

**SCOTTSDALE CITY COUNCIL
REGULAR MEETING AND WORK STUDY MINUTES
WEDNESDAY, DECEMBER 8, 2021**



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

CALL TO ORDER

Mayor David D. Ortega called to order a Regular Meeting of the Scottsdale City Council at 5:00 P.M. on Wednesday, December 8, 2021 in the City Hall Kiva Forum.

ROLL CALL

Present: Mayor David D. Ortega; Vice Mayor Tammy Caputi; and Councilmembers Tom Durham, Betty Janik, Kathy Littlefield, Linda Milhaven, and Solange Whitehead

Also Present: City Manager Jim Thompson, City Attorney Sherry Scott, City Treasurer Sonia Andrews, City Auditor Sharron Walker, and City Clerk Ben Lane

PLEDGE OF ALLEGIANCE – Virginia G. Piper Branch of the Boys & Girls Clubs of Greater Scottsdale

MAYOR'S REPORT

Mayor Ortega announced this was the final Council meeting of 2021. He wished everyone a wonderful holiday season spent with family and friends.

Mayor Ortega asked everyone to check out the Scottsdazzle Program. The activities and events take place at various venues and destinations around Old Town, and he encouraged visiting these businesses. Scottsdazzle will continue until December 31st. For more information search "Scottsdazzle" using any web browser.

PUBLIC COMMENT – Daniel Ishac spoke about decorum at City Council meetings.

City Attorney Sherry Scott left the Kiva Forum during consideration of the Consent agenda. Deputy City Attorney Lori Davis served as Acting City Attorney during this portion of the agenda.

NOTE: MINUTES OF CITY COUNCIL MEETINGS AND WORK STUDY SESSIONS ARE PREPARED IN ACCORDANCE WITH THE PROVISIONS OF ARIZONA REVISED STATUTES. THESE MINUTES ARE INTENDED TO BE AN ACCURATE REFLECTION OF ACTION TAKEN AND DIRECTION GIVEN BY THE CITY COUNCIL AND ARE NOT VERBATIM TRANSCRIPTS. DIGITAL RECORDINGS AND CLOSED CAPTION TRANSCRIPTS OF SCOTTSDALE CITY COUNCIL MEETINGS ARE AVAILABLE ONLINE AND ARE ON FILE IN THE CITY CLERK'S OFFICE.

CONSENT AGENDA

1. **Dove Valley Water Line: 56th to 64th Street Pre-Construction Phase Services Contract**
Request: Adopt **Resolution No. 12312** authorizing Construction Manager at Risk Contract No. 2021-174-COS with Achen Gardner Construction, LLC, in the amount of \$224,226.80 for pre-construction phase services for the Dove Valley Water Line: 56th to 64th Street project.
Staff Contact(s): Dan Worth, Public Works Director, 480-312-5555, daworth@scottsdaleaz.gov

2. **Temporary Right-of-Entry from the State of Arizona for Aquifer Storage and Recovery Well No. 159**
Request: Adopt **Resolution No. 12338** to authorize:
 1. Temporary Right-of-Entry Agreement No. 2021-185-COS with the Arizona State Land Department to grant a temporary right-of-entry to install a discharge pipeline across State land related to the City's Aquifer Storage and Recovery Well No. 159.
 2. The City Manager, or designee, to execute any such documents and take such actions reasonably necessary to carry out the purpose of Contract No. 2021-185-COS and this Resolution.**Location:** East of 7402 E. Legacy Boulevard
Staff Contact(s): Dan Worth, Public Works Director, 480-312-5555, daworth@scottsdaleaz.gov

3. **Noriega Livery Stable Building Lease Agreement**
Request: Adopt **Resolution No. 12317** authorizing Lease Agreement No. 2021-176-COS with Parada del Sol, Inc., for the use of the Noriega Livery Stable building as a rodeo and western-themed museum.
Location: 3806 N. Brown Avenue
Staff Contact(s): Karen Churchard, Tourism and Events Director, 480-312-2890, kchurchard@scottsdaleaz.gov

4. **Workforce Development Services Intergovernmental Agreement**
Request: Adopt **Resolution No. 12337** authorizing Intergovernmental Agreement No. 2020-111-COS-A1, the first amendment and one-year extension to the agreement with Maricopa County to share costs for workforce development services at the Vista del Camino Community Center.
Staff Contact(s): Greg Bestgen, Human Services Department Director, 480-312-0104, gbestgen@scottsdaleaz.gov

5. **Trolley Services Grant**
Request: Adopt **Resolution No. 12285** to authorize:
 1. Intergovernmental Agreement No. 2021-175-COS with the City of Phoenix for the acceptance of the following two Federal Transit Administration grants for trolley services:
 - a. AZ-2021-028 in the amount of \$2,475,517 funded by the American Rescue Plan Act
 - b. AZ-2021-026 in the amount of \$1,014,938 funded by the Coronavirus Response and Relief Supplemental Appropriations Act
 2. A Fiscal Year 2021/22 budget appropriation transfer in the amount of \$1,700,000 from the Transportation Operating Budget to newly created cost centers in the grant funds to record the related grant activity.
 3. The City Manager, or designee, to execute any other documents and take such other actions as necessary to carry out the intent of Contract No. 2021-175-COS and this Resolution.**Staff Contact(s):** Dan Worth, Public Works Director, 480-312-5555, daworth@scottsdaleaz.gov

6. Edward Byrne Memorial Justice Assistance Grant

Request: Adopt **Resolution No. 12293** to authorize:

1. Intergovernmental Agreement (IGA) No. 2021-160-COS with the City of Phoenix to accept the City's portion of the 2021 Edward Byrne Memorial Justice Assistance Grant in the amount of \$29,890 to continue to partially fund a full-time property and evidence technician position.
2. The Mayor to execute IGA No. 2021-160-COS for the purpose of receiving grant funds from the Department of Justice, Edward Byrne Memorial Justice Assistance Grant Program.
3. A budget transfer in the amount of \$29,890 from the Fiscal Year 2021/22 Future Grants Budget and/or Grant Contingency Budget to a newly created cost center to record the related grant activity.

Staff Contact(s): Jeff Walther, Chief of Police, 480-312-1900, jwalther@scottsdaleaz.gov

7. Proposition 202 Grant Funds Acceptance

Request: Adopt **Resolution No. 12331** to authorize:

1. Agreement No. 2021-183-COS with the Ak-Chin Indian Community and the Leukemia & Lymphoma Society for the acceptance of Proposition 202 Tribal Gaming Funds in the amount of \$15,000.
2. A budget transfer in the amount of \$5,000 from the adopted Fiscal Year 2021/22 Future Grants and/or Grant Contingency budget to newly created cost centers to record the grant activity.

Staff Contact(s): Shane Stone, Management Associate to the City Manager, 480-312-7826, shstone@scottsdaleaz.gov

8. Audit Committee Recommendation for the Environmental Advisory Commission Sunset Review

Request: Accept the Audit Committee's recommendation and authorize the continuation of the Environmental Advisory Commission.

Staff Contact(s): Sharron Walker, City Auditor, 480-312-7867, swalker@scottsdaleaz.gov

9. Vacation Rental and Nuisance Party Code Amendments

Requests:

1. Adopt **Ordinance No. 4527** amending Scottsdale Revised Code, Chapter 18, Public Nuisance and Property Maintenance, Article I, Section 18-2 and Article IX, Section 18-150 relating to vacation rentals.
2. Adopt **Ordinance No. 4528** amending Scottsdale Revised Code, Chapter 18, Public Nuisance and Property Maintenance, Article VIII, concerning nuisance parties and unlawful gatherings.

Staff Contact(s): Shane Stone, Management Associate to the City Manager, 480-312-7826, shstone@scottsdaleaz.gov

Mayor Ortega opened public comment.

