

**SUMMARIZED MINUTES  
SCOTTSDALE CITY COUNCIL  
REGULAR MEETING  
TUESDAY, JUNE 3, 2008**



**CITY HALL KIVA  
3939 N. DRINKWATER BOULEVARD  
SCOTTSDALE, AZ 85251**

**CALL TO ORDER**

Mayor Manross called to order a Regular Meeting of the Scottsdale City Council on Tuesday, June 3, 2008 in the City Hall Kiva at 5:19 P.M.

**ROLL CALL**

Present: Mayor Mary Manross  
Vice Mayor Robert Littlefield  
Council Members Betty Drake, Wayne Ecton, W.J. "Jim" Lane, Ron McCullagh, and Tony Nelssen

Also Present: Acting City Manager John C. Little  
City Attorney Deborah Robberson  
City Clerk Carolyn Jagger

**PLEDGE OF ALLEGIANCE** – Councilman Ecton

**INVOCATION** – Pastor Patrick Sullivan, Scottsdale Bible Church

**PRESENTATIONS/INFORMATION UPDATES**

Mayor Manross thanked Councilman Ecton for his service as Vice Mayor, and announced that Vice Mayor Littlefield began his eight-month term as Vice Mayor on June 1st.

Mayor Manross announced that the month of June has been designated as Litter Prevention Month. She said that the Scottsdale Pride Commission has launched a cigarette litter prevention program to reduce cigarette litter in the City.

**MINUTES**

<b>Regular Meetings</b>	<b>Special Meetings</b>
May 6, 2008	May 13, 2008
	May 20, 2008

**NOTE:** IN ACCORDANCE WITH PROVISIONS OF THE ARIZONA REVISED STATUTES THE SUMMARIZED MINUTES OF CITY COUNCIL MEETINGS ARE NOT VERBATIM TRANSCRIPTS. ONLY THE ACTIONS TAKEN AND DISCUSSION APPEARING WITH QUOTATION MARKS ARE VERBATIM. DIGITAL RECORDINGS OF CITY COUNCIL MEETINGS ARE ON FILE IN THE CITY CLERK'S OFFICE.

COUNCILMAN LANE MOVED TO APPROVE THE REGULAR MEETING MINUTES OF MAY 6, 2008 AND THE SPECIAL MEETING MINUTES OF MAY 13 AND 20, 2008. COUNCILMEMBER DRAKE SECONDED THE MOTION, WHICH CARRIED 7/0.

### **CITY MANAGER'S REPORT**

Acting City Manager John Little commended the Solid Waste staff for a great job picking up City-wide refuse, and encouraged residents to be diligent in recycling waste products.

Mr. Little announced that the National League of Cities Steering Committee on Public Safety and Crime Prevention will be meeting at the Hotel Valley Ho in Scottsdale this week at the invitation of Councilman Lane. He said the Committee helps set public policy for the nation's largest municipal advocacy organization.

Mr. Little reported that the City was listed as number nine in the New York Times' Great Places To Go This Summer List. Mr. Little thanked the Convention and Visitors' Bureau for marketing the City as a year-round town.

Mr. Little announced that June 1st through 7th is National CPR and AED Awareness Week. He said that the Scottsdale Fire Department will be hosting a free community workshop to teach the new continuous chest compression CPR method. The workshop will be held on June 14<sup>th</sup> at 9:00 a.m. at Mountain View Community Center.

### **Public Comment**

**John Washington**, 3518 N. Chambers Court, expressed concern that the Downtown Plan Update will impact the quality of life for Downtown merchants and property owners. He presented a citizen petition asking the Council to submit any changes or updates to the current Downtown Plan to City voters concurrent with the 2010 City General Plan election.

CONSENT AGENDA ITEM 6 WAS REMOVED FOR SEPARATE ACTION.

### **CONSENT AGENDA**

- 1. CVS Pharmacy No. 89 Liquor Store Liquor License (32-LL-2008)**  
**Request:** Consider forwarding a recommendation to the Arizona Department of Liquor Licenses and Control for a series 9 (liquor store) liquor license for a person and location transfer to an existing business.  
**Location:** 10010 N. Scottsdale Road  
**Staff Contact(s):** Frank Gray, Planning and Development Services General Manager, 480-312-2890, [fgray@scottsdaleaz.gov](mailto:fgray@scottsdaleaz.gov); Connie Padian, Chief Planning and Administration Officer, 480-312-2664, [cpadian@scottsdaleaz.gov](mailto:cpadian@scottsdaleaz.gov)
- 2. AJ's No. 173 Liquor Store Liquor License (33-LL-2008)**  
**Request:** Consider forwarding a recommendation to the Arizona Department of Liquor Licenses and Control for a series 9 (liquor store) liquor license location transfer for a new location.  
**Location:** 18271 N. Pima Road  
**Staff Contact(s):** Frank Gray, Planning and Development Services General Manager, 480-312-2890, [fgray@scottsdaleaz.gov](mailto:fgray@scottsdaleaz.gov); Connie Padian, Chief Planning and Administration Officer, 480-312-2664, [cpadian@scottsdaleaz.gov](mailto:cpadian@scottsdaleaz.gov)

**3. Classic Cooking Permanent Extension of Premises (24-EX-2008)**

**Request:** Consider forwarding a recommendation to the Arizona Department of Liquor Licenses and Control for a permanent extension of premises for Classic Cooking.

**Location:** 10411 E. McDowell Mountain Ranch Road, Suite D2

**Staff Contact(s):** Frank Gray, Planning and Development Services General Manager, 480-312-2890, [fgray@scottsdaleaz.gov](mailto:fgray@scottsdaleaz.gov); Connie Padian, Chief Planning and Administration Officer, 480-312-2664, [cpadian@scottsdaleaz.gov](mailto:cpadian@scottsdaleaz.gov)

**4. Carmichael Court Abandonment (24-AB-2005)**

**Requests:**

1. Abandon the east 10 feet of North 108<sup>th</sup> Street right-of-way located near East Ironwood Drive.
2. Abandon the East Ironwood Drive right-of-way cul-de-sac located east of North 108<sup>th</sup> Street.
3. Adopt **Resolution No. 7590** vacating and abandoning public rights-of-way.

**Location:** 10837, 10846, 10873, and 10876 E. Ironwood Drive

**Related Policies, References:** Case No. 25-PP-2005 is a related request for a preliminary plat to add a fourth lot to this subdivision, and to create a private street tract for the East Ironwood Drive cul-de-sac.

**Staff Contact(s):** Frank Gray, Planning and Development Services General Manager, 480-312-2890, [fgray@scottsdaleaz.gov](mailto:fgray@scottsdaleaz.gov); Lusia Galav, Current Planning Director, 480-312-2506, [lgalav@scottsdaleaz.gov](mailto:lgalav@scottsdaleaz.gov)

**5. Carmichael Court Final Plat (25-PP-2005)**

**Request:** Approve a Final Plat for a four-lot single-family subdivision on a 4.88± acre parcel.

**Location:** 10837, 10846, 10873, and 10876 E. Ironwood Drive

**Related Policies, References:** Case No. 24-AB-2005 abandoned the east 10 feet of North 108<sup>th</sup> Street right-of-way located near East Ironwood Drive, and the East Ironwood Drive right-of-way cul-de-sac located east of North 108<sup>th</sup> Street.

