff has recommended.

Mr. Brown said they will be bringing a recommendation to Council with regard to an external audit that can be conducted every five years, with estimated costs and scope. Staff will work on that and once it has been reviewed by the Risk Management Trust board, the Attorney's Office will bring that forward.

Mr. Brown discussed Item 11, which deals with the broker services insurance agreements. The city contracts with a broker to appropriate insurance for items such as property, crime, and excess liability. With regard to the broker agreement, the most recent agreement indicated it was a three year contract, renewable annually. That differed from the RFP which was put out which indicated a five year contract, renewable annually. The Risk Management staff has worked with the City Attorney's office to create an addendum to the broker agreement which has corrected the agreement terms to read the same as what was in the RFP, which is a five year contract, renewable annually. Not all types of insurance that the city requires are specified in the contract and that detail will be corrected in the next bidding process.

Ms. Schurhammer continued the discussion about informational items that will be brought forward at the December 11th meeting. One is to adjust the workers' compensation premiums by approximately \$1.2 million. That would bring the City to the 55% confidence funding level at the end of this calendar year for the Workers' Comp Trust Fund.

Mayor Scruggs asked where are you going to find that money. We heard just a week or two ago that we were at a negative fund balance. Ms. Schurhammer said just like the risk management item that was incorporated into the amended FY13 budget column, these additional costs were also incorporated in there. Mayor Scruggs said that is not what she was asking Ms. Schurhammer, she was asking her where is the money coming from. When Council met, the Mayor asked what is our general fund balance, is it zero. You answered actually negative, below zero. Where is this money coming from?

Mr. Skeete commented to make these adjustments during this year; these funds would be part of the cuts that the departments would have to endure in order to cover these costs. Mayor Scruggs said but this has to happen before the end of the year. Mr. Skeete said that there are 30 employee vacancies and there are probably a few more salary savings that can be cut through additional vacancies. Other reductions in the ongoing operating expenses of the current year's budget would have to be made in order to make this happen. Mayor Scruggs said next week you are going to show Council your recommendation for reductions to meet the \$6 million target number that the city has to do, but this \$1.2 million, of which \$758,000, which has to come from the general fund, has to happen before December 31, 2012. So, are you making those decisions? Is this part of what Council was going to see on December 18th? It sounds like there is no opportunity to say no we don't want to do that, because you have to do this by December 31, 2012.

Mr. Skeete said that is part of the dilemma that staff has faced and will continue to face over the years as they try to make these adjustments. These mid-year adjustments of the budget that they might find from time to time, administratively they have to make the adjustments. From a procedural standpoint, they can't officially bring that amendment to Council until the last quarter of the fiscal year.

Mayor Scruggs said she really wanted to know where the money is coming from. We are going to talk about what we are going to be asked to do on December 11th and if it is okay with the City

Attorney. She wanted to have his blessing that it's okay and all that stuff before we act on it. But, where are you finding \$758,000?

Mr. Skeete said they have to make those spending adjustments throughout the course of the year for pending shortfalls and increases in expenses that have been identified. Those will be brought to Council at the end of the year or at some time during the last quarter of the year for final approval or amendments to the budget to make that happen. As they develop a response to this audit finding, and they had chosen a path in the past that staff had been making the adjustments without prior Council approval. Moving forward, since there is no official action that the Council can take until the last quarter of the year, they are going to bring these to Council in informational items, either in the workshop or at the evening meetings, to let Council know what needs to be done in the future based on the current understanding. They have to identify what cuts need to be made and where the savings needs to come from in order for you to be able to make that budget amendment in the last quarter of the year. This is a restriction based on the Charter, but he feels they can effectively communicate to Council what needs to be done as early as they know it, but Council cannot act on it until the last quarter of the year.

Mayor Scruggs said so the answer is the Workers' Compensation premiums are not going to be adjusted because we can't do it because the Charter says we can't do it until the last quarter. Therefore, you cannot meet the 55% confidence.

Mr. Tindall said the last quarter appropriation transfers are a restriction that applies to interdepartmental transfers. If there are salary savings in a department, Council can approve any of the appropriation for salaries to be lowered by the salary savings for an individual department and move it from the line that is there for salaries to the line that is there for Workers' Comp premiums. That is an adjustment that can be made during the year.

Mayor Scruggs said but not all departments have those.

Mr. Tindall said they would have to find enough transfers of appropriation authority to make up the \$1.2 million.

Mayor Scruggs said so in other words, the department that has lots of openings or lots of vacancies, may be paying this for departments that don't have vacancies, because there is no money to move within their department.