The following spoke in support of the vacation rental and nuisance party code amendments:

- David Mason, West USA Real Estate

The following spoke in opposition to the vacation rental and nuisance party code amendments:

- Mark Beauvais, Beauvais Real Estate
- Tim Scarpino, Parsons Villas
- Barry Goldwater, Jr., Arizona Vacation Rental Association, who also presented a letter to the City Council (attached)

Mayor Ortega closed public comment.

(Moved to the Regular Agenda, see below)

9A. Indemnification of prior Mayor, current City Manager and City Attorney, past City Attorney and their respective spouses in Mark E. Stuart and Virginia G. Stuart v. City of Scottsdale, et. al.

Request: Adopt **Resolution No. 12346** authorizing the City to defend and indemnify the prior City Mayor, W. J. "Jim" Lane, the current City Manager and City Attorney, the past City Attorney, Bruce Washburn, and their respective spouses, who were named as individual defendants in their official and personal capacities in a case recently filed by Mark E. and Virginia G. Stuart against the City of Scottsdale, et. al., in *Stuart v. City of Scottsdale*. This case is currently pending in United States District Court, District of Arizona, as Court Case No. CV-21-01917-PHX-DMF.

Staff Contact(s): Sherry Scott, City Attorney, 480-312-2405, sscott@scottsdaleaz.gov

MOTION AND VOTE – CONSENT AGENDA

Councilwoman Whitehead made a motion to approve Consent Agenda Items 1 through 9A, except for Item 9, which was considered separately. Councilwoman Janik seconded the motion, which carried 7/0, with Mayor Ortega; Vice Mayor Caputi; and Councilmembers Durham, Janik, Littlefield, Milhaven, and Whitehead voting in the affirmative.

City Attorney Sherry Scott returned to the Kiva Forum.

REGULAR AGENDA

9. Vacation Rental and Nuisance Party Code Amendments

Requests:

3. Adopt **Ordinance No. 4527** amending Scottsdale Revised Code, Chapter 18, Public Nuisance and Property Maintenance, Article I, Section 18-2 and Article IX, Section 18-150 relating to vacation rentals.
4. Adopt **Ordinance No. 4528** amending Scottsdale Revised Code, Chapter 18, Public Nuisance and Property Maintenance, Article VIII, concerning nuisance parties and unlawful gatherings.

Staff Contact(s): Shane Stone, Management Associate to the City Manager, 480-312-7826, shstone@scottsdaleaz.gov

Assistant City Manager gave the PowerPoint presentation (attached) on the proposed vacation rental and nuisance party code amendments.

MOTION AND VOTE – ITEM 9

Councilmember Milhaven made a motion to adopt Ordinance No. 4527 amending Scottsdale Revised Code, Chapter 18, Public Nuisance and Property Maintenance, Article I, Section 18-2 and Article IX, Section 18-150 relating to vacation rentals and Ordinance No. 4528 amending Scottsdale Revised Code, Chapter 18, Public Nuisance and Property Maintenance, Article VIII, concerning nuisance parties and unlawful gatherings. Councilwoman Whitehead seconded the motion, which carried 7/0, with Mayor Ortega; Vice Mayor Caputi; and Councilmembers Durham, Janik, Littlefield, Milhaven, and Whitehead.

10. 2022 State Legislative Agenda

Request: Consider approval of the City of Scottsdale's 2022 State Legislative Agenda.

Presenter(s): Shane Stone, Management Associate to the City Manager

Staff Contact(s): Shane Stone, Management Associate to the City Manager, 480-312-7826, shstone@scottsdaleaz.gov

Management Associate Shane Stone gave the PowerPoint presentation (attached) on the 2022 State Legislative Agenda.

MOTION AND VOTE – ITEM 10

Councilmember Milhaven made a motion to accept and approve the City of Scottsdale 2022 State Legislative Agenda. Councilwoman Whitehead seconded the motion, which carried 7/0, with Mayor Ortega; Vice Mayor Caputi; and Councilmembers Durham, Janik, Littlefield, Milhaven, and Whitehead voting in the affirmative.

11. Fiscal Year (FY) 2020/21 Annual Financial Audit

Request: Accept the FY 2020/21 annual financial audit reports submitted by the City's external auditors, Heinfeld, Meech & Co., P.C., and adopt **Resolution No. 12342** to demonstrate compliance with Arizona Revised Statutes §41-1494.

Presenter(s): Sharron Walker, City Auditor and Brittney Williams, Heinfeld, Meech & Co., P.C.

Staff Contact(s): Sharron Walker, City Auditor, 480-312-7867, swalker@scottsdaleaz.gov

City Auditor Sharron Walker and Brittney Williams from Heinfeld, Meech & Co., P.C., gave the PowerPoint presentation (attached) on the fiscal year 2020/21 annual financial audit.

MOTION AND VOTE – ITEM 11

Mayor Ortega made a motion to accept the Fiscal Year 2020/21 annual financial audit reports submitted by the City's external auditors and adopt Resolution No. 12342 to demonstrate compliance with Arizona Revised Statutes §41-1494. Councilmember Durham seconded the motion, which carried 7/0, with Mayor Ortega; Vice Mayor Caputi; and Councilmembers Durham, Janik, Littlefield, Milhaven, and Whitehead voting in the affirmative.

12. Fiscal Year End 2021 Financial Report

Request: Receive, discuss, and provide possible direction on the Fiscal Year End 2021 Financial Report.

Presenter(s): Sonia Andrews, City Treasurer

Staff Contact(s): Judy Doyle, Budget Director, 480-312-2603, jdoyle@scottsdaleaz.gov

City Treasurer Sonia Andrews gave the PowerPoint presentation (attached) on the fiscal year end 2021 financial report.

PUBLIC COMMENT – None

CITIZEN PETITIONS

13. Receipt of Citizen Petitions – No citizen petitions were received.

Request: Accept and acknowledge receipt of citizen petitions. Any member of the Council may make a motion, to be voted on by the Council, to: (1) Direct the City Manager to agendize the petition for further discussion; (2) direct the City Manager to investigate the matter and prepare a written response to the Council, with a copy to the petitioner; or (3) take no action.

Staff Contact(s): Ben Lane, City Clerk, 480-312-2411, blane@scottsdaleaz.gov

MAYOR AND COUNCIL ITEMS – None

The City Council recessed at 6:21 P.M.

The City Council reconvened at 6:32 P.M.

CITY COUNCIL WORK STUDY SESSION

PUBLIC COMMENT – None

1. Amendment to Board and Commission Member Ordinance and related Council Rules of Procedure

Requests:

1. Discussion and possible direction to staff regarding amending Scottsdale Revised Code, Chapter 2, Administration, Article V, Section 2-241(h), related to Board and Commission member absences, notifications, and considerations of removal.
2. Discussion and possible direction to staff regarding amending the City of Scottsdale Rules of Council Procedure by adding a rule stating that the removal of a Board or Commission member can only be placed on a City Council Meeting Agenda at the request of at least four of the Mayor and Councilmembers.

Presenter(s): Brent Stockwell, Assistant City Manager

Staff Contact(s): Brent Stockwell, Assistant City Manager, 480-312-7288, bstockwell@scottsdaleaz.gov and Sherry Scott, City Attorney, 480-312-2405, sscott@scottsdaleaz.gov

Assistant City Manager Brent Stockwell gave the PowerPoint presentation (attached) on the potential Board and Commission Member Ordinance and related Council Rules of Procedure amendments.

Councilmembers made the following observations and suggestions:

- Retain the current standard for absences (missing three consecutive meetings or four meetings in a six-month period).
- Provide more flexibility with the “four meetings in six months” standard for those boards that meet more than once a month.
- Adjust the standard for absences to “missing three consecutive meetings or a percentage of meetings in six months”.
- Board/Commission Chair, or staff representative, to contact absent member after absence(s) to review absence standard.
- A tardy should not be equated to an absence.
- Consider a standard for a tardy, such as 30 minutes.
- Consider automatic removal of the board/commission member when the absence standard is reached.
- There is not a need for an absence standard.
- Contact all Councilmembers when a member reaches three consecutive absences or percentage of absences for determination on how to proceed.
- The current board and commission standards work and do not need adjustments.
- Review the board and commission standards every ten years.