**Staff Contact(s):** Frank Gray, Planning and Development Services General Manager, 480-312-2890, [fgray@scottsdaleaz.gov](mailto:fgray@scottsdaleaz.gov); Lusia Galav, Current Planning Director, 480-312-2506, [lgalav@scottsdaleaz.gov](mailto:lgalav@scottsdaleaz.gov)

**6. Scottsdale East Plaza Rezoning (13-ZN-2007)**

ITEM NO. 6 WAS REMOVED FROM THE CONSENT AGENDA FOR SEPARATE ACTION  
(SEE PAGE 9)

**7. Alarm Systems Ordinance Revisions**

**Requests:**

1. Adopt **Resolution No. 7624** declaring the document entitled "Chapter 3 Alarm Systems" to be a public record.
2. Adopt **Resolution No. 7625** authorizing a revised Alarm Systems Fee Schedule effective September 1, 2008.
3. Adopt **Ordinance No. 3796** repealing, in its entirety, Chapter 3 of the Scottsdale Revised Code, and adopting, in its entirety, a new Chapter 3, Alarm Systems, relating to the regulation of alarm businesses, alarm agents, and alarm users.
4. Adopt **Resolution No. 7626** recognizing the cities of Chandler, Mesa, Phoenix and Tucson as reciprocal licensing cities.

**Related Policies, References:**

- Article 1, Chapter 3, Ordinance No. 3991, Alarm Systems
- Article 1, Chapter 16, Ordinance No. 3509, In General – License, Taxation and Miscellaneous Business Regulations

**Staff Contact(s):** Craig Clifford, Financial Services General Manager/CFO, 480-312-2364, [cclifford@scottsdaleaz.gov](mailto:cclifford@scottsdaleaz.gov); Deborah Johnson, Customer Service Director, 480-312-2463, [djohnson@scottsdaleaz.gov](mailto:djohnson@scottsdaleaz.gov)

**8. Contract for Unarmed Security Guard Services**

**Request:** Adopt **Resolution No. 7618** authorizing Service Contract No. 2008-086-COS with Akal Security in the amount of \$1,337,246.72 to provide specified security guard services to identified City facilities.

**Related Policies, References:** RFP No. 08RP017

**Staff Contact(s):** Alan Rodbell, Chief of Police, 480-312-1900, [arodbell@scottsdaleaz.gov](mailto:arodbell@scottsdaleaz.gov)

**9. Contract for FY 2008/09 Destination Marketing Services**

**Request:** Adopt **Resolution No. 7613** approving Contract No. 2008-084-COS, the "Marketing Services Agreement between the City of Scottsdale and the Scottsdale Convention and Visitors Bureau, Inc."; and authorizing \$7,191,828 for provision of these services in FY 2008/09. The Tourism Development Commission recommended approval of this request at their March 18, 2008 meeting.

**Related Policies, References:** City of Scottsdale Ordinance Nos. 2045/3576 (amended) and 2049/2702/3577 (amended) provide for funding of a destination marketing program on behalf of the City and the Scottsdale tourism industry from the City's bed tax revenues.

**Staff Contact(s):** Harold Stewart, Acting Economic Vitality General Manager, 480-312-2311, [hstewart@scottsdaleaz.gov](mailto:hstewart@scottsdaleaz.gov); Kathy Carlisle O'Connor, Tourism Development Manager, 480-312-7057, [kcoconnor@scottsdaleaz.gov](mailto:kcoconnor@scottsdaleaz.gov)

**10. Annual Economic Development Marketing Contract with GPEC**

**Requests:**

1. Adopt **Resolution No. 7621** approving Contract No. 2008-089-COS with the Greater Phoenix Economic Council (GPEC) and authorizing General Funds in the amount of \$93,577 for provision of regional economic development marketing services.

**Related Policies, References:** Economic Vitality Strategic Plan

**Staff Contact(s):** Harold Stewart, Acting Economic Vitality General Manager, 480-312-2311, [hstewart@scottsdaleaz.gov](mailto:hstewart@scottsdaleaz.gov)

**11. Purchase of Property-Casualty Insurance for the Period of July 1, 2008 to June 30, 2009**

**Request:** Adopt **Resolution No. 7638** authorizing the:

1. Purchase of General Liability, Vehicle Liability and Public Officials Errors and Omission insurance protection of \$50,000,000 Limits of Liability per occurrence and annual aggregate coverage from various insurers for claims in excess of the City's self-insured retention amount of \$2,000,000 per occurrence for a cost of \$491,989.
2. Purchase of Property insurance on approximately \$710 million of buildings, contents and equipment replacement values in excess of the deductible portions from Travelers Insurance Company at a cost of \$492,003.
3. Purchase of Workers' Compensation insurance from Midwest Employers Casualty Company in excess of the City's proposed self-insured retention amount of \$750,000

for a cost of \$136,544. Grant exemption from requirement to post security for City of Scottsdale self-insured workers compensation claims.

4. Purchase of Scottsdale Airport Liability and Hangarkeepers' Legal Liability insurance of \$200,000,000 per occurrence and annual aggregate limits of Airport Liability coverage and \$200,000,000 for Hangarkeepers' Legal Liability coverage from insurer ACE USA at a cost of \$75,716.

**Staff Contact(s):** Craig Clifford, Financial Services General Manager/CFO, 480-312-2364, [cclifford@scottsdaleaz.gov](mailto:cclifford@scottsdaleaz.gov); Pauline Hecker, Risk Management Director, 480-312-7841, [phecker@scottsdaleaz.gov](mailto:phecker@scottsdaleaz.gov)

**12. Professional Services Contract for Financial Advisor**

**Request:** Adopt **Resolution No. 7588** authorizing the Mayor to sign Professional Services Agreement No. 2008-076-COS with Piper Jaffray & Co. for financial advisory services on all bond or transacted capital financings.

**Staff Contact(s):** Craig Clifford, Financial Services General Manager/CFO, 480-312-2364, [cclifford@scottsdaleaz.gov](mailto:cclifford@scottsdaleaz.gov); Lee Guillory, Finance Manager, 480-312-7084, [lguillory@scottsdaleaz.gov](mailto:lguillory@scottsdaleaz.gov)

**13. Annual Participation Agreement with Scottsdale Cultural Council**

**Request:** Adopt **Resolution No. 7537** authorizing Agreement No. 2008-049-COS, an annual financial participation agreement between the City and the Scottsdale Cultural Council for FY 2008/09 in the amount of \$5,485,227 for the purpose of administering the arts and cultural activities for the City, pursuant to the terms of the Management Services Agreement.

**Related Policies, References:**

- Management Services Agreement No. 2008-048-COS, approved on May 20, 2008.
- Ordinance No. 3781, Art in Public Places

**Staff Contact(s):** Michelle Korf, Acting Downtown Group Executive Director, 480-312-2539, [mkorf@scottsdaleaz.gov](mailto:mkorf@scottsdaleaz.gov)

**14. Construction Services Contract Modification for Scottsdale Road Improvements from Frank Lloyd Wright Boulevard to Union Hills Drive, Phase 2**

**Request:** Adopt **Resolution No. 7238** authorizing CM@Risk Construction Phase Services Contract Modification No. 2007-037-COS-A1 with Hunter Contracting Co., at a guaranteed maximum price of \$13,184,561.69 for phase 2 improvements to Scottsdale Road from Frank Lloyd Wright Boulevard to Union Hills Drive.