Mr. Tindall said they may have an appropriation that is available to move to a worker's comp premium to pay for that at this time, to have the authority to expend those funds for the Workers' Comp Fund at that point in time. Then at the last quarter of the year, they can square up the budget between departments by making the transfers. If one department carried a larger load than they should have, then in the last quarter of the year, the appropriations can be adjusted to make up the difference.

Mayor Scruggs said let's use the Mayor's Office. There's probably no money there to do this because there is just no money there. So, maybe the Council office will have to pay extra to

cover the Mayor's Office budget. But then there are things that won't be done in the Council office because now they are helping the Mayor's Office make up the Workers' Comp.

Mr. Tindall said these things would be salary savings that wouldn't be expended anyway.

Mayor Scruggs said she thought he said it's not going to be all salary savings because there are just not that many vacancies; it would be other types of things too.

Mr. Tindall said that was just an example of what could occur during the year.

Mayor Scruggs said so let's take your office, for example. If you have no vacancies, so you can't have the salary savings from vacancies, then if you didn't have that, it would have to come from some other item in your office, your supplies, which have already been stripped down. Where do you even find the money? That's her question, where are you going to find this money? Are you just going to go to all the departments and whoever has vacancies, you are going to take those?

Vice Mayor Frate said it probably has already been done. He said he knows the departments have been told this is what you have to do.

Mr. Skeete said no adjustments have been made to the department budgets to accommodate for this pending expenditure, but it will have to be done before December. If it cannot be done using a small office where there is not sufficient salary savings, then another department with greater salary savings would then have to fund it and then at the end of the fiscal year in the last quarter, then Council would make the adjustments, move the appropriate amount into the smaller office to cover that cost. This is a cost that is an ongoing cost. This is not a one-time cost. This adjustment will have to be made going forward in the budget. Because of the nature of these funds, the increase in the claims is not a one year process. It takes four or five years before that premium can be adjusted down again. Even though it might not be appropriated or budgeted this year, as next year's budget is put together, they would have to make cuts throughout the organization to distribute the appropriate level of premium assessments in the next fiscal year to make sure there are sufficient funds.

Mayor Scruggs said now public safety has been exempted from all the cuts to make up the \$6 million deficit. Does public safety get exempted from this too?

Mr. Skeete stated public safety is subject to the workers' comp claims and will be subject to the assessment as well.

Councilmember Clark said they have to be because they make up about 70% of the claims.

Mr. Skeete said these reductions in department budgets are not the result of any deliberate actions other than the normal course of business. When next year's health insurance goes out to bid and the premiums come in higher than they are today, the City has to fund the premiums at the new level and it would have to be distributed to all the departments.

Councilmember Clark said the bigger issue precludes the City from changing the Charter with regard to only granting approval of transfers in the last quarter.

Mr. Tindall said state law does not, but the Charter does. The Charter requires the vote of the people to change the Charter.

Councilmember Clark said at some point there could be a Charter amendment brought forward to change the Charter and that there is nothing in state law to say they can't, so there could be a Charter change brought forward, approved by the voters that allows Council to transfer appropriations during the course of the year rather than waiting until the last quarter.

Mr. Tindall said transfers among departments.

Councilmember Clark said this is a great issue for the new Council to look at, whether it is advisable to look at bringing before the voters some kind of Charter change.

Mayor Scruggs said well there are going to be, we talked about the City Attorney needs to have some greater ability to interject himself when something is not quite right, whether you call it compliance or not. There's talk about changing the auditor. That's going to require a Charter change.

Councilmember Martinez asked if changing the auditor reporting structure would require a Charter change.

Mayor Scruggs said the Auditor is recommending that she report to the Council as well as to the Manager; that sure would be a Charter change.

Councilmember Clark said if you do something of that magnitude, they might want to make the Auditor appointed, rather than a salary employee.

Ms. Schurhammer said another item being brought forward for information on December 11th is to discontinue FY08 authorization, ongoing authorization, to draw down the Employee Benefits Fund balance by \$1 million annually. She wanted to address one of the comments the Mayor made at the beginning about the federal reimbursement related to the retiree costs. She said this information was provided in an email near the end of June or early July. The federal program was a reimbursement program. That means the City has to incur the cost first, save all the receipts, provide the documentation to the federal government, and then request reimbursement. The federal government then had to review all the documentation and either approve or not approve. They approved \$500,000 which was the first request. The City did get \$500,000 back. It went back into the Employee Benefits Trust Fund. Council was provided a copy of the revenue report to show the reimbursement that came in was deposited into the Employee Benefits Trust Fund. The second \$500,000 was never received because the federal government ran out of money, so they were never able to request the remaining \$500,000. She said the total was \$1 million, not \$1.3 million, and the City only received \$500,000 because that was all the federal government had to reimburse the City. The other \$500,000 was no longer available.