City Manager Jim Thompson said staff will make minor modifications to the absence standard and bring this standard back to the Council for review.

2. Code of Ethics

Request: Presentation, discussion, and possible direction to staff regarding the review and update of the City Council Code of Ethics for Mayor, Council, and board and commission members.

Presenter(s): Sherry Scott, City Attorney

Staff Contact(s): Sherry Scott, City Attorney, 480-312-2405, sscott@scottsdaleaz.gov

City Attorney Sherry Scott gave the PowerPoint presentation (attached) on the City Council Code of Ethics for Mayor, Council, and board and commission members

Councilmembers made the following observations and suggestions:

- Revise the Conflict-of-Interest form to include a description of, and explanation for, any conflict.
- Make conflict expectations clear; there is no need for additional "aspirational" definitions.
- Merge the two applicable code section on gifts into a single code section.
- Include an exemption for reasonable hosting and hospitality for an event for a Councilmember and companion for a public or civic purpose.
- File designated gift forms with the City Clerk within ten (10) days after the event is held.
- Increase the exception to gifting from \$25 to \$50.
- Include a reference to Charter Officers in Scottsdale Revised Code § 2-54(a).
- Reduce the number of ethics officers to a panel of less than 10.
- Expand the ethics officers panel to include attorneys; however, keep the majority of officers retired judges or faculty.
- Rotate the independent ethics officer every three to five years.
- Allow for the filing of a response during the initial screening process.
- City Council to review and consider only reports where a violation was determined to have occurred (including boards and commissions) at public meetings.

ADJOURNMENT

MOTION AND VOTE – ADJOURNMENT

Councilwoman Janik made a motion to adjourn. Councilwoman Littlefield seconded the motion, which carried 7/0, with Mayor Ortega; Vice Mayor Caputi; and Councilmembers Durham, Janik, Littlefield, Milhaven, and Whitehead voting in the affirmative.

The Regular Meeting and Work Study Session adjourned at 8:27 P.M.

SUBMITTED BY:



Ben Lane, City Clerk

Officially approved by the City Council on January 31, 2022

CERTIFICATE

I hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Regular Meeting and Work Study of the City Council of Scottsdale, Arizona held on the 8th day of December 2021.

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

DATED this 31st day of January 2022.



Ben Lane, City Clerk

December 8, 2021

Mayor David Ortega
City of Scottsdale
3939 N. Drinkwater Blvd.
Scottsdale, AZ 85251

Re: Proposition to adopt Ordinance No. 4527, amending Scottsdale Revised Code, Chapter 18, Public Nuisance and Property Maintenance, Article I, Section 18-2 and Article IX, Section 18-150 relating to vacation rentals

Dear Mayor Ortega and City Councilmembers,

I am writing out of concern that the City of Scottsdale's Proposed Ordinance No. 4527 contains provisions that are unnecessary, counterproductive, and contrary to the law.

A.R.S. § 9-500.39 (SB 1350) prohibits local governments from imposing restrictions on vacation rental units based solely on their classification, use, or occupancy. In other words, cities may not impose on vacation rental properties or short-term rentals any rule that does not also apply to all other residential rental properties. The only exception is that local governments may impose rules that are necessary to protect public health and safety in ways the statute specifies.

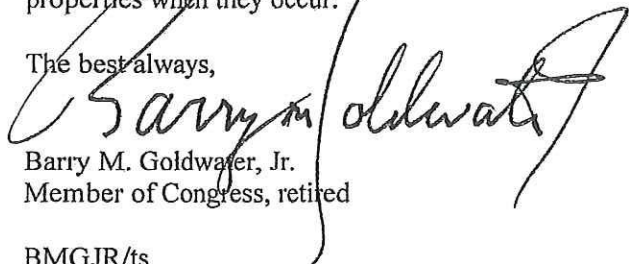
Proposed Ordinance No. 4527 conflicts with this rule in several ways, by regulating short-term or vacation rentals without imposing the same requirements on homeowners who offer their homes as long-term rentals, including:

- Requiring an owner or owner's agent to be *on the premises* within 60 minutes of being contacted by the City. (10-195(E)). A.R.S. § 9-500.39(B)(4) permits cities to require an owner or her designee to respond to complaints "in a timely manner in person, over the phone or by email." It does not authorize cities to require a person to be *physically present* within 60 minutes. Nor is this requirement tailored toward protecting the public health and safety. An emergency contact person cannot be expected to put an immediate end to a nuisance, and it would be unlikely that an emergency contact person would make it to a home while a nuisance is still occurring. Whether a nuisance is caused by a short-term renter, long-term renter, a guest, or an owner, the police are the best suited to respond quickly and to deal swiftly with a nuisance complaint. Appropriate reasons to require an owner or owner's agent's contact information are so that: (1) the city knows whom to notify when there is a problem (so that the owner can deal with the short-term guest appropriately, including not renting to that person again), and (2) the city knows who is responsible in case punishment is appropriate. But forcing owners to be "on call" in the event of an ordinance violation is inappropriate. Owners are not the police.

The proposed adoption of Ordinance No. 4527 violates state law and is not necessary. Scottsdale already has plenty of authority under existing ordinances to punish homeowners who host disruptive guests, or who use residentially-zoned homes for non-residential uses. The city already forbids wrongful behavior such as nuisances, illegal parking, or loud noises in residential areas. Enforcing these existing ordinances would resolve any legitimate concerns citizens might have about rental properties. The additional restrictions the City is now considering would needlessly punish people who today rent their property responsibly, cause no nuisances, and comply with the City's existing regulations. And enforcing such additional and unnecessary

restrictions would cost the City resources that would be better used in enforcing existing anti-nuisance regulations. Rather than punishing innocent property owners and adding another layer of unnecessary bureaucracy, the City should enforce its already existing laws against specific nuisance properties when they occur.

The best always,

A large, stylized handwritten signature in black ink that reads "Barry M. Goldwater, Jr." The signature is written in a cursive style with a large, sweeping initial 'B'.

Barry M. Goldwater, Jr.
Member of Congress, retired

BMGJR/ts

Vacation Rental and Nuisance Party Ordinance Amendments

City Council Meeting

December 8, 2021

Short-Term Rental Working Group

- Met six times between April 21 and June 30, 2021
- Council approved all recommendations on July 1, 2021
- Recommendation 4 - evaluate whether Scottsdale's ordinances could be strengthened to eliminate loopholes and improve ability to enforce
- At November 9 work study, direction was provided to staff and incorporated into updated ordinance drafts.

Ordinance 4527 - Vacation Rental Ordinance

- Require a one-hour response time in the event of an emergency and set a penalty for non-response
- Similar to response time required for an activated alarm system (30 minutes)

Ordinance 4528 – Nuisance Party Ordinance

- Adds noise level and measurement criteria
- Defines habitual offenders
- Replaces the police service fee and administrative process with a civil citation process
- Increases minimum fines for hosts and owners, while allowing for mitigation, reduction, or suspension of fines based on best practices

Community Involvement

- Work-study session materials, including draft ordinances, were shared with industry representatives, the Short-Term Rental Working Group members and other interested parties.