**Related Policies, References:**

- On November 18, 2002, Council approved Engineering Services Contract No. 2002-144-COS with Dibble Engineering for the design of Scottsdale Road improvements from Frank Lloyd Wright Boulevard to Thompson Peak Parkway.
- On November 19, 2002, Council approved Development Agreement No. 2002-141-COS with the Arizona State Land Department.
- On November 19, 2002, Council approved Development Agreement No. 2002-142-COS with Corrigan and DMB.
- On November 16, 2004, Council approved Construction Bid Award No. 03PB101 for construction of Scottsdale Road from Union Hills Drive to the 101 Freeway.
- On March 8, 2005, Council approved Intergovernmental Agreement No. 2005-028-COS with the City of Phoenix, for cost sharing of capital costs associated with Scottsdale Road from Frank Lloyd Wright Boulevard to the 101 Freeway.

- On December 11, 2006, Council approved CM@Risk Design Phase Service Contract No. 2006-207-COS with Hunter Contracting for pre-construction services for Scottsdale Road improvements between Frank Lloyd Wright Boulevard and Thompson Peak Parkway.
- On March 20, 2007, Council approved CM@Risk Construction Phase Services Contract No. 2007-037-COS for construction of utilities infrastructure related to the Scottsdale Road project.
- On March 20, 2007, Council authorized acquisition of right-of-way and easement interests necessary for construction of Scottsdale Road improvements.

**Staff Contact(s):** Dan Worth, Municipal Services General Manager, 480-312-2776, [dworth@scottsdaleaz.gov](mailto:dworth@scottsdaleaz.gov)

**15. Construction Services Contract for Gateway Access Area (Preserve Trailhead) Improvements, Phase 1**

**Request:** Adopt **Resolution No. 7593** authorizing CM@Risk Contract No. 2008-078-COS with Valley Rain Construction Corporation for phase 1 construction services at the Gateway Access Area (Preserve Trailhead) for a guaranteed maximum price of \$1,260,000.

**Related Policies, References:** This project is consistent with the following:

- McDowell Sonoran Preserve Access Areas Report, approved by the McDowell Sonoran Preserve Commission, accepted by the City Council in 1994 and updated in 1999.
- Conceptual Preserve Trails Plan approved by the McDowell Sonoran Preserve Commission and accepted by the City Council in 1998.
- Trails Master Plan, approved by the City Council in February 2004.
- McDowell Sonoran Preserve Access Area Design and Site Standards Manual serves as the basis for preparation of the design and construction plans for the Gateway Access Area amenities.
- The Preserve Ordinance, approved by the City Council in May 2000, establishes general rules and regulations for activities in the McDowell Sonoran Preserve. Provisions of this ordinance will manage public use of access areas and trails within the Preserve.

**Staff Contact(s):** Dan Worth, Municipal Services General Manager, 480-312-2776, [dworth@scottsdaleaz.gov](mailto:dworth@scottsdaleaz.gov)

**16. Engineering Services Contract Modifications for Design of On-Call Storm Water Systems Improvements**

**Request:** Adopt **Resolution No. 7616** approving contract modifications to the following on-call service contracts for the design of storm water management system improvements:

1. Engineering Services Contract Modification o. 2007-018-COS-A1 with Primatch, LLC, for an amount not to exceed \$50,000.
2. Engineering Services Contract Modification No. 2007-019-COS-A1 with WRG Design, Inc., for an amount not to exceed \$50,000.
3. Engineering Services Contract No. 2007-020-COS-A1 with AMEC Infrastructure for an amount not to exceed \$50,000.
4. Engineering Services Contract Modification No. 2007-021-COS-A1 with Gavan and Barker for an amount not to exceed \$50,000.

**Related Policies, References:** On February 20, 2007, Council approved Engineering Service Contracts No. 2007-018-COS with Primatch, LLC; No. 2007-019-COS with

WRG Design, Inc.; No. 2007-020-COS with AMEC Infrastructure; and No. 2007-021-COS with Gavan and Barker, Inc., for on-call design of storm water systems improvements.

**Staff Contact(s):** Dan Worth, Municipal Services General Manager, 480-312-2776, [dworth@scottsdaleaz.gov](mailto:dworth@scottsdaleaz.gov)

**17. Acquisition of Rights-of-Way for Happy Valley/Hayden Road Water and Sewer Improvements**

**Request:** Adopt **Resolution No. 7406** authorizing the acquisition of various rights-of-way from properties located along Happy Valley Road, Hayden Road, and Yearling Road for the Happy Valley/Hayden sewer project.

**Related Policies, References:** On April 10, 2007, Council approved Engineering Services Contract No. 2007-039-COS with Valentine Environmental Engineers for on-call design of water and sewer improvements.

**Staff Contact(s):** Dan Worth, Municipal Services General Manager, 480-312-2776, [dworth@scottsdaleaz.gov](mailto:dworth@scottsdaleaz.gov)

**18. Crosscut Canal Multi-Use Path Improvements Easement Grant**

**Request:** Adopt **Resolution No. 7591** granting an easement to Salt River Project to allow placement of an interpretive monument and park bench adjacent to the Crosscut Canal Multi-Use Path, located north of McDowell Road on the west side of the Canal.

**Staff Contact(s):** Dan Worth, Municipal Services General Manager, 480-312-2776, [dworth@scottsdaleaz.gov](mailto:dworth@scottsdaleaz.gov)

**MOTION AND VOTE – ITEM 18**

COUNCILMEMBER DRAKE MOVED TO CONTINUE ITEM 18 TO THE JULY 1, 2008 AGENDA. COUNCILMAN ECTON SECONDED THE MOTION, WHICH CARRIED 7/0.

**19. Revised Maricopa Association of Governments Uniform Standard Specifications and Details for Public Works Construction and Scottsdale Supplements**

**Requests:**

1. Adopt **Resolution No. 7574**, declaring the document entitled “Uniform Standard Specifications for Public Works Construction, sponsored and distributed by the Maricopa County Association of Governments (MAG), 1998, Arizona” to be a public record.
2. Adopt **Resolution No. 7575**, declaring the document entitled “City of Scottsdale 2008 Supplement to MAG Uniform Standard Specifications for Public Works” to be a public record.
3. Adopt **Ordinance No. 3787**, adopting the Uniform Standard Specifications and Details for Public Works Construction, 1998 (includes revisions through 2008); sponsored and distributed by the Maricopa Association of Governments (MAG), amending Chapter 47, Section 47-1, Public Works Standards Adoption; and adopting the 2008 City of Scottsdale Supplements to MAG Uniform Standard Specifications and Details for Public Works Construction, effective July 3, 2008.

**Related Policies, References:** The City Council first adopted Uniform Standard Specifications for Public Works Construction, sponsored and distributed by the Maricopa Association of Governments, in 1979. Council has annually adopted updates to the MAG Specifications and Details and the City of Scottsdale Supplemental Specifications and Details.

**Staff Contact(s):** Dan Worth, Municipal Services General Manager, 480-312-2776, [dworth@scottsdaleaz.gov](mailto:dworth@scottsdaleaz.gov)

**20. Construction Services Contract Modification for Indian School Road Improvements, Phase 2**

**Request:** Adopt **Resolution No. 7603** authorizing Construction Phase Services CM@Risk Contract Modification No. 2008-029-COS-A1 with Achen Gardner Engineering, LLC, at a guaranteed maximum price of \$4,839,223.30 for phase 2 of the Indian School Road project improvements between Hayden and Pima roads.

