

SCOTTSDALE CITY COUNCIL
WORK STUDY SESSION MINUTES
TUESDAY, MAY 11, 2021



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

CALL TO ORDER

Mayor David D. Ortega called to order a Work Study Session of the Scottsdale City Council at 4:00 P.M. on Tuesday, May 11, 2021.

ROLL CALL

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

Also Present: Assistant City Manager Brent Stockwell, City Attorney Sherry Scott, Acting City Treasurer Judy Doyle, City Auditor Sharron Walker, and City Clerk Ben Lane

PUBLIC COMMENT ~ None

1. Board and Commission Membership Procedures

Request: Presentation, discussion, and possible direction to staff regarding a review and possible update on the procedures, guidelines and protocols pertaining to the city's board and commission members, including a possible questionnaire for potential board and commission members.

Presenter(s): Shane Stone, Management Associate

Staff Contact(s): Brent Stockwell, Assistant City Manager, 480-312-7288,
bstockwell@scottsdaleaz.gov

Management Associate Shane Stone gave a PowerPoint presentation (attached) on the Board and Commission membership procedures.

There was Council consensus on the following items:

- Council retains the responsibility for appointment and removal of board and commission members.
- Members with professional expertise are needed for certain boards and commissions.

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.

- Add a fourth question to the list of questions in the application packet that is related to potential conflicts of interest.
- Establish a threshold to count conflict of interest recusals for all board and commission members. Staff to recommend guidelines for determining how conflicts of interest will be counted and what is considered reasonable.
- Develop a mechanism for tracking, monitoring, and reporting absences and recusals to the Council.

2. **Noise Enforcement Update**

Request: Presentation, discussion, and possible direction to staff regarding possible noise enforcement enhancements.

Presenter(s): Raun Keagy, Planning and Development Area Director and Chris Coffee, Police Commander

Staff Contact(s): Brent Stockwell, Assistant City Manager, 480-312-7288, bstockwell@scottsdaleaz.gov

Planning and Development Area Director Raun Keagy gave a PowerPoint presentation (attached) on the special noise ordinance.

Police Commander Chris Coffee gave a PowerPoint presentation (attached) on the nuisance party and unlawful gatherings ordinance.

Planning and Economic Development Executive Director Randy Grant gave a PowerPoint presentation (attached) on construction noise restrictions.

Deputy City Attorney Luis Santaella gave a presentation on noise enforcement mechanisms.

Councilmembers spoke in support of:

- Amending Chapter 19, Special Noise Ordinance to add provisions for "C weighted" dB(C) restrictions to address loud bass noise.
- Amending Chapter 18, Article VIII, Nuisance Parties and Unlawful Gatherings, to add a definition for "clearly audible."

3. **Destination Marketing Agreement Assessment**

Request: Presentation, discussion, and possible direction to staff regarding the hiring of a third-party expert in destination marketing to evaluate Experience Scottsdale's current contract and performance and recommendations about a future contract.

Presenter(s): Karen Churchard, Tourism and Events Director

Staff Contact(s): Karen Churchard, Tourism and Events Director, 480-312-2890, kchurchard@scottsdaleaz.gov

Tourism and Events Director Karen Churchard gave a PowerPoint presentation (attached) on the Destination Marketing Agreement assessment.

There was Council consensus to proceed with the hiring of a third-party expert in destination marketing to evaluate Experience Scottsdale's current contract and performance and to provide recommendations related to terms that should be included in a future contract.

ADJOURNMENT

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

The Work Study Session adjourned at 6:20 P.M.

SUBMITTED BY:



Ben Lane, City Clerk

Officially approved by the City Council on June 22, 2021

CERTIFICATE

I hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Work Study Session of the City Council of Scottsdale, Arizona, held on the 11th day of May 2021.

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

DATED the 22nd day of June 2021.