Action Requested

Adopt Ordinances No. 4527 and 4528, amending sections of the Vacation Rental and the Nuisance Party and Unlawful Gathering Ordinances

2022 State Legislative Agenda

**City Council Meeting
December 8, 2021**

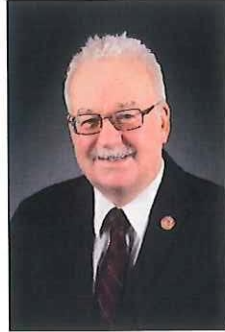
2022 State Legislature

- Second Regular Session of the 55th Legislature
- Legislative Session begins on January 10, 2022
- Senate President
 - Karen Fann (R-Prescott, LD1)
- Speaker of the House
 - Rusty Bowers (R-Mesa, LD25)
- House 31-29
- Senate 16-14

Legislative District 23



Senator Michelle
Ugenti-Rita



Representative
John Kavanagh



Representative
Joseph Chaplik

Legislative District 24



Senator
Lela Alston



Representative
Amish Shah



Assistant Minority
Leader Jennifer
Longdon

Legislative District 28



Senator
Christine Marsh



Representative
Kelli Butler



Representative
Sarah Liguori

Core Principles

- Respect Scottsdale's Unique Character and Culture
- Preserve Local Funding
- Oppose Preemption of Local Authority

2022 Key Positions

- ✔ SUPPORT legislation that enhances the city's capabilities to successfully address the negative impacts of short-term rental properties, and which develops a more level playing field between residential rental platforms and the tourism industry.
- ✔ SUPPORT legislation allowing the city easier access to Water Infrastructure Finance Authority (WIFA) financing, which includes opportunities for principal forgiveness, by extending or removing population thresholds requiring voter approval, resulting in potentially significant cost savings to citizens.

2022 Key Positions

- ✔ OPPOSE legislation that would limit or curtail the city's current zoning authority, particularly in residential areas.
- ✔ OPPOSE reduction or elimination of key revenue streams including state shared revenue.
- ✔ OPPOSE mandates which increase costs to the city without providing adequate resources to offset incurred demands.

Economic Vitality and Tourism

- SUPPORT policies that enhance Arizona's reputation as a world-class medical destination for cutting-edge health care facilities and services.
- SUPPORT additional job creation measures including workforce training and professional development.
- SUPPORT revitalization of information technology systems, infrastructure improvements, safety enhancements and lower information technology costs.

Local Government Finance

- SUPPORT the stability of public retirement system pensions and reducing unfunded pension debt.
- SUPPORT the continued viability of HURF (Highway User Revenue Funds) funding to cities and towns.
- SUPPORT changes to the Major Events Fund that would allow local government to receive monies for supporting mega events.
- OPPOSE legislation that would prohibit or eliminate the transaction privilege tax on the renting or leasing of real property for residential purposes.
- OPPOSE the reduction or elimination of the Speculative Builder classification of construction sales tax.
- OPPOSE changing the imposition of construction sales taxes to "materials only" or other methods that do not equitably return those revenues to where the construction activity occurs.

Transportation

- SUPPORT the continued viability of the State Aviation Fund including assurances that fuel taxes will be placed in the fund or returned to the airport where the fuel sales occur.
- SUPPORT the extension of the Proposition 400 regional transportation sales tax by working with legislators to bring the extension to a vote.
- SUPPORT the continuation of Arizona's leadership in the development of safe autonomous vehicles and devices.

Neighborhoods, Quality of Life & Social Issues

- SUPPORT legislation to prohibit discrimination in employment, housing, and public accommodations based on sexual orientation and gender identity.
- SUPPORT legislative efforts which target housing affordability solutions that are beneficial to local and regional efforts.

Public Safety

- SUPPORT legislative efforts that enable cities to limit uses of fireworks, and initiatives that lessen the risk of fires to businesses, neighborhoods, residents, and open areas.
- SUPPORT legislation that would improve the city's ability to enhance the effectiveness of state-wide and local fire code, public safety, and criminal justice measures.
- OPPOSE legislation that would impair the city's ability to maintain the effectiveness of state-wide and local fire code, public safety, and criminal justice measures.
- OPPOSE legislation that will restrict the city's ability to pass or enact local community risk reduction measures.
- OPPOSE legislation that would limit the city's ability to use photo technology for enforcement of speed and intersection violations.
- OPPOSE legislation that would restrict the city's ability to acquire a Certificate of Necessity for pre-hospital emergency transportation ambulance capabilities for its citizens and visitors.

Preservation and Environmental Planning

- SUPPORT environmental sustainability programs with objectives and targets to minimize adverse environmental impacts and to ensure that energy and water are used responsibly and conserved through innovative practices and procedures at minimal cost.
- SUPPORT increased resources to Arizona Department of Agriculture for treatment of non-native invasive weeds.
- SUPPORT legislative efforts to bring about changes in forest management with the goal of enacting effective and large-scale forest restoration projects to improve forest health, increase water yield, and reduce the risks and costs of catastrophic wildfires.
- OPPOSE legislation that would negatively alter or remove the city's important and long-established ordinances and design standards regarding native plants and sustainable development in the natural Sonoran Desert environment.

Water Services and Facilities

- SUPPORT positions that strengthen Arizona's water management including supporting the 1980 Groundwater Management Act and the ability of local water providers to manage, plan, conserve, and acquire water resources for our customers.

Action Requested

Approve the 2022 State Legislative Agenda

Item 11

FY 2020/21 Annual Financial Audit City Council Meeting – December 8, 2021

Sharron E. Walker, CPA, CFE, City Auditor

Brittney Williams, CPA, Heinfeld, Meech & Co., P.C.

Background

- Charter requires City Council to designate CPAs to perform an independent audit of City's annual financial statements
- Council assigned financial audit contract responsibility to City Auditor
- Audit Committee received FY 2020/21 financial audit reports at November 15 meeting

COMPREHENSIVE ANNUAL FINANCIAL REPORT

City of Scottsdale, Arizona
For the Fiscal Year Ended June 30, 2021



Summary of Financial Audit Reports

Annual financial audit includes:

- City's Comprehensive Financial Report
Unmodified opinion – financial statements are fairly presented in all material respects
- Component Units' Financial Reports
 - Community Facilities Districts (5 CFDs)
 - Municipal Property Corporation (MPC)
 - Scottsdale Preserve Authority (SPA)
Unmodified opinions on each

Related Communications

Communication to Governance – for City and each Component Unit, key points such as:

- Accounting practices, significant estimates - **no issues**
- Audit adjustments or disagreements with management - **no issues**
- Other similar matters - **no issues**



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HeinfeldMeech.com

Independent Auditor's Report

Honorable Mayor and Members of the City Council
City of Scottsdale, Arizona

Report on Audit of Financial Statements

Opinions

We have audited the accompanying financial statements of the governmental activities, the business-type activities, each major fund, the budgetary comparison information for the General Fund, and the aggregate remaining fund information of the City of Scottsdale, Arizona (City), as of and for the year ended June 30, 2021, and the related notes to the financial statements, which collectively comprise the City's basic financial statements as listed in the table of contents.

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, each major fund, the budgetary comparison information for the General Fund, and the aggregate remaining fund information of the City of Scottsdale, Arizona, as of June 30, 2021, and the respective changes in financial position and, where applicable, cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinions

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Our responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of our report. We are required to be independent of City of Scottsdale, Arizona, and to meet our other ethical responsibilities in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

Change in Accounting Principle

As described in Note 1, the City implemented the provisions of the Governmental Accounting Standards Board (GASB) Statements No. 93, *Replacement of Interbank Offered Rates*, and No. 96, *Subscription-Based Information Technology Arrangements*, for the year ended June 30, 2021, which represent changes in accounting principles. Our opinion is not modified with respect to this matter.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.



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October 22, 2021

To the Honorable Mayor and Members of the City Council
City of Scottsdale, Arizona

We have audited the financial statements of the governmental activities, the business-type activities, each major fund, the budgetary comparison information for the General Fund, the associated reconciliations, and the aggregate remaining fund information City of Scottsdale, Arizona (City) for the year ended June 30, 2021. Professional standards require that we provide you with information about our responsibilities under generally accepted auditing standards, *Government Auditing Standards*, and the Uniform Guidance, as well as certain information related to the planned scope and timing of our audit. We have communicated such information in our engagement letter provided to you during the planning phase of the audit. Professional standards also require that we communicate to you the following matters related to our audit.

Qualitative Aspects of Accounting Practices

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by City of Scottsdale, Arizona are described in Note 1 to the financial statements. No new accounting policies were adopted and the application of existing policies was not changed during the year. We noted no transactions entered into by the City during the year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

As described in Note 1 of the financial statements, the District implemented the provisions of the Governmental Accounting Standards Board (GASB) Statement No. 93, *Replacement of Interbank Offered Rates* and No. 96, *Subscription-Based Information Technology (SBITAs)*, for the year ended June 30, 2021.