**Related Policies, References:**

- On September 21, 2004, Council approved Engineering Services Contract No. 2004-116-COS for the design of Indian School Road improvements between Drinkwater Boulevard and Pima Road.
- On September 19, 2006, Council approved CM@Risk Design Phase Services Contract No. 2006-150-COS for pre-construction services.
- On May 20, 2008, Council approved Resolution No. 7553 authorizing acquisition of various rights-of-way on Indian School Road between Drinkwater Boulevard and Pima Road.
- On April 1, 2008, Council approved CM@Risk Construction Phase Services Contract No. 2008-029-COS for construction of phase 1 improvements.

**Staff Contact(s):** Dan Worth, Municipal Services General Manager, 480-312-2776, [dworth@scottsdaleaz.gov](mailto:dworth@scottsdaleaz.gov)

**21. Pre-Construction Services Contract for Water Quality Improvements at the Central Groundwater Treatment Facility**

**Request:** Adopt **Resolution No. 7534** authorizing CM@Risk Pre-Construction Services Contract No. 2008-060-COS with Currier Construction, Inc., in the amount of \$1,945,157.18 for water quality improvements – southern neighborhoods at the Central Groundwater Treatment Facility.

**Related Policies, References:**

- On January 7, 2002, Council authorized Engineering Services Contract No. 2002-001-COS with Malcolm Pirnie, Inc., for the design of water quality improvements – southern neighborhoods.
- On July 9, 2007, Council adopted Resolution No. 7303 authorizing Engineering Services Contract Modification No. 2002-001-COS-A1 with Malcolm Pirnie, Inc., for phase 2 design of the water quality improvements to upgrade the Central Groundwater Treatment Facility with a reverse osmosis system and to make improvements to the Pima Park multi-use building.

**Staff Contact(s):** Dan Worth, Municipal Services General Manager, 480-312-2776, [dworth@scottsdaleaz.gov](mailto:dworth@scottsdaleaz.gov)

**21A. Appointment of Acting City Auditor**

**Request:** Consider the appointment of Brent Stockwell, Acting City Auditor, effective June 4, 2008.

**Related Policies, References:** City Charter, Article 2, Section 20; and Scottsdale Revised Code, Section 2-117

**Staff Contact(s):** Neal Shearer, Assistant City Manager/Acting Human Resources General Manager, 480-312-2604, [nshearer@scottsdaleaz.gov](mailto:nshearer@scottsdaleaz.gov)

## **MOTION AND VOTE – CONSENT AGENDA**

COUNCILMAN ECTON MOVED TO APPROVE CONSENT AGENDA ITEMS 1 THROUGH 21A, WITH THE EXCEPTION OF ITEMS 6 AND 18. VICE MAYOR LITTLEFIELD SECONDED THE MOTION, WHICH CARRIED 7/0.

ITEM 6 WAS REMOVED FROM THE CONSENT AGENDA FOR SEPARATE ACTION

### **6. Scottsdale East Plaza Rezoning (13-ZN-2007)**

#### **Requests:**

1. Rezone from Regional Shopping Center District (C-S) to Highway Commercial District (C-3) for a 3.65-acre shopping center located at the southeast corner of North Hayden Road and East Roosevelt Street.
2. Adopt **Ordinance No. 3786** affirming the rezoning.
3. Adopt **Resolution No. 7612** authorizing the Mayor to execute Development Agreement No. 2008-083-COS for the proposed use limitations on the site.

**Location:** 909 N. Hayden Road

#### **Related Policies, References:**

- General Plan
- 2-AB-2008 (being processed concurrently with 13-ZN-2007)
- 22-DR-2002#2 (approved on June 17, 2004, but has since expired)
- 20-DR-2007 (to be reviewed by the Development Review Board following City Council action on the associated rezoning and abandonment cases)

**Staff Contact(s):** Frank Gray, Planning and Development Services General Manager, 480-312-2890, [fgray@scottsdaleaz.gov](mailto:fgray@scottsdaleaz.gov); Lusia Galav, Current Planning Director, 480-312-2506, [lgalav@scottsdaleaz.gov](mailto:lgalav@scottsdaleaz.gov)

Senior Planner Kim Chafin gave a PowerPoint presentation (attached) providing background information about the rezoning request for Scottsdale East Plaza. She explained that the purpose of the rezoning request is to facilitate the addition of a retail and drive-thru restaurant building at the northwest corner of the site.

Applicant Tom Hardy outlined the goals for the project and said it will revitalize the site and provide additional pedestrian access.

#### **Discussion:**

- Mayor Manross asked the applicant why he refuses to delete check cashing/payday loan stores and pawn shops from the uses allowed at the site. Mr. Hardy said the current zoning ordinance does not have an adequate definition for check cashing and payday loan facilities. While he does not want that type of use at this site, he is hesitant to restrict the property uses without having an adequate definition. Mr. Hardy said pawn shops are not allowed in C-3 zoning pursuant to State law.
- Mayor Manross asked the applicant why he refused to sign the Proposition 207 waiver. Mr. Hardy said he would sign the waiver if the matters relative to uses are resolved.
- Several Councilmembers said they would support the item if the development agreement included the exclusion of pawnshops and check cashing/payday loan stores and a Proposition 207 waiver is signed.

- Councilmember Drake asked the City Attorney for clarification regarding the exclusion of payday loan, pawn shops and check cashing services at the site. City Attorney Deborah Robberson said the uses can be excluded voluntarily through the development agreement because it would be a mutual agreement between the requestor and the City. She said it is staff's legal opinion that the uses are not subject to conditional use permit criteria.
- Councilman McCullagh expressed concern about dictating what uses would be allowed in a commercial facility.
- Vice Mayor Littlefield said the Council regularly makes decisions regarding land use, and it is well within the Council's purview to make these decisions on behalf of the citizens.
- Councilman Lane believes the property is in desperate need of redevelopment, but expressed concern about eliminating uses that are available under zoning ordinances.
- Mayor Manross believes check cashing/payday loan stores and pawnshops would do nothing to revitalize the neighborhood or the site.
- Councilman Nelssen suggested the applicant voluntarily withdraw these uses through an independent contract with future tenants. Mr. Hardy said he would be willing to restrict those uses in agreements with specific tenants, but is concerned about making the City a third-party beneficiary to the CC&Rs.
- Councilman Nelssen said he would like to see the applicant focus on definitive architecture.
- Mr. Hardy said the development agreement specifically stipulates to the definitions in the 1987 zoning code, and believes he is constrained to those interpretations and definitions under that code.
- Ms. Robberson said the development agreement can define the uses in specific terms, which addresses the concern about defining a payday loan/check cashing establishment. In the event that circumstances change, the agreement is subject to mutual approval and could be revised in the future.
- Applicant Gabe Saia pointed out that the convenience market that is currently a tenant on the property has a clause in their lease which permits them to do check cashing. He expressed concern that if a development agreement was executed limiting that use, it would put him in default with the lease agreement with an existing tenant.
- Planning and Services Development General Manager Frank Gray explained that the lease agreement with the tenant is considered an ancillary use to the primary use. He explained that a payday loan/check cashing facility can be defined within the development agreement. He said if the definition inhibits further use of the center, the property owner can return to the Council and ask for an amendment to the development agreement.
- Councilmember Drake said that the rezoning would be a substantial up-zoning, and could potentially increase the value of the property. The development agreement would be a solution to protect the applicant's existing tenant and meet the Council's intent.
- Councilman McCullagh clarified that he would support the restriction on the pawn shop use because that restriction exists today, not because he necessarily supports restrictions on property rights and uses. He reiterated his concern regarding restricting commercial uses.
- Councilman Lane noted that, based on the size and zoning of the property, the market for this property is already somewhat restricted and he does not believe the Council should restrict it further. He cautioned that, absent the removal of the option for a payday loan facility, the Council may not pass the application. He suggested that the applicant consider a continuance to resolve pending issues.