Nothing illegal was done related to this federal reimbursement. The receipts were submitted and the first \$500,000 was approved. The revenue came in and was deposited to the Employee Benefits Trust Fund.

Mayor Scruggs asked to be excused for not being as conversant in this area as you. She knew it is very annoying to you.

Ms. Schurhammer said she just wanted the Council to understand what happened.

Mayor Scruggs said it just seems very crystal clear to Ms. Schurhammer. It doesn't to Mayor Scruggs and she would bet it doesn't to most of these other folks on the Council and we get all these emails and lately we have been getting a lot of them that are justifying that or justifying that are explaining this or explaining that. It is kind of scattered all over. Trying to gather them all together and even going through these 100 pages, she has all these stickies. She was trying her best. She realizes it's frustrating that she doesn't know all this like you do, but you have to understand that for years she put her full faith and trust in every employee here, and this is something that she didn't know. When she was told that the money was taken from the Benefits Trust Fund and placed in the general fund, staff is telling her that was not true. She was told that by an employee of the City.

Ms. Schurhammer said as far as she knows, that is not true. As far as the \$1 million fund balance draw down annually, it was presented to Council as a supplemental.

Mayor Scruggs said in 2008, and that was considered something that was going to continue every year because we saw it in 2008. Ms. Schurhammer said it was presented as an ongoing supplemental. Consistent with the practice at the time, when they presented ongoing supplementals, they presented them for the upcoming fiscal year and did not re-present them the following years because they were built into the base budget for the following fiscal years as an ongoing supplemental.

Ms. Schurhammer said regarding the \$1 million fund balance draw down; how that was accomplished from an accounting perspective is complicated. The City Attorney has met with the CFO and had discussions, and this has been explained. What is being brought forward for next week is to discontinue that practice.

Mayor Scruggs asked and why was that money taken from the Employee Benefits Fund, because the general fund was short of cash?

Ms. Schurhammer said the ongoing supplemental identified that we were estimating cost increases for FY08. On the medical side, they were expecting \$2.37 increase. Premiums were increased for employees, and for the City. The entire premium increase overall was not going to be passed along to both employees and employer. A portion of it was going to be handled through a \$1 million withdrawal per fiscal year of the fund balance.

Mayor Scruggs said this is a situation where staff could say we told you and you approved it, so, therefore, you did it. In reality, what Council heard, what she remembers Council hearing every year was staff had good news. Employees' health insurance premiums are not going to go up. What was missing was that because we are taking \$1 million out of the Employee Benefits Trust Fund, which is supposed to pay the claims, right, that the employees had. So, we have great news, the premiums aren't going up to the employees, but to expect us to remember that in 2008 there was a supplemental that said you are going to take \$1 million out of the Employee Benefits Trust Fund. That's the kind of thing that these calculations talk about that's the kind of change that has to happen. That is really close to insulting to tell Council; well you approved it in 2008. You said it was okay, to never put the action together with what was going to happen.

Ms. Schurhammer said they could have been clearer about it in following fiscal year budgets when we took it forward.

Mayor Scruggs said she thought it was important. There are a lot of people here that need to hear this so they have knowledge for the future, if you want to listen and for those that don't want to listen, you don't have to.

Mr. Tindall said with respect to the 2008 authorization, in the discussions that took place, the Council did not authorize that specifically.

Mayor Scruggs said every year, you mean?

Mr. Tindall said in 2008 or every year. They authorized a budget that accommodated that transaction. He wasn't certain what could be done to discontinue an authorization that was really never granted. He said he didn't know if there was anything coming forward on December 8th with respect to that. He said the drawn down should stop and the effect of that would have to be any adjustments to the budget and those would have to be brought to Council.

Mayor Scruggs said anything that can be done that doesn't leave any question in anybody's mind. It's the right thing to do. She wasn't sure if it had to be done with a Resolution. She didn't care how it was done, but it needs to be done. In 2008, did Council sit here and didn't realize what was going to be happening by approving a supplemental that was viewed as going on forever, until somebody who works with this fund every day and realized the jeopardy that the employees were in, until they spoke up, oh we didn't know this was in the budget and happening every year. She didn't know what kind of action you can come up with, but by golly, it seems there should be something that lets everybody in the whole world this isn't going to happen anymore.

Ms. Schurhammer said that is the intent to bring it forward next week.

Councilmember Knaack asked if there was a direct authorization.

Mr. Tindall said there was not a direct authorization and the Council didn't need to follow-up for the authorization to happen. It was accommodated in a budget. He said he didn't know what action should be taken and that was the point of the discussion.

Mayor Scruggs asked is there consensus here today that we don't want that draw down to continue, is there consensus. Council agreed.