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected.

The most sensitive estimates affecting the financial statements were:

- Management's estimate of the useful lives of depreciable capital assets is based on the length of time management estimates those assets will provide some economic benefit in the future.
- Management's estimate of the allowance for uncollectible receivable balances is based on past experience and future expectation for collection of various account balances.
- Management's estimate of the insurance claims incurred but not reported is based on information provided by the entity's third party administrators and subsequent claims activity.
- The assumptions used in the actuarial valuations of the pension and other post-employment benefits are based on historical trends and industry standards.

The financial statement disclosures are neutral, consistent, and clear.

Page 1

Federal funding/compliance reports

Single Audit Report:

- Report on Internal Control and Compliance based on the Financial Statement audit – **one significant deficiency**
- Schedule of Findings –
 - Improve internal control over equity balance for Sub-Regional Operating Group (SROG) joint venture. Error was corrected.**
 - Management Response – additional review procedures added.**

Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards

Independent Auditor's Report

Honorable Mayor and Members of the City Council
City of Scottsdale, Arizona

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities, the business-type activities, each major fund, the budgetary comparison information for the General Fund, and the aggregate remaining fund information of City of Scottsdale, Arizona, as of and for the year ended June 30, 2021, and the related notes to the financial statements, which collectively comprise City of Scottsdale, Arizona's basic financial statements, and have issued our report thereon dated October 20, 2021. Our report included an emphasis of matter paragraph as to comparability due to the implementation of Governmental Accounting Standards Board (GASB) Statement No. 93, Replacement of *Interbank Offered Rates*, and Statement No. 96, *Subscription-Based Information Technology Arrangements* (SBITAs).

Report on Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered City of Scottsdale, Arizona's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of City of Scottsdale, Arizona's internal control. Accordingly, we do not express an opinion on the effectiveness of City of Scottsdale, Arizona's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A material weakness is a deficiency, or combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. We did identify a certain deficiency in internal control, described in the accompanying schedule of findings and questioned costs as item FS-2021-001 that we consider to be a significant deficiency.

Federal funding/compliance reports

(cont'd)

Single Audit Report (cont'd):

- Report on Compliance, Internal Control and Expenditures of Federal Awards – **no issues noted**
- Schedule of Expenditures of Federal Awards
 - **Unmodified opinion**
 - **FY 2020/21 totaled \$27,564,297**
- Schedule of Prior Audit Findings –
 - **Housing Voucher Cluster – fully corrected.**

Report on Compliance for Each Major Federal Program; Report on Internal Control Over Compliance; and Report on Schedule of Expenditures of Federal Awards Required by the Uniform Guidance

Independent Auditor's Report

Honorable Mayor and Members of the City Council
City of Scottsdale, Arizona

Report on Compliance for Each Major Federal Program *Opinion on Each Major Federal Program*

We have audited City of Scottsdale, Arizona's compliance with the types of compliance requirements identified as subject to audit in the *OMB Compliance Supplement* that could have a direct and material effect on each of City of Scottsdale, Arizona's major federal programs for the year ended June 30, 2021. City of Scottsdale, Arizona's major federal programs are identified in the summary of auditor's results section of the accompanying schedule of findings and questioned costs.

In our opinion, City of Scottsdale, Arizona complied, in all material respects, with the compliance requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended June 30, 2021.

Basis for Opinion on Each Major Federal Program

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America (GAAS); the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States (*Government Auditing Standards*); and the audit requirements of Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). Our responsibilities under those standards and the Uniform Guidance are further described in the Auditor's Responsibilities for the Audit of Compliance section of our report.

We are required to be independent of City of Scottsdale, Arizona and to meet our other ethical responsibilities, in accordance with relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion on compliance for each major federal program. Our audit does not provide a legal determination of City of Scottsdale, Arizona's compliance with the compliance requirements referred to above.

Other funding/compliance reports

State funding/compliance report

- Highway User Revenue Fund (HURF) uses - **City complied with state requirements**

Other Reports to be completed in January / February:

- HUD-required financial schedule - federal
- Annual Expenditure Limitation Report - state

INDEPENDENT ACCOUNTANT'S REPORT

Honorable Mayor and Members of the City Council
City of Scottsdale, Arizona

We have examined the City of Scottsdale, Arizona's (City) compliance as to whether highway user revenue fund monies received by the City of Scottsdale, Arizona pursuant to Arizona Revised Statutes Title 28, Chapter 18, Article 2, and any other dedicated state transportation revenues received by the City of Scottsdale, Arizona, were used solely for authorized transportation purposes during the year ended June 30, 2021. Management is responsible for the City of Scottsdale, Arizona's compliance with those requirements. Our responsibility is to express an opinion on the City of Scottsdale, Arizona's compliance based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. Those standards require that we plan and perform the examination to obtain reasonable assurance about the City of Scottsdale, Arizona's compliance with the requirements referred to above, in all material respects. An examination involves performing procedures to obtain evidence about the City of Scottsdale, Arizona's compliance with the requirements referred to above. The nature, timing, and extent of the procedures selected depend on our judgement, including an assessment of the risks of material noncompliance of the report, whether due to fraud or error. We believe the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our opinion. Our examination does not provide a legal determination on the City of Scottsdale, Arizona's compliance with specified requirements.

In our opinion, the City of Scottsdale, Arizona complied, in all material respects, with the aforementioned requirements for the year ended June 30, 2021.

Heinfeld Meech & Co. PC

Heinfeld, Meech & Co., P.C.
Scottsdale, Arizona
October 20, 2021

2021 Legislative Session – additional requirement

Amended ARS §9-481 Audits of cities and towns; posting; budget; accepting audit results

- New subsection H: "Within ninety days after completing [the annual financial audit]...in a regular meeting without the use of a consent agenda, and **the governing body shall demonstrate compliance with section 41-1494.**"

ARS 41-1494: Training, orientation and therapy; blame and judgment; prohibition; annual report; definition

▪ Subsection B:

“This state, ... city, town, county or political subdivision ... **may not use public monies for training, orientation or therapy that presents any form of blame or judgment on the basis of race, ethnicity or sex.** This subsection does not preclude any training on sexual harassment.”

Requested Actions

1. As recommended by the City Council’s Audit Committee:
Accept the FY 2020/21 financial audit reports submitted by the City’s external auditors, Heinfeld, Meech & Co. P.C.
2. Adopt Resolution No. 12342 to demonstrate the City’s compliance with ARS §41-1494

Fiscal Year End 2021 **FINANCIAL REPORT**

*City Treasurer's Office
December 8, 2021 Council Meeting*

Agenda

- 01 Highlights from FY 20/21 Financial Report
- 02 City's fiscal health

Timeline For Year End Financial Report



Assessing City's Financial Health

- 01 **Financial Condition** - Revenues cover expenditures to maintain service levels
- Strong cash position to pay bills
- 02 **Financial Capacity** - Manageable debt burden
- Ability to finance capital needs without shifting burden to future
- 03 **Financial Resiliency** - Sufficient reserves and budget flexibility