### **MOTION NO. 1 – ITEM 6**

COUNCILMAN ECTON MOVED TO APPROVE ITEM 6, EXCLUDING PAYDAY LOAN AND PAWN SHOP BUSINESSES, SUBJECT TO THE APPLICANT SIGNING THE PROPOSITION 207 WAIVER THROUGH THE DEVELOPMENT AGREEMENT. VICE MAYOR LITTLEFIELD SECONDED THE MOTION.

Discussion continued:

- Mr. Saia said he is comfortable with the Proposition 207 waiver and the pawnshop restriction, but would like to see a better definition of the payday loan/check cashing store item to better understand how that might impact the property.
- Councilman Ecton said the Council is trying to protect the neighborhood by asking that these uses not be permitted in the area. He withdrew the motion.

### **MOTION NO. 2 – ITEM 6**

COUNCILMAN ECTON MOVED TO CONTINUE ITEM 6 TO THE JULY 1, 2008 AGENDA. COUNCILMAN MCCULLAGH SECONDED THE MOTION, WHICH CARRIED 7/0.

## **REGULAR AGENDA**

### **22. Arizona Public Service Granite Reef Substation Conditional Use Permit (28-UP-2007)**

#### **Requests:**

1. Approve a Conditional Use Permit for an Arizona Public Service (APS) substation on a 3.21 acre parcel located at 19550 N. 76<sup>th</sup> Street.
2. Adopt **Resolution No. 7600** affirming the Conditional Use Permit and finding that the conditional use permit criteria have been met.

**Related Policies, References:** 19-ZN-2002, Crossroads East PCD

**Staff Contact(s):** Frank Gray, Planning and Development Services General Manager, 480-312-2890, [fgray@scottsdaleaz.gov](mailto:fgray@scottsdaleaz.gov); Lusia Galav, Current Planning Director, 480-312-2506, [lgalav@scottsdaleaz.gov](mailto:lgalav@scottsdaleaz.gov)

Principal Planner Don Hadder gave a PowerPoint presentation outlined as follows:

- Proposal
  - Request is for a conditional use permit for a public utility facility - an electrical substation to be constructed by APS and named the Granite Reef Substation.
  - The site is roughly 3 acres purchased by APS from the State Land Trust
- Context Aerial
- Close Aerial
- Site Context
  - Located adjacent to the southwest corner of the Grayhawk development
  - 1/4 mile east of Scottsdale Road – just east of the One Scottsdale development
  - The southwest side of the site will be Center Drive which the City recently started construction on
  - The east and south sides are State Lands zoned for urban densities and mixed uses
- Zoning Map
- Site Plan

- The substation will cover about 1/3 of the site
- The remaining portion will be a landscaped buffer area typically 50 feet or more in width
- The substation enclosure will be a solid wall 10-12 feet in height -- the inside of the enclosure will be below the natural grade
- All power lines feeding into this facility and coming out from it will be placed underground
- Site Plan
- Landscape Plan
- Wall Design

Discussion:

- Councilman Nelssen asked if an aerial photo representing current conditions is available. Mr. Hadder explained that the 2007 aerial photographs were not received in time to include them in the Council Report.
- Councilman Nelssen said it was a reasonable request by residents to ask why this location was chosen, rather than a site closer to Loop 101.
- Councilman McCullagh asked for clarification regarding current zoning. Mr. Hadder indicated the parcel allows for either R-5 or C-O zoning. This site has been designated by the State Land Department as R-5.

Applicant Angela Creedon, APS, said increased power demands due to the development of One Scottsdale, the hospital, and additional development in the area requires a new electrical substation. She explained the site selection process, and said this particular property is the only one available from the State Land Department that is in close proximity to APS's load center.

Discussion continued:

- Councilman Nelssen asked who is paying for the undergrounding of the power lines and aesthetic enhancements. Ms. Creedon stated the aesthetic enhancements are being paid for by APS. The undergrounding of power lines is being paid for by both the One Scottsdale developer and APS.
- Councilman Nelssen asked if the land along the frontage road was reclassified as prime commercial property by the Arizona State Land Department because APS is supplying power to it. Ms. Creedon responded affirmatively.
- Councilman Nelssen asked if any other substations in the area could be expanded to accommodate the additional power needs. Ms. Creedon said present substations are reaching capacity; therefore, could not be expanded. She added that the proposed new site is central to the load center.
- Vice Mayor Littlefield asked for clarification regarding noise concerns. APS Senior Civil Engineer Steve Deming said the maximum noise level increase will be approximately .2 db to the closest resident, which is very minimal. Compared to Loop 101 and Scottsdale Airpark traffic, the noise levels from the substation would not be noticeable.

Mayor Manross opened public comment.

**Norman Sagon**, President, Village at Grayhawk Homeowners' Association, expressed concern regarding the site selection process and indicated 246 out of the 330 Grayhawk residents oppose the project. He asked the Council to continue the item to explore other options.

Discussion continued:

- Councilman Ecton asked if the Grayhawk community has any ideas for an alternative site for the substation. Mr. Sagon said Grayhawk believes something closer to Loop 101 would be more appropriate.
- Councilman Nelssen pointed out that the project's design and location are very sensitive to the surrounding area, and asked if Grayhawk residents believe this will be an economic or aesthetic liability to their community. Mr. Sagon said residents believe the station will be a liability that will decrease property values, and would prefer to see a project that conforms to current zoning.
- Vice Mayor Littlefield asked for clarification regarding residents' concerns about health hazards. Mr. Sagon said, while there may be no facts in that regard, there is a perception about electric lines and substations causing health problems.
- Councilman Ecton asked why the substation could not be located on the One Scottsdale site. Ms. Creedon said APS asked the developer for land, but were told there was no land available for the project.
- Councilmember Drake said the Urban Lands Management Act of 1981 requires the State to maximize the revenues to the State Trust from the disposition of its land, and asked whether that played into their land use position on the Frontage Road. Ms. Creedon agreed there is a responsibility to the beneficiaries to get the highest and best use for their land.
- Councilman Ecton said there is no indication that electrical substations impact surrounding property values, and cited several similar substations located within the City.
- Vice Mayor Littlefield asked if the State Land Department also owns the surrounding parcels. Ms. Creedon confirmed that they did.
- Vice Mayor Littlefield questioned why the State Land Department was willing to carve out this odd-shaped parcel to lease for a substation. Mr. Hadder explained that the alignment of Center Drive determined the shape of the small triangle-shaped parcel. He said that the shape and size of the parcel made it easier for the State Land Department to sell to a single user like APS, than to a developer for commercial purposes.
- Councilman Lane believes placement of the substation is appropriate.
- Councilman McCullagh said the substation will be much less intrusive than potential alternatives.