Ben Lane, City Clerk

Appointed Public Bodies

City Council Work-Study Session
May 11, 2021

1

Community & Econ. Dev.	Community Services	Human Resources	Public Works	Charter Officers
ADVISORY				
Airport Environmental Historic Neighborhood Planning Tourism	Human Services Library Parks & Rec. Preserve		Transportation	Human Rel. Veterans
TASK ORIENTED				
Bldg. Appeals Dev. Review		Judicial Appt. PSPRS Fire PSPRS Police	Bond Oversight	Loss Trust Fund
QUASI-JUDICIAL				
Adjustment		Personnel		

2

Scottsdale Ordinance No. 4410

- Adopted Sep. 8, 2020
- Clarified resignation procedures
- Allowed for a third non-consecutive term for board and commission members, after a one-year break in service
- Staff analyzed alternatives for automatic removal based on recusal threshold, recommended using existing tools to ensure members are complying with the absentee provision and declaring conflicts of interest when they arise.

3

S.R.C. Sec 2-241 (b)

All members of appointive boards and commissions shall be appointed by and serve without compensation at the pleasure of the council. At the time of appointment the appointee shall be a resident of the city and shall maintain residency during the term for which appointed. Loss of residence shall be deemed resignation from the office.

4

S.R.C. Sec 2-49 (c)

When a conflict of interests arises, the city official involved must immediately refrain from participating in any manner in the city's decision-making processes on the matter as a city official, including voting on the matter or attending meetings with, having written or verbal communications with, or offering advice to any member of the city council, or any city employee, contractor, agent, charter officer, or member of a city board, commission, committee, task force, other appointed advisory group, or agency (other than the city attorney when the city official is seeking legal advice regarding a possible conflict). 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.

5

S.R.C. Sec 2-241 (h)

In the event a member of a board or commission is unwilling or unable to serve, or if any member is absent or tardy from three (3) consecutive meetings, or four (4) meetings within a six-month period, then the chair shall notify the mayor or the mayor's designee so that the consideration of removal and replacement of the member may be scheduled for city council action.

6



Nominee:

Nominee for:

1. Name, address, and how long you've lived in Scottsdale.

2. How your experiences (education/professional/volunteer) relates to the Board or Commission to which you have applied.

3. What you think is the top issue facing the Board or Commission to which you have applied.

7



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2. How your experiences (education/professional/volunteer) relates to the Board or Commission to which you have applied.

3. What you think is the top issue facing the Board or Commission to which you have applied.

4. Do you have any conflicts of interest which might require you to recuse yourself from the business of the board or commission for which you are applying? If yes, please explain.

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Potential Changes to the Nomination Process

- Request and review potential conflicts of interest prior to appointment
- Condense nominations and appointments into a single meeting
- Create a “reserve” pool of board & commission applicants
- Require board & commission members to serve one year on a board or commission before they may apply for another

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Potential Changes to Address Recusals

- Amend S.R.C. Sec 2-241 (h) to clarify that the chair of a board or commission may consider excessive recusals to qualify as inability to serve
- Create a mechanism that allows for boards & commissions to recommend removal of a member with a supermajority vote
- Appoint an alternate member to boards and commissions to step-in in the event of a recusal and potentially serve on the board full-time in the event of a resignation or removal of a board member
- Monitor and review recusals that cause a “split vote”

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Additional Potential Change

Add board and commission appointment procedures to the Council Rules of Procedure.

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Action Requested

Discussion and possible direction to staff regarding the City's appointed public bodies.

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Item 2

Noise Enforcement

Work Study Session

**Raun Keagy, Area Director; Commander Chrls Coffee;
Randy Grant, Executive Director; Luis Santaella, Deputy City Attorney**

May 11, 2021

1

Areas to be Discussed

1. Special Noise Ordinance Chapter 19
2. Conditional Use Permits (CUPs) and Live Entertainment
3. Additional Noise Complaints
4. Nuisance Party and Unlawful Gatherings Ordinance
5. Disorderly Conduct
6. 28-955. Mufflers; noise and air pollution prevention; emissions control devices; civil penalty; exception
7. S.R.C. Sec. 19-20. - Sound amplification systems; limitations on use.
8. Construction Noise Restrictions
9. *Overview of enforcement mechanisms, burden of proof, etc.*

2

Special Noise Ordinance Chapter 19

In September 2010, the City Council adopted Ordinance #3912. The features and implementation of the ordinance include:

- ✓ Only applicable to businesses that serve alcohol and/or provide live entertainment that create unreasonable noise that impacts certain types of residential districts.
- ✓ Staff pro-actively enforces, as well as investigates citizen complaints.
- ✓ Uses "A" band level dB(A) as measured with a sound level meter using A-weighting network.
- ✓ Reasonable person standard used at 100' from source, with presumptive unreasonable decibel threshold--68dB(A)-to assist in determining unreasonable noise level.
- ✓ Unamplified voice and crowd noise exempted from ordinance.
- ✓ Decriminalized—civil offense for first four violations in lieu of citing under the state's criminal disorderly conduct statute.

3

Chap 19 (cont.)

- As part of the discussion, a considerable amount of time was spent on the possible inclusion of "C weighted" dB(C) restriction to address loud bass noise which can carry and create irritating vibrations. At that time, there were very few communities that had successfully incorporated the use of C weighted restrictions into their municipal noise ordinances and therefore it was not included in the final adoption of Ordinance #3912.

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“C-weighted” dB(C)

Recent research has identified a number of cities which have incorporated the C weighted” dB(C) restriction to address loud bass noise, violations of which are Civil Misdemeanors with penalties ranging from \$250.00 to \$2500.00

- Austin, TX**
- San Antonio, TX (River Walk area only)
- New Orleans, LA
- Lafayette City, LA
- Tacoma, WA
- Sedona, AZ

**Austin also has a permit-based system specifically for outdoor music events with time restrictions and distance from residential districts.

5

Common enforcement attributes:

- Uses both the A and C weighting networks in measuring maximum permissible sound levels
- The C weighted” dB(C) range is between 3 db(C)—6 db(C) depending on the time of day/night
- Measurements are taken in three 30-second intervals within a 30-minute period
- Varying distance requirements between the source and residential properties for measurement
- *Does not apply to construction activities when in accordance with hours set forth*

6

Conditional Use Permits (CUPs) and Live Entertainment

- Indoor live entertainment will be contained within the building, except where external speakers are permitted by Conditional Use Permit to allow indoor live entertainment to be heard outdoors.
- The applicant has provided a floor plan which identifies the areas for the primary use and for accessory functions, including but not limited to areas for performances.
- All building openings such as doors, windows and movable wall panels shall be closed but not locked, except as permitted by Conditional Use Permit. Doors and service windows may be opened temporarily to allow passage.
- *Noise generated from the live entertainment shall conform to the City's Noise Ordinance.*

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Additional Noise Complaints

- Leaf blower & Landscape equipment
- Mechanical Equipment
- Parking lot cleaning
- Park related activities

8

Nuisance Party & Unlawful Gatherings Ordinance

SRC 18-122- Nuisance party means an assembly of persons for a social activity or for a special occasion in a manner which constitutes a **substantial disturbance of the quiet enjoyment of private or public property**. This includes, but is not limited to, **excessive noise or traffic, obstruction of public streets by crowds or vehicles, public drunkenness, the service of alcohol to minors, fights, disturbances of the peace and litter.**

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Nuisance Party & Unlawful Gatherings Ordinance

SRC 18-124- Unlawful gathering means a party, gathering, or event where **spirituous liquor is served to, or is in the possession of, or consumed by, any minor, or where illegal drugs are in the possession of, or consumed by, any person, regardless of whether it would otherwise qualify as a nuisance party.**

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Nuisance Party & Unlawful Gatherings Ordinance

- Determine if Party is a Nuisance Party or Unlawful Gathering.
 - Issue NOV to the "Responsible Party"
 - If there is no answer at door. The NOV will be left on door.
-
- Complete FI and send link to CPO/CPA
 - Scan white copy of NOV into your FI & place in District CPO/CPA's Mailbox
-
- CPO/CPA reviews the FI.
 - Verifies Owner Information
 - Forwards FI & copy of NOV to Code Enforcement
 - CPO/CPA send copy of NOV to Owner via certified mail

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Disorderly Conduct/ Disturbing the Peace

13-2904. Disorderly conduct; classification

A. A person commits disorderly conduct if, with intent to disturb the peace or quiet of a neighborhood, family or person, or with knowledge of doing so, such person:

1. Engages in fighting, violent or seriously disruptive behavior; or
2. Makes unreasonable noise; or
3. Uses abusive or offensive language or gestures to any person present in a manner likely to provoke immediate physical retaliation by such person; or
4. Makes any protracted commotion, utterance or display with the intent to prevent the transaction of the business of a lawful meeting, gathering or procession; or
5. Refuses to obey a lawful order to disperse issued to maintain public safety in dangerous proximity to a fire, a hazard or any other emergency; or
6. Recklessly handles, displays or discharges a deadly weapon or dangerous instrument.

B. Disorderly conduct under subsection A, paragraph 6 is a class 6 felony. Disorderly conduct under subsection A, paragraph 1, 2, 3, 4 or 5 is a class 1 misdemeanor.

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28-955. Mufflers; noise & air pollution prevention; emissions control devices

28-955. Mufflers; noise and air pollution prevention; emissions control devices; civil penalty; exception

A. A motor vehicle shall be equipped at all times with a muffler that is in good working order and that is in constant operation to prevent excessive or unusual noise.

B. A person shall not use a muffler cutout, bypass or similar device on a motor vehicle on a highway.

C. The engine and power mechanism of a motor vehicle shall be equipped and adjusted to prevent the escape of excessive fumes or smoke.

D. Beginning with motor vehicles and motor vehicle engines of the 1968 model year, motor vehicles and motor vehicle engines shall be equipped with emissions control devices that meet the standards established by the director of environmental quality.

E. A person who violates this section is subject to a civil penalty of at least one hundred dollars.

F. This section does not apply to an electrically powered motor vehicle.

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S.R.C. Sec. 19-20. - Sound amplification systems; limitations on use.

Sec. 19-20. - Sound amplification systems; limitations on use.

(a) Unless the system is being operated to request assistance of an emergency nature or to warn of a hazardous situation, and except as authorized by law, no person shall operate or permit the operation of any mobile sound amplification system between the hours of 10:00 p.m. and 6:00 a.m. which:

- (1) Can be heard fifty (50) or more feet from the vehicle; or
- (2) Annoys or disturbs the quiet, comfort or repose of any person in the vicinity.

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S.R.C. Sec. 19-20. - Sound amplification systems; limitations on use (continued).

- (b) In addition to other specific exemptions authorized by this chapter, subsection (a) of this section shall not apply to:
- (1) An authorized emergency vehicle as defined in A.R.S. § 28-101.
 - (2) A vehicle operated by a gas, electric, communications or water utility company or a governmental entity or entity operating under the direction of the city or entities operating within the scope of a valid contract, facilities use agreement or written agreement with the city.
 - (3) A vehicle used for advertising in a parade or in a political or other special event permitted by the city.

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S.R.C. Sec. 19-20. - Sound amplification systems; limitations on use (continued)

- (c) For the purpose of this section, "sound amplification system" means any device, instrument or system, whether electrical or mechanical or otherwise, for amplifying sound or for producing or reproducing sound, including but not limited to any radio, stereo, musical instrument, phonograph, or sound or musical recorder or player.
- (d) Any person violation this section shall be guilty of a misdemeanor, punishable as provided in section 1-8 of this Code.
(Ord. No. 2754, § 1, 12-18-95)

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Construction Noise Restrictions

- Concerns of Residents
 - Constant “beeping” of back-up alarms.
 - Light directed toward existing residences.
 - Noisy equipment and/or workers.
 - Uncertainty (variable start/end times, length of project).
 - Weekend and weekday noise.

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Summer Hours

- Summer hours are effective April 1st through October 31st
- No work will start prior to 6 a.m. or continue after 7 p.m. Monday-Friday
- Work on Saturday is restricted to 8 a.m. to 5 p.m.
- Sunday work will only be conducted if justified cause is demonstrated in writing

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Winter Hours

- Winter hours are effective November 1st through March 31st.
- No work will start prior to 7 a.m. or continue after 5 p.m. Monday-Friday
- Work on Saturday is restricted to 8 a.m. to 5 p.m.
- Sunday work will only be conducted if justified cause is demonstrated in writing.