Revenues were Stronger than Expected

July 1 - June 30, 2021

\$330.8 million

General Fund

3% higher than prior year

\$216.2 million

**Other Governmental
Funds**

1% higher than prior year

\$209.5 million

Enterprise Funds

9% higher than prior year

Excludes other financing sources and non-operating revenues

Expenditures were Under Budget

July 1 - June 30, 2021

\$258.8 million General Fund Expenditures

2% lower than prior year

\$239.1 million Other Governmental Funds

7% lower than prior year

\$180.7 million Enterprise Funds

0% change from prior year

Excludes other financing uses and nonoperating expenses

Improved Balance Sheet

As of June 30, 2021

\$6.1 billion

Investment in Net
Capital Assets

Increased by \$314 million
over prior year

\$159.9 million

General Fund
Cash and
Investments

Improved liquidity
position

\$354.9 million

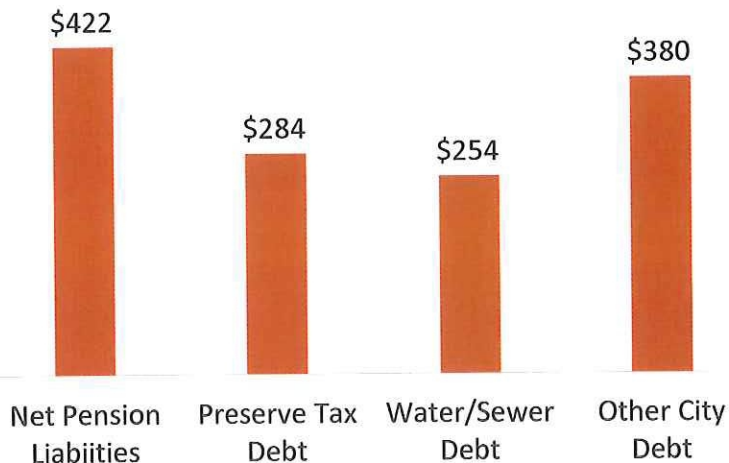
Unrestricted Net
Position

Increased by \$29 million
over prior year



Manageable Debt Burden

As of June 30, 2021 (in millions)



- Issued \$51.2 million in New G.O Bonds for 2019 Bond Program
- Issued \$311.3 million in Refunding Bonds to achieve \$27.3 million in savings over next 10-16 years
- Contributing \$40 million in FY21/22 to pay down PSPRS unfunded liability



Maintained Policy Reserves

As of June 30, 2021

\$25.9 million

General Fund
Stabilization
Reserves

10% of operating
expenditures

\$5.0 million

Excise Tax
Stabilization
Reserves

No less than \$5 million

\$2.0 million

Transportation
Fund Reserves

10% of operating
expenditures

\$71.6 million

Enterprise Funds
Operating
Reserves

60-120+ days of
operating expenses

Maintained Strong Bond Ratings

July 1 – June 30, 2021

- 01 Economic and revenue growth
- 02 Strong balance sheet – cash liquidity, reserves
- 03 Manageable debt and long term liabilities
- 04 Strong financial management policies and practices

AAA

G.O Rating*

AAA

MPC
Rating**

*G.O – General Obligation Bonds supported by property taxes

**MPC – Municipal Property Corporation Bonds supported by excise taxes, AAA rating from S&P and Aa1 rating from Moody's

Boards and Commissions

City Council Work Study Session

December 8, 2021

Background and Options

- A. Nov. 9, 2021, Proposal
 - 1. Resolution No. 12327 amending rules of procedure
 - 2. Ordinance No. 4526 requiring chair to notify all council
- B. Current Practice
- C. Pre-2011 Practice
- D. Other Options
 - 1. Automatic Removals
 - 2. Conflict of Interest Recusals

Possible Direction

Possible Direction

Absences – is a standard needed? Yes? No? if yes, what should it be? The current standard is three consecutive or four in six months.

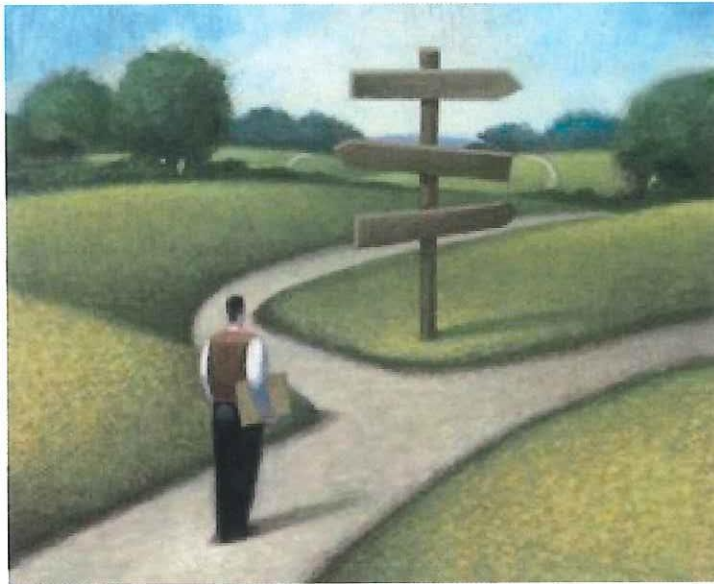
- b. Tardies – is a standard needed? Yes? No? If yes, what should it be? The current standard is that any tardy counts the same as an absence.
- c. Recusals – is a standard needed? Yes? No? If yes, what should it be? There is currently not a specific standard for recusals.

Possible Direction (continued)

Notification – Who is notified? The Mayor and designee are currently required to be notified by the Chair when standards are met. Should the full City Council be notified?

- e. Removal – When a standard is met, is it an automatic removal, or scheduled for consideration by the City Council, or something else?
- f. Reappointment – Once a person is removed can they reapply immediately, or is there a one-year waiting period, such as for the member who has already served two terms?

CITY OF SCOTTSDALE ELECTED AND APPOINTED PUBLIC OFFICIALS ETHICS CODE



1

19259943v1

HISTORY

SEPTEMBER 20, 2005—CITY OF SCOTTSDALE CITIZEN
CODE OF ETHICS TASK FORCE (“TASK FORCE”)
ESTABLISHED BY CITY COUNCIL

MAY 2, 2006—CITY COUNCIL ADOPTS CODE OF ETHICAL
BEHAVIOR, EFFECTIVE JULY 1, 2006

2

CODE OF ETHICAL BEHAVIOR FOR CITY OFFICERS

EFFECTIVE DATE: JULY 1, 2006

- DEFINITIONS—SRC § 2-47
- ETHICS POLICY—SRC § 2-48
- CONFLICT OF INTERESTS—SRC § 2-49
- GIFTS—SRC § 2-50
- OPEN GOVERNMENT—SRC § 2-51
- OPEN MEETING LAWS; EXECUTIVE SESSIONS—SRC § 2- 52
- PRESERVATION AND AVAILABILITY OF PUBLIC DOCUMENTS—SRC § 2-53
- UNDUE INFLUENCE ON SUBORDINATES—SRC § 2-54
- ENFORCEMENT—SRC §§ 2-55 THROUGH 2-58

3

DEFINITIONS:

- *CITY OFFICIAL* MEANS THE MAYOR, MEMBERS OF THE CITY COUNCIL, AND BOARDS AND COMMISSIONS MEMBERS.

4

CONFLICT OF INTEREST S.R.C. § 2-49

- (A) "ARIZONA LAW PREVENTS LOCAL GOVERNMENTS FROM IMPOSING DIFFERENT CONFLICTS OF INTEREST LAWS THAN STATE LAW."
- (B) A CONFLICT OF INTEREST ARISES WHEN A CITY OFFICIAL HAS A "***SUBSTANTIAL INTEREST***" IN A MATTER COMING THROUGH THE CITY'S DECISION-MAKING PROCESS.