### **MOTION AND VOTE – ITEM 22**

COUNCILMAN MCCULLAGH MOVED TO APPROVE THE CONDITIONAL USE PERMIT FOR AN APS SUBSTATION ON A 3.21 ACRE PARCEL LOCATED AT 19550 N. 76TH STREET, AND TO ADOPT RESOLUTION NO. 7600 AFFIRMING THE CONDITIONAL USE PERMIT AND FINDING THAT THE CONDITIONAL USE PERMIT CRITERIA HAVE BEEN MET. COUNCILMAN LANE SECONDED THE MOTION.

Discussion continued:

- Councilmember Drake sympathized with the neighbors' concerns, but believes APS has done its due diligence to find a site to serve the needs of present and future customers in the master planned area. She said the substation would serve as an open space buffer between the Grayhawk community and Center Drive.
- Councilman Nelssen expressed concern with the urbanization of the desert and preservation efforts. He believes APS has presented an appropriate design that is as sensitive to the area as possible and provides minimal visual impact. He said the design

of the substation will set a precedent for future utility substations throughout the City. Councilman Nelssen believes that substations and utility corridors generally decrease property values, but acknowledged that it remains to be seen how the proposed substation will affect the property values in this neighborhood.

- Vice Mayor Littlefield noted that the regional context map in the PowerPoint presentation and the map in the Council packet show different road alignments for Hualapai Drive. Mr. Hadder responded that the map in the PowerPoint presentation is the up-to-date version, while the map provided in the Council Report was an outdated map used by the State Land Department.
- Vice Mayor Littlefield suggested that the City work better with the State Land Department in the planning stages of projects to avoid problems in the future.
- Mayor Manross expressed support for the motion, citing a community-wide need for additional power in the near future. She does not believe the substation will be deleterious to the community's quality of life.
- Councilmember Drake reiterated that the area is not low-density virgin desert; and noted that it has been zoned as a master planned community as part of Core North since 1989. She said approved zoning uses include apartments, high-density residential, and regional commercial uses.

### **VOTE ON MOTION – ITEM 22**

THE CITY COUNCIL VOTE ON MOTION TO APPROVE THE CONDITIONAL USE PERMIT FOR AN APS SUBSTATION ON A 3.21 ACRE PARCEL LOCATED AT 19550 N. 76TH STREET, AND TO ADOPT RESOLUTION NO. 7600 AFFIRMING THE CONDITIONAL USE PERMIT, AND FINDING THAT THE CONDITIONAL USE PERMIT CRITERIA HAVE BEEN MET, CARRIED 6/1, WITH COUNCILMAN NELSSSEN DISSENTING.

### **23. Truth in Taxation Public Hearing on Proposed Fiscal Year 2008/09 Property Tax Levy**

#### **Requests:**

1. Receive public input relative to the proposed FY 2008/09 property tax levy.
2. By a roll-call vote, approve a motion to consider adoption of the property tax levy on June 17, 2008 in accordance with Arizona Revised Statutes (42-17107) and the City Charter (Article 6 Finance and Taxation, Section 7 Adoption of Ordinance Fixing Tax Rate).

**Staff Contact(s):** Craig Clifford, Financial Services General Manager/CFO, 480-312-2364, [cclifford@scottsdaleaz.gov](mailto:cclifford@scottsdaleaz.gov); Scott McCarty, Assistant Financial Services General Manager, 480-312-7582, [smccarty@scottsdaleaz.gov](mailto:smccarty@scottsdaleaz.gov)

Financial Services General Manager/CFO Craig Clifford gave a PowerPoint presentation outlined as follows:

- Truth In Taxation (TNT) Application
  - Primary Property Tax – Statutory Limitations (Limited)
  - Secondary Property Tax – No Statutory Limitations (Unlimited)
- City of Scottsdale \$58.2M Property Tax Levy to support proposed FY 2008/09 budget
  - Primary Tax; increases \$1.2M, \$0.35 rate
  - Secondary Tax; increases \$6.1M, \$0.44 rate
  - Combined Tax Rate \$0.79 per \$100 Assessed Value
- City of Scottsdale Property Tax Levy

- City of Scottsdale Property Tax Rate
- City of Scottsdale Combined Property Tax Rate
- Property Taxes – Where Does Your Tax Money Go?
- City of Scottsdale Community Facility Districts Proposed Property Tax Rates

Discussion:

- Councilman Lane noted that the City will receive 14.4% more through this taxing structure than last year, and asked if that is a disclosable item when it is published. Mr. Clifford said it is specifically excluded in the statute; therefore, that information is specifically not included as a disclosure item. However, staff included the information in the presentation to provide the Council with complete information.
- Councilman Lane asked for the average age of the bonds that have been issued for Bond 2000 projects. Mr. Clifford replied that he did not have the information regarding the Bond 2000 projects, but said the City's total debt portfolio duration is approximately 10 to 11 years old.
- Councilman Lane asked if the City has ever considered foregoing the limited 2% primary property tax as a source of revenue. Mr. Clifford stated that, to his knowledge, the City has not considered that option. He said he would not recommend that option and explained that, should the City forego collecting the primary tax revenue for a period of time, there is no opportunity to recover the lost revenue.
- Mr. Clifford advised the Council of a recent settlement reached on a tax refund claim pending against the State of Arizona by Qwest Communications. He said the City's share of the refund is approximately \$193,000. Therefore, the primary tax levy will be reduced next year by \$193,000, which will decrease the anticipated \$420,000 primary tax increase by almost half.

**MOTION AND VOTE – ITEM 23**

COUNCILMEMBER DRAKE MOVED TO CONSIDER ADOPTION OF THE PROPOSED TAX LEVY, WHICH WILL BE FORMALLY ADOPTED ON JUNE 17, 2008. COUNCILMAN ECTON SECONDED THE MOTION, WHICH CARRIED 7/0 BY A ROLL CALL VOTE.

**24. Third and Final Public Hearing on the FY 2008/09 Operating Budget and Capital Improvement Plan**

**Request:** Solicit public testimony on the FY 2008/09 Operating Budget and Capital Improvement Plan.

**Staff Contact(s):** Craig Clifford, Financial Services General Manager/CFO, 480-312-2364, [cclifford@scottsdaleaz.gov](mailto:cclifford@scottsdaleaz.gov); Scott McCarty, Assistant Financial Services General Manager, 480-312-7582, [smccarty@scottsdaleaz.gov](mailto:smccarty@scottsdaleaz.gov); Art Rullo, Budget Director, 480-312-2435, [arullo@scottsdaleaz.gov](mailto:arullo@scottsdaleaz.gov)

Mr. Clifford gave a PowerPoint presentation regarding the FY 2008/09 Operating Budget and Capital Improvement Plan outlined as follows:

- FY 2008/09 Tentative Budget by Fund
- Public Outreach

Discussion:

- Councilman Nelssen asked if portions of the proposed budget can be voted on separately. Mr. Clifford said the City Charter only addresses the provision that the

budget be considered as a whole, and there is no specific language that addresses line items. City Attorney Deborah Robberson explained that approval of the item will set the legal limits of the City's budget. She added that many items will require the Council's approval for expenditure authority at a later date, and the Council can vote not to expend those funds at that time. Ms. Robberson recommended the Council pass the budget amount so that the expenditure limits are set.