Mr. Skeete said that direction has already been given to staff.

Councilmember Martinez said he thinks they need to avoid the word ongoing in the future and just do it for that one year and then have it brought up every year.

Mayor Scruggs said that could be another direction given that you not submit supplementals that go on in perpetuity unless somebody stops them that all supplementals are for one year only. Is that workable, or is that a difficult direction to give?

Mr. Skeete said depending on what you are looking at. If you are looking at authorizing finishing construction of the courthouse and you have authorized construction and all of the expenses. That would probably not be done all in one year and Council would need to come back to reauthorize the construction of the court.

Councilmember Clark said to reauthorize the balance needed to finish completion.

Mayor Scruggs said but we are not even talking about capital improvement. We are talking about. The expense is then determined to be permission granted forever.

Mr. Skeete said there are times when this is possible, for example if we add a street, one of the practices done is they add the appropriate amount of maintenance costs associated with that street. That is added into the base budget.

Councilmember Clark gave an example of authorizing a supplemental for fuel because the price of fuel has gone to \$4 a gallon and we are paying \$3.74 a gallon. We issue that supplemental, staff intends it to be ongoing because it assumes that gas will never drop in price again. However, the following year, gas drops to \$3 a gallon, yet they have authorized an ongoing supplemental to continue to pay X amount of dollars for gas. That's the kind of supplemental the Council is addressing. It's not about capital construction projects; it's about ongoing supplementals for less tangible things, not projects in the ground.

Mayor Scruggs said and it's about policy decisions. This right here was a policy decision. We are going to cause further angst among the employees because they are not getting raises and they are getting furloughs. She didn't know if that started in 2008, but we don't want to create angst among our employees. So, Council was going to take this idea of drawing down the Employee Benefit Fund and we are going to apply that in perpetuity. That's a policy decision. That should come each year, not being told guess what good news we have for you, the employee premiums aren't going up. Well, no, because you are taking away the money to pay their claims. That's a policy decision, so she thought the suggestion is no supplementals that are policy decisions should be considered recurrent.

Mr. Skeete said he understands what the Mayor is asking for, is the variable supplementals that vary from year to year in the cost should not be asked for ongoing authorization. However, to say that all supplementals should not, there would be a lot of redundancy. If you created a new department or you created a new ongoing action that requires, there are some variable supplementals where costs vary from year to year. He agreed it is very appropriate for those variable types of expenses to be evaluated annually and the appropriate amounts funded. The fixed costs would become problematic and exhaustive to continue.

Mayor Scruggs said but you understand what we are saying. Does a supplement have a, it's been so long since I've seen one, is there a box for recurring? Maybe we could put that in great big bold letters or something.

Ms. Schurhammer said they would work with Mr. Skeete on this.

Mr. Brown said there are a couple more action items to discuss. Each year the Risk Management staff brings a resolution to the Council that requests exemption from posting the security deposit for the Workers' Compensation Trust Fund. Normally, the commission would require a public entity either post a security deposit or a letter of credit in order to be self-insured. That Resolution exempts the public entity from that. That will come forward on the 11th. The Resolution states that the public entity is fully funded and will be funded each year in the Workers' Compensation at the confidence level and the governing body will immediately notify the Industrial Commission if the funding is below the required amount, which is what has been done. Also, that request is approved by the governing body. That is what the Resolution that will come before Council on December 11th will state. It is directly related to the first bullet that Ms. Schurhammer discussed in terms of adjusting those premiums to meet the funding standards.

Vice Mayor Frate asked if that was something the City Attorney and Mr. Brown discussed.

Mr. Tindall said it is a Resolution that has been done in the past and also the governing body is certifying to the Industrial Commission that the governing body is in compliance with Industrial Commission regulations and with GASB Statement 10. It is a certification the Council is making.

Councilmember Clark said this was also a recommendation from the Risk Management Trust fund.

Mr. Brown said they are seeking Council direction regarding Employee Benefits Fund to adopt an Ordinance for that fund, create an oversight board and then work with Finance on the appropriate fund balance confidence levels and actuarials.

Mayor Scruggs asked if Mr. Tindall was on board with everything that had been discussed to bring forward on Tuesday evening. Mr. Tindall said based on the discussion, there was still work to do to be sure it complies with everything.

Ms. Schurhammer said she would work with Mr. Tindall on the language in the Council Communication.

Mayor Scruggs asked if Mr. Skeete or Mr. Tindall had anything else. Mr. Tindall said they would have a short executive session.

Mayor Scruggs said well this is one of the more depressing days we have had, but anyway, that that concludes everything on our agenda, so the meeting is adjourned and we will have executive session.

ADJOURNMENT

The meeting was adjourned at 6:15 p.m.