5

EXCEPTIONS ARE REMOTE INTERESTS (A.R.S. § 38-502)

REMOTE INTEREST EXAMPLES:

- "CLASS OF 10"
 - MEMBER OF CLASS OF PERSONS WITH NO GREATER INTEREST THAN OTHERS
- NON-SALARIED OFFICER/MEMBER OF NON-PROFIT
- MEMBER OF A NON-PROFIT COOPERATIVE MARKETING ASSOCIATION
- RECEIVING MUNICIPAL SERVICES ON SAME TERMS AS NON-OFFICIALS

6

WHEN A CONFLICT OF INTEREST ARISES:

- CITY OFFICIAL MUST REFRAIN FROM PARTICIPATING IN ANY MANNER IN THE CITY'S DECISION-MAKING PROCESSES ON THE MATTER AS A CITY OFFICIAL.
- IN ADDITION, WITHIN THREE (3) BUSINESS DAYS, THE CITY OFFICIAL MUST DECLARE THE SPECIFIC NATURE OF THE INTEREST ON THE PUBLIC RECORD BY UPDATING HER OR HIS PERSONAL INTEREST DISCLOSURE FORM IN THE CITY CLERK'S OFFICE (IF NOT ALREADY DISCLOSED).
- MUST PUBLICLY ANNOUNCE THE CONFLICT AT THE MEETING WHEN IT IS ON THE AGENDA.
- **MUST LEAVE ROOM BEFORE DISCUSSION ON THAT ITEM BEGINS.**

7

ASPIRATIONAL REQUEST:

SUBSECTION 2-49(E) OF THE ETHICS CODE PROVIDES:

CITY OFFICIALS ARE STRONGLY ENCOURAGED TO AVOID INVOLVEMENT IN SITUATIONS WHERE **NO TECHNICAL CONFLICT OF INTEREST EXISTS, BUT WHERE ACTIVE PARTICIPATION MIGHT RAISE THE PERCEPTION OF UNDUE INFLUENCE OR IMPROPRIETY.**

8

PERSONAL INTEREST DISCLOSURE FORM

CITY OFFICIALS ARE REQUIRED TO COMPLETE A
PERSONAL INTEREST DISCLOSURE FORM
ANNUALLY BEFORE THE FIRST MEETING IN
JANUARY BUT NO LATER THAN JANUARY 31.

9

City of Scottsdale Personal Interest Disclosure Form

Pursuant to the City of Scottsdale Code of Ethical Behavior, all City officials (the Mayor, members of the City Council, and members of all City boards, commissions, committees, task forces, and other appointed advisory groups), before participating in their first meeting and before January 31 every year thereafter that they serve the City, must complete and submit a Personal Interest Disclosure Form to the City Clerk's Office. The purpose of the form is to help City officials by alerting and reminding them of their need to avoid participating in any manner on behalf of Scottsdale when a conflict arises between their official City duties and their personal interests (or the interests of their relatives).

Two definitions are very important because violating Arizona's conflicts of interests laws is a criminal offense and can lead to serious consequences.

1. Arizona law requires that if a public officer of a public agency, or her or his relative has a **substantial interest** in any contract, sale, purchase or service to the public agency, or an official decision of the public agency, then that officer "shall make known that interest in the official records of the public agency and shall refrain from voting upon or otherwise participating in any manner as an officer or employee" regarding that matter. (A.R.S. § 38-503). **Substantial interest** means a pecuniary (money/financial) or proprietary (ownership) interest, direct or indirect, except certain specific, limited **remote interests** listed in the statute. (A.R.S. § 38-502). By listing "voting" and "otherwise participating in any manner" separately, the Legislature has made clear that if you have a conflict, then you must immediately refrain from taking **any** action in your official position; you may not do anything -- vote, talk, discuss, write, wink, or nod -- to try to influence the decision or any decision-makers.

2. The definition of relative is quite sweeping, and includes your "spouse, child, child's child (grandchildren), parent, grandparents, brother or sister (and step-brother or step-sister), and their spouses and the parent, brother, sister or child of a spouse." A.R.S. § 38-502(B).

If after you complete this form another substantial interest surfaces that was not anticipated, then you are obligated to immediately refrain from participating in the decision-making process and, within three business days, update this form to disclose the interest in the City Clerk's Office. If you have any questions, please contact the City Attorney's Office with as much lead time as possible.

1. Identify the decision or other matter in which you or a relative may have a substantial interest. (Attach another page if more space is needed.)

2. Describe each substantial interest referred to above. (Attach another page if more space is needed.)

Statement of Disqualification

To avoid any possible conflict of interests, I will refrain from participating in any manner in the matter(s) identified above.

Name (please print) _____

Signature _____

Date _____

Position in the City of Scottsdale _____



DECLARATION OF
CONFLICT OF INTEREST OR PERSONAL INTEREST

NAME: _____

PUBLIC BODY: _____

DATE OF PUBLIC MEETING: _____ AGENDA ITEM NO.: _____

DESCRIPTION OF ITEM: _____

I declare that I have a "substantial interest" in the above-referenced decision or matter, as provided in A.R.S. § 38-501 et seq., and, therefore, declare that I have a conflict of interest in the decision or matter.

Describe the substantial interest held by you or your relative(s) referred to above:

I don't believe that I have a substantial interest in the above-referenced decision or matter and, therefore, do not have a conflict of interest as provided by Arizona law, but I believe that my active participation in the above-referenced decision or matter might raise the perception of undue influence or impropriety.

Explain: _____

To avoid a conflict of interest or the perception of undue influence or impropriety, as indicated above, I will refrain from participating in any manner in the decision(s) or matter(s) identified above.

Signature

Date Signed

PLEASE NOTE: Completion and filing of this form with the City Clerk's Office is not, by itself, sufficient for a public officer to meet the requirements of the Conflict of Interest and Code of Ethical Standards (A.R.S. § 38-501 et seq.). To complete the requirements the public officer must advise publicly at the meeting of the public body that he or she has a conflict of interest, or that participation might raise the perception of undue influence or impropriety, then recuse himself or herself, and leave the room while the matter is being discussed and acted upon by others on the public body.

A copy of this form will be filed as a supplement to the public officer's Personal Interest Disclosure form.

SUGGESTIONS FOR CHANGES TO CONFLICTS SECTION:

- CHANGES OR ADDITIONS TO ASPIRATIONAL REQUESTS?
- ARE YOU INTERESTED IN SEEING SOME SIMPLIFICATION OF THE FORMS?
- ANY OTHER CLARIFICATIONS ?

PROHIBITED GIFTS

CITY OFFICIALS ARE PROHIBITED FROM SOLICITING, RECEIVING, ACCEPTING “GIFTS OF ANY KIND” FROM ANYONE “***ENGAGED IN A GENERAL PRACTICE***” OR “***SPECIFIC SITUATION INVOLVING CITY DECISION-MAKING OR PERMITTING PROCESSES.***”

13

“GIFTS OF ANY KIND” INCLUDES:

- MONEY, SERVICES, LOANS, TRAVEL, HOSPITALITY (INCLUDING MEALS), ENTERTAINMENT
- PROMISES OF FUTURE GIFT
- **ANYTHING OF VALUE THAT MIGHT BE CONSTRUED AS ATTEMPT TO CREATE MORE FAVORABLE RELATIONSHIP THAN GENERAL PUBLIC, INCLUDING:**
 - PURCHASE, SALE, LEASE OF PERSONAL OR REAL PROPERTY
 - EMPLOYMENT/SERVICES/CONTRACTS

14

EXEMPTIONS INCLUDE:

- ENTERTAINMENT, HOSPITALITY (MEALS), TRANSPORTATION AND TOKEN MEMENTOS
- DIRECTLY ASSOCIATED WITH ***“EVENTS ATTENDING AS A REPRESENTATIVE OF CITY”***

15

DECLARATIONS OF GIFTS FORM

IF PERMISSIBLE, AND GIFT IS ACCEPTED:

MUST DECLARE TO CITY CLERK
PURSUANT TO SRC § 14-135 WITHIN 5
BUSINESS DAYS OF ACCEPTANCE
UNLESS THIS CODE PROVISION DOES
NOT REQUIRE REPORTING

16

EXCEPTIONS NOT CONSIDERED GIFTS

THE FOLLOWING REFLECTS LEGITIMATE PUBLIC DUTIES OR PURPOSES AND ARE **NOT** CONSIDERED GIFTS THAT MUST BE DECLARED:

1. EVENTS SPONSORED OR FUNDED, IN WHOLE OR PART, BY CITY
2. REASONABLE HOSTING EXPENSES FOR OFFICIAL SPEAKING, ENGAGEMENTS, CEREMONIES OR APPEARANCE ON BEHALF OF CITY WHEN PUBLIC OR CIVIL PURPOSE IS SERVED
3. GIFTS OF GOODWILL OR TOKENS OF APPRECIATION ACCEPTED ON BEHALF OF CITY
 - o FOOD ACCEPTED AND SHARED WITH OTHERS
4. GIFTS RECEIVED AND DONATED TO CHARITY

17

SRC § 14-135 – GIFTS AND GRATUITIES

- ADDITIONAL PROHIBITIONS:
 - SOLICITING ITEMS OF VALUE FOR PERSONAL BENEFIT
 - GRATUITIES, TIPS, HONORARIA OR PAYMENTS FOR OFFICIAL DUTIES
 - ITEMS THAT COULD REASONABLY BE CONSTRUED AS AN ATTEMPT TO EXERT IMPROPER INFLUENCE OR AS A REWARD FOR ACTION

18

CHANGES TO PROHIBITED GIFTS SECTION?