- Councilman Lane said when the Council voted for tentative adoption on May 20, 2008, staff indicated it was to adopt the maximum budget amounts, but that the budget could be reduced. Mr. Clifford clarified that the Council cannot increase the total dollar amount approved by their May 20th vote; however, items can be removed before taking a final vote for budget adoption.
- Councilman Nelssen reiterated his belief that water and sewer fees should be reduced, and asked for clarification on how that action could impact the City's bond rating. Mr. Clifford explained that the City's revenue capacity, long-term financial plans, debt service on bonds, current revenues, past revenues, future revenues, and rate adjustments were reviewed in depth with the rating agencies. Per the City's adopted financial policies, staff is required to review rates, develop multiple-year financial plans, and adjust rates accordingly, as necessary and on an annual basis. The agencies then review all the information provided to determine bond ratings. Mr. Clifford advised that if the City does not move forward with revenue increases from those rates as planned, the City's long-term financial plans could be jeopardized.
- Councilman Nelssen asked whether the amount of the City's reserves have an impact on its bond rating. Mr. Clifford said that is also taken into consideration by the rating agencies.
- Councilman Lane asked for comparative information regarding the increase in the FY 2008/09 budget for total personnel compensation and actual personnel compensation costs for the last year. Mr. Clifford said the proposed salary increase is roughly 7%, with 60% of employees being eligible for merit consideration on their anniversary date. He said staff will provide further information to the Council prior to the adoption of the final budget.

**25. Citizen Petition Requesting Editions of City's Design Standards and Policy Manuals be Made Available in all City Libraries**

**Request:** Consideration of, and possible action on, a citizen petition, as provided for by the City Charter, requesting the Mayor and City Council direct staff to immediately provide past editions of the City's Design Standards and Policy manuals to all City libraries for citizen review. The petition was provided to the Council at the May 6, 2008 City Council Meeting by Mr. Leon Spiro.

**Related Policies, References:** City Charter, Article 2, Section 16 states:

"Consideration of petitions. Any citizen of the city may appear before the council at any regular meeting and present a written petition; such petition shall be acted upon by the council, in the regular course of business, within thirty (30) days."

**Staff Contact(s):** Lisa Blyler, Assistant to the Mayor and Council, 480-312-2492, [lblyler@scottsdaleaz.gov](mailto:lblyler@scottsdaleaz.gov)

Mayor Manross opened public comment.

**Leon Spiro** presented two citizen petitions to the Council. The first petition requests the installation of safety islands at the intersection of Jomax and Pima roads. The second petition seeks resolution of open roadway abandonment requests.

Mr. Spiro spoke to his petition on tonight's agenda requesting that editions of the City's Design Standards and Policy Manuals be provided in City libraries. He acknowledged that the Council Report is correct in stating that library patrons may access the Internet free of charge at all library branches, but prefers to read printed reference and technical manuals, rather than reading a computer screen. He believes the Scottsdale Design Standards and Policy Manual has become a replacement for the Scottsdale City Code, and expressed concern regarding previous Council action repealing Chapter 48. He said he would like to be able to read the manual at a local library, and believes the expense to provide this information would be minimal.

Mayor Manross closed public comment.

Discussion:

- Councilman Ecton asked if Mr. Spiro is asking for the manuals to be available on the Internet or physically at the library. Mr. Spiro said he would like for the manuals to be located in the libraries. Councilman Ecton expressed concern that providing written manuals in the library may expose the City to liabilities should the manuals not be revised and updated in a timely manner.
- Councilman Lane asked if hard copies of the Design Standards and Policies Manual can be located in the libraries. Mr. Gray said it is difficult to keep track of the manuals, noting that the manual is contained in a loose-leaf notebook, which makes it is very easy to remove pages and sections from the manual. Because the manual is periodically updated, it would be difficult to keep complete and current copies available at all libraries, and placing the information online is much more efficient and convenient. He said that the online manual is readily accessible to citizens, the information is updated concurrently, and the manual can be easily searched by using key words.
- Councilmember Drake noted that historical research can be accomplished easily by visiting the One Stop Shop or Records. Staff provides hard copies of the records and a place to review them. She believes that having all the historical documents in the library would not be practical.
- The Council did not take any action on the petition.

**26. Citizen Petition Requesting Water Fountains and Troughs at Western Entrance to Pinnacle Peak Park**

**Request:** Consideration of, and possible action on, a citizen petition, as provided for by the City Charter, requesting the City Council direct Parks and Recreation personnel to install water fountains and troughs at the western entrance to Pinnacle Peak Park and at appropriate distances along hiking trails within the Park. The petition was provided to the Council at the May 6, 2008 City Council Meeting by Mr. Leon Spiro.

**Related Policies, References:** City Charter, Article 2, Section 16 states:

"Consideration of petitions. Any citizen of the city may appear before the council at any regular meeting and present a written petition; such petition shall be acted upon by the council, in the regular course of business, within thirty (30) days."

**Staff Contact(s):** Debra Baird, Community Services General Manager, 480-312-2480, [dbaird@scottsdaleaz.gov](mailto:dbaird@scottsdaleaz.gov)

Discussion:

- Councilman Nelssen noted that the trail at the western end of Pinnacle Peak Trail is not the primary trail for the Park. He asked if there is any precedent for installing water fountains at this type of trailhead. Community Services General Manager Debra Baird replied that drinking fountains and water troughs are located at the primary entrance to the park, which is a similar practice at all trail heads.

- Councilman Nelssen asked for an estimate on the cost to make the improvements requested by Mr. Spiro. Ms. Baird said she does not have that information; however, staff would not recommend adding a water fountain or trough at this location due to cost concerns and limited traffic at that entrance.

Mayor Manross opened public comment.

**Leon Spiro** suggested more people would use the west entrance of the park if a sign were allowed at that location. He believes no one is considering the people who enter the park from the east, which is the main trail head, to hike over the pass. Mr. Spiro said there is a need for a water trough because equestrians do not necessarily carry water for their horses. He noted that water fountains and water troughs are located at several trailheads. He believes access to water in the area is necessary for the safety of the citizens, especially young children.

Mayor Manross closed public comment.

Discussion continued:

- Mayor Manross noted that a lot of time and effort was put into the park's management plan, and the intention was to make sure adequate amenities were provided, while mitigating the impact to surrounding neighborhoods. She said water facilities are located near the major entrance to the park, which is on the east side. Mayor Manross said staff re-evaluates the park master plans on a regular basis, and, if the conditions change on the west side, staff would consider installing water facilities.
- Councilman Nelssen expressed concern that the park was designed to discourage equestrian use. He said equestrian users were instrumental in the planning of trails in the western portion of the park.
- Councilman Nelssen agreed if there is ever a future need for watering facilities on the west side of the park, the City will find a way to accomplish it.
- The Council took no action on the petition.

**27. Citizen Petition Requesting a Four-Month Moratorium on Candidate Campaign and Political Signs**

**Request:** Consideration of, and possible action on, a citizen petition, as provided for by the City Charter, asking the City Council to allow a four-month moratorium on its restriction on the placement of candidate campaign and political signs in rights-of-way, vacant land, corner lots, and fences. The petition was provided to the Council at the May 6, 2008 City Council Meeting by Mr. Leon Spiro.