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Construction Variance Criteria Considered

- Construction noise near the proposed work-site will be less objectionable.
- Large concrete pours during summer months.
- Consider traffic impact on heavily traveled streets.
- The kind of work to be performed emits noise at such a low level that it will not cause a significant disturbance in the vicinity of the work site.
- Possible economic hardship will occur if the work is spread over a longer period of time.

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Construction Variances (Continue)

- The applicant is required to notify adjacent property owners within 1350 feet and must show proof of notification.
- If work is done outside approved times without a variance a stop work order will be issued.
- Stop Work orders can be issued by any city enforcement officer.

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Noise Mitigation Plan and All Variances

Require communication from contractor with the surrounding community early & often:

- Expected date of completion
- Project milestone dates
- Work outside of normal hours
- Concrete pours
- Delays
- Phone number of responsible person

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Noise Mitigation Plan and All Variances (continued)

This plan may include, but is not limited to, the following:

- Buy quiet/rent quiet.
- Equip internal combustion equipment with proper, well maintained mufflers.
- Boom-boxes, loudspeakers, etc., not permitted.
- Once "dry-in" is achieved a seven-day work week could occur for interior work.

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Overview of enforcement mechanisms, burden of proof, etc.

Discussion by Luis Santaella, Deputy City Attorney

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Noise Enforcement

Summary and Questions

Destination Marketing Agreement Assessment

City Council Work Study – May 11, 2021

1

Destination Marketing Organizations (DMOs)

Most derive from Chambers of Commerce

Non-profit, membership based

Volunteer Board of Directors

Typically funded through hotel occupancy taxes, membership dues, improvement districts, and other government resources

Represent hotels, attractions, facilities, restaurants, and other services for all travelers

Travel and Tourism Strategy

2

Destination Marketing Organizations (DMOs)

City has maintained a destination marketing organization since 1977

Initially through Scottsdale Chamber of Commerce's tourism division

Organized as non-profit Scottsdale Convention & Visitors Bureau in 2001

Rebranded as Experience Scottsdale in 2016

Reflective of the primary mission of a DMO: marketing, communications, meeting and convention sales and services, and tourism

3

Funding

Transient Occupancy (bed) tax recorded in the Tourism Development Fund

Per voter approval, 50% of bed tax collections are to be used for destination marketing

Remaining 50% for tourism-related event support, tourism research, tourism-related capital projects, and other eligible uses as determined by city ordinance and state law

4

Agreement

City Audit conducted in 2016

Audit recommendations were utilized in preparing new
Destination Marketing Agreement

Approved by Council in August 2017 - 5-Year agreement expires
June 30, 2022; may be extended for one additional five-year term

5

Agreement Structure & Terms

Additional Marketing Objective to promote city-owned venues

No-cost advertisement for city-owned promotions and venues

Fiesta Bowl Event Payment equally shared

Enhanced Transparency for General & Administrative

Non-Program Costs within a competitive range with similar
destination marketing organizations

6

Assessment Recommendation

Pursue under \$25,000 contract procurement, paid from Tourism Development Funds, to hire a nationally recognized third-party destination expert to:

- Evaluate the city's current contract

- Provide objective analysis of the city's investment

- Make recommendations and potential guidelines for either a new request for proposal or continuation of a sole source contract

7

Assessment Recommendation

Town of Paradise Valley went through a similar process prior to renewing its agreement with Experience Scottsdale

Staff requested City Auditor provide an audit update to gauge contract compliance and whether additional contract terms are warranted

Request will be added to potential audit topics for the FY 2021/22 Audit Plan to be reviewed with the Audit Committee

8

Assessment Recommended Scope of Work

Detailed review of existing contract and metrics

Analysis of the return on city's investment

Comparative data analysis with other DMOs

Interviews with key stakeholders, community, and elected leaders

Recommend strategic process for a new contract

Summary of tourism industry best practices

Develop future performance metrics

9

Assessment Timeframe

May - Pursue Quotes

June - Procure Contract

August - Draft Assessment

September - Present Assessment findings to City Council

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Comments & Feedback