- SHOULD THE TWO APPLICABLE CODE SECTIONS ON GIFTS BE MERGED INTO A SINGLE CODE SECTION?
- SHOULD PERSONAL GIFTS SUCH AS THOSE GIVEN FROM FAMILY MEMBERS OR CLOSE PERSONAL FRIENDS BE CONSIDERED A GIFT THAT MUST BE DECLARED?
- SHOULD REASONABLE HOSTING AND HOSPITALITY FOR ANY EVENT WHERE A PUBLIC OR CIVIC PURPOSE BE EXEMPT?
- SHOULD THE NUMBER OF DAYS TO COMPLETE A GIFT FORM BE CHANGED?
- SHOULD THE \$25 VALUE AMOUNT CHANGE?

19

OPEN MEETING LAWS

“ALL MEETINGS OF ANY PUBLIC BODY SHALL BE PUBLIC MEETINGS AND ALL PERSONS SO DESIRING SHALL BE PERMITTED TO ATTEND AND LISTEN TO THE DELIBERATIONS AND PROCEEDINGS.” A.R.S. § 38-431.01(A)

PUBLIC POLICY: BUSINESS OF THE PUBLIC SHOULD BE DONE IN PUBLIC.

20

STRONG AG RECOMMENDATION

- EVEN THOUGH SOME LIMITED COMMUNICATIONS OUTSIDE OF A MEETING ARE NOT A VIOLATION:
- MEMBERS ON BOARDS, COMMISSIONS AND OTHER APPOINTED ADVISORY GROUPS ARE ENCOURAGED TO COMMUNICATE ABOUT CITY BUSINESS AT OPEN PUBLIC MEETINGS

21

UNDUE INFLUENCE ON SUBORDINATES—SRC § 2-54

- (a) CITY CHARTER - “ADMINISTRATIVE AUTHORITY IS VESTED SOLELY IN THE CITY MANAGER”
- CITY COUNCIL MAY MAKE **INQUIRIES** OF STAFF, BUT NOT INTERFERE WITH CITY MANAGER’S AUTHORITY
 - PROHIBITS “ORDERS, EXPLICIT DIRECTIONS OR REQUESTS, PUBLICLY OR PRIVATELY... TO ANY SUBORDINATES OF CITY MANAGER.”
 - PROHIBITS INFLUENCING THE CITY MANAGER ON HIRING OR FIRING

22

ANY OTHER CHANGES?

- ANY ADDITIONS?
- ANY UPDATES?

23

ENFORCEMENT

ETHICS COMPLAINTS

- REQUIRED CONTENTS OF COMPLAINT
 - NAME OF COMPLAINANT – NOT ANONYMOUS
 - VIOLATION, FACTS, DOCUMENTS, WITNESSES
 - AFFIDAVIT MUST ALLEGE A VIOLATION OF MANDATORY PROVISIONS
- TIME – NO MORE THAN 365 DAYS AFTER THE ALLEGED VIOLATION OR 90 DAYS FROM LEARNING ABOUT THE MATTER

24

1. COMPLAINTS ABOUT APPOINTED OFFICIALS

COMPLAINTS ABOUT APPOINTED PUBLIC OFFICIALS (§ 2-56);

- INITIAL REVIEW BY CITY ATTORNEY
 - DISMISS IT
 - OTHERWISE – CITY ATTORNEY MUST INVESTIGATE THE ALLEGATIONS
- CITY ATTORNEY MUST PREPARE:
 - A FINDINGS OF FACT AND CONCLUSIONS OF LAW AND A RECOMMENDATION TO COUNCIL
- CITY COUNCIL MUST CONSIDER THE REPORT AT A PUBLIC MEETING
 - MAY REMOVE THE PUBLIC OFFICIAL FROM OFFICE

25

2. COMPLAINTS ABOUT COUNCIL MEMBERS

- MUST RETAIN INDEPENDENT ETHICS REVIEWERS
 - MAINTAIN A POOL 10-12 RETIRED JUDGES, LEGAL FACULTY
 - OTHERS IF NOT ENOUGH JUDGES/FACULTY TO SERVE
 - AT LEAST 2/3 OF THE POOL MUST BE JUDGES OR FACULTY
 - NOT BE RESIDENTS OF SCOTTSDALE
 - NO REGULAR SCOTTSDALE WORK OR SCOTTSDALE CLIENTS

26

INDEPENDENT ETHICS OFFICER

- CITY ATTORNEY ANNUALLY NOMINATES A NEW INDEPENDENT ETHICS OFFICER
- ETHICS OFFICER TO SERVE NO MORE THAN 1 CONSECUTIVE YEAR

27

COMPLAINT: COUNCIL MEMBER

CITY ATTORNEY TRANSFERS TO ETHICS OFFICER IMMEDIATELY

- ETHICS OFFICER CONDUCTS INITIAL SCREENING
 - DISMISS IF IT IS INCOMPLETE, UNTIMELY OR NO MANDATORY VIOLATIONS WERE ALLEGED
 - REFER TO FOR AN INVESTIGATION IF NOT DISMISSED
 - INVESTIGATED BY 3 ETHICS PANEL MEMBERS
 - SELECTED BY ETHICS OFFICER
 - MUST AGREE TO PARTICIPATE AND INVESTIGATE THE ALLEGATIONS
 - **NO CURRENT ABILITY TO CONSIDER OUTSIDE EVIDENCE THAT MAY QUICKLY DISPOSE OF THE COMPLAINT**

28

ETHICS PANEL INVESTIGATION

ETHICS PANEL:

- IS TO INVESTIGATE THE ALLEGATIONS AND MAKE FINDINGS OF FACT AND CONCLUSIONS OF LAW
- SEND ITS REPORT TO CITY COUNCIL, COMPLAINANT, RESPONDENT, CITY ATTORNEY, AND CITY CLERK
- MUST OCCUR WITHIN 60 DAYS
 - 30-DAY EXTENSION FROM ETHICS OFFICER MAY BE GRANTED

CITY COUNCIL CONSIDERS REPORT AT PUBLIC MEETING

- ACCEPT OR REJECT REPORT AS SUBMITTED

29

RULES OF PROCEDURE

- DEVELOPED BY THE CITY ATTORNEY
- TO GOVERN THE HEARING AND INVESTIGATION PROCESS

30

CHANGES TO ENFORCEMENT SECTION?

- SHOULD WE UPDATE THE ETHICS PANEL MEMBERSHIP AND ETHICS OFFICER REQUIREMENTS?
 - DO WE NEED 10-12 OR CAN THAT NUMBER BE LOWERED?
 - IS IT IMPORTANT FOR 2/3 TO BE RETIRED JUDGES OR FACULTY FROM ASU OR THE UNIVERSITY OF ARIZONA?
 - DOES THE INDEPENDENT ETHICS OFFICER NEED TO ROTATE EVERY YEAR?
- SHOULD WE INCLUDE THE ETHICS OFFICER'S ABILITY TO DISMISS A COMPLAINT THAT IS PRELIMINARILY FOUND TO BE WITHOUT MERIT, EVEN IF THE COMPLAINT ALLEGES A VIOLATION?
- ANY OTHER SUGGESTIONS?