**Related Policies, References:** City Charter, Article 2, Section 16 states:

"Consideration of petitions. Any citizen of the city may appear before the council at any regular meeting and present a written petition; such petition shall be acted upon by the council, in the regular course of business, within thirty (30) days."

**Staff Contact(s):** Frank Gray, Planning and Development Services General Manager, 480-312-2890, [fgray@scottsdaleaz.gov](mailto:fgray@scottsdaleaz.gov)

Mayor Manross opened public comment.

**Joel Bramoweth**, 7502 E. Buena Terra Way, expressed support for the petition, and said a moratorium would be merited until the sign ban ordinance can be reworked to everyone's satisfaction.

**Leon Spiro** believes a moratorium on signs would level the playing field during the election. He said candidates for the position of City Council have submitted petitions because they feel they can do a better job than the incumbents seeking reelection. The only inexpensive means for new candidates seeking a seat on the City Council to get name recognition is from well-placed street signs. He reviewed past Councilmembers' opinions on the matter, and asked them to consider approving the moratorium.

Mayor Manross closed public comment.

Discussion:

- Mayor Manross expressed opposition to the petition, and said the sign ban ordinance complies with State law and with the constraints of the Constitution. She acknowledged that the City's sign ban may be more stringent than those of other communities, while pointing out that it keeps rights-of-way clean and uncluttered and clarifies the rules, which makes it easier to enforce than previous ordinances. She believes the community supports the sign ban.
- Vice Mayor Littlefield said the principle of freedom of speech and the ability of candidates to get their message out are more important than aesthetics. He reminded the Council that he opposed the sign ban ordinance when it was originally brought forward, and expressed support for the proposed moratorium.

### **MOTION – ITEM 27**

VICE MAYOR LITTLEFIELD MOVED TO ADOPT THE FOUR-MONTH MORATORIUM ON CANDIDATE CAMPAIGN AND POLITICAL SIGNS. THE MOTION DIED FOR LACK OF A SECOND.

Discussion continued:

- Councilmember Drake said a four-month moratorium would not be effective because the elections would not be completed within four months. She acknowledged Mr. Spiro's comments that she has expressed concern about the sign ban in the past. However, she believes the public clearly supports the ban and removal of sign clutter.
- Councilman McCullagh repeated comments that he previously made, and said political street signs are unsightly, unsafe, and unnecessary, and that the First Amendment is not a license to trash public property or the public right-of-way. The sign ban represents the overwhelming majority will of Scottsdale's public, and he will not support a moratorium.
- Councilman Lane said he stands by his original position against the sign ban, but agreed that enforcement has become an issue. He believes a moratorium could create problems now that there are no rules, regulations, and permits in place to give the City some control.
- Mayor Manross clarified that the ordinance addresses temporary signs and the only exceptions allowed are for safety and directional signs. She said that enforcement provisions are in place, and does not believe that making an exception for political signs is legal.
- Vice Mayor Littlefield said the sign ban is equivalent to "The Incumbent Protection Act," making it harder for political challengers to get their messages out. He believes the ban is undemocratic and wrong.
- Councilman Nelssen said he would not support the moratorium because the new law has not had a chance to be tested. He suggested that a challenge in court might provide the City with a benchmark on how to further refine the sign ordinance, if necessary. He

said sign walking is currently not illegal, and suggested that as an avenue for political candidates. City Attorney Robberson said State legislation allows reasonable time, place, and manner restrictions to regulate sign walking activities.

- Councilman Ecton asked if a moratorium would put the current sign regulations in jeopardy. Ms. Robberson said if it were the Council's direction to allow a moratorium, she recommended a revision to the ordinance, rather than a moratorium.
- Councilman Ecton expressed concern that businesses would also request moratoriums on the sign ban. City Attorney Robberson agreed, and said there would be an issue of equal application of whatever restrictions the City has in place governing sign restrictions. She said there are different parameters and legal requirements regarding political or ideological speech versus commercial speech.
- Ms. Robberson clarified that the ordinance bans all temporary signage, except municipal use signs, such as traffic and speed signs, in public rights-of-way. She clarified that political signs are not banned in the City, but they must be located on private property, not public rights-of-way.
- The Council took no action on the petition.

**28. Legislative Update**

**Request:** Provide an update to the City Council and receive possible direction regarding current and pending State legislative issues and policies.

**Staff Contact(s):** Bridget Schwartz-Manock, Intergovernmental Relations Director, 480-312-2423, [bschwartzmanock@scottsdaleaz.gov](mailto:bschwartzmanock@scottsdaleaz.gov)

ITEM 28 WAS REMOVED FROM THE AGENDA

**29. Charter Amendment Requiring the City Attorney to Reside Within the City Limits**

**Request:** At the request of Councilman Tony Nelssen, discussion and possible direction to staff to place, on the next available election ballot, a proposition amending the City Charter to require the City Attorney to reside within the Scottsdale city limits.

Discussion:

- Councilman Nelssen believes there should be consistency in the City Charter regarding residency requirements for charter officers, and suggested that the issue be put on the next available election ballot. He said another option would be to adopt an ordinance to insert residency requirements into future City Attorney contracts.
- Mayor Manross believes this is a non-issue. She said what matters most is the quality of the person, not where they live. She suggested the residency requirement for charter officers be taken away altogether and that individual Councils hire the most qualified candidates.
- Councilmember Drake said the residency requirement could be one of the selection process criteria used in the future when the City is looking for a new City Attorney. She does not support changing the residency requirements at this time.
- Councilman Lane suggested that a simple clarification identifying the City Attorney as a charter officer would solve the issue.

**MOTION AND VOTE - ITEM 29**

COUNCILMAN NELSSSEN MOVED TO DIRECT STAFF TO PLACE ON THE NEXT AVAILABLE ELECTION BALLOT A PROPOSITION AMENDING THE CITY CHARTER TO REQUIRE THAT THE CITY ATTORNEY BE DESIGNATED AS AN OFFICER AND RESIDE

WITHIN THE SCOTTSDALE CITY LIMITS. COUNCILMAN LANE SECONDED THE MOTION, WHICH FAILED 3/4, WITH MAYOR MANROSS AND COUNCILMEMBERS DRAKE, ECTON, AND MCCULLAGH DISSENTING.

**Adjournment**

With no further business to discuss, the meeting adjourned at 9:40 P.M.

**SUBMITTED BY:**

**A/V Tronics, Inc.**

**REVIEWED BY:**



**Carolyn Jagger  
City Clerk**

Officially approved by the City Council on

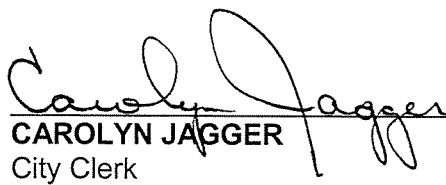
July 1, 2008

**CERTIFICATE**

I hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Regular Meeting of the City Council of Scottsdale, Arizona held on the 3rd day of June 2008.

I further certify that the meeting was duly called and held, and that a quorum was present.

**DATED** this 1st day of July 2008.

  
\_\_\_\_\_  
**CAROLYN JAGGER**  
City Clerk