APPROVED

MINUTES

SCOTTSDALE CITY COUNCIL

CITY COUNCIL MEETING

Monday, October 20, 2003

The Kiva
City Hall
Scottsdale, Arizona

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CALL TO ORDER (IN CITY HALL KIVA FORUM)

Mayor Manross called to order the Regular Meeting of the Scottsdale City Council on Monday, October 20, 2003 in the Kiva, City Hall, at 5:00 P.M.

ROLL CALL

Present: Mayor Mary Manross
Vice Mayor Wayne Ecton
Council Members David Ortega, Tom Silverman, Robert Littlefield, Ned O'Hearn, and Cynthia Lukas

Also Present: City Manager Jan Dolan
City Attorney Brad Woodford
City Clerk Carolyn Jagger

Pledge of Allegiance

Scout Troop #1627 from Cheyenne School led the audience in the Pledge of Allegiance.

Invocation

Pastor Patrick Shelter from the Glass and Garden Community Church offered the invocation.

Presentations/Information Updates

2003 Community Heroes

Mayor Manross announced that the city, along with General Dynamics Decision Systems and the Scottsdale Tribune/East Valley, recently honored seven people who represent the best in human nature.

Devon Engle, General Council and Assistant Secretary of General Dynamics Decision Systems, introduced the program and the seven honorees.

Announcement

Mayor Manross congratulated Diversity Officer Don Logan for his appointment to the Governor's African-American Advisory Committee and for receiving the NAACP Roy Wilkins Award.

Public Comment

Leon Spiro, 7814 E. Oberlin Way, questioned the city's policy regarding consent agenda items. He expressed his displeasure that email containing his comments on consent items 11, 19, and 21 weren't included in the minutes for the September 9th Council meeting and submitted the documents for inclusion in tonight's minutes. He stated opposition to the city abandoning easements.

Nick Luongo, 9543 E. Rockwood Drive, spoke in opposition to the city's airport and announced that he is actively recruiting citizens to join his efforts to close the airport.

Minutes
SPECIAL MEETINGS
September 24, 2003
September 29, 2003

COUNCILWOMAN LUKAS MOVED TO APPROVE THE SPECIAL MEETING MINUTES FOR SEPTEMBER 24, 2003 AND SEPTEMBER 29, 2003. COUNCILMAN ECTON SECONDED THE MOTION WHICH CARRIED 7/0.

CONSENT AGENDA ITEMS 1 – 20C

1. **Amendment to First Amended and Restated Restaurant and Catering Concession Agreement.**
Request: Authorize an Amendment to the Restaurant and Catering Agreement with Pegasus Restaurant and Catering, Inc. for an initial term effective through August 2004, with one-year extensions allowable contingent on both parties consent. This Amendment increases the "Percentage Use Fees" paid by Concessionaire whenever they provide food and beverage catering and concessions services as outlined in the Amendment.
Related Policies, References: This Amendment is to the City of Scottsdale Contract No. 960214A Dated 12/23/96.
Staff Contact(s): Brad Gessner, WestWorld General Manager (480) 312-6825
bgessner@scottsdaleaz.gov

2. **Contract for Legal Services in connection with *City of Scottsdale v. Phillip P. Lovell*, Superior Court Case No. CV2000-017992.**
Request: Adopt Resolution No. 6380 authorizing the Mayor to execute Contract No. 2003-102A-COS, an outside counsel contract renewal in a maximum amount of twenty-five thousand dollars ($25,000.00) with the law firm of AYERS & BROWN, P.C. for legal services regarding representation of the City of Scottsdale in the litigation entitled *City of Scottsdale v. Phillip P. Lovell*, Superior Court Case No. CV2000-017992, an eminent domain action brought to acquire real property for McDowell Sonoran Preserve.
Related Policies, References: Resolution No. 6380
C. Brad Woodford, City Attorney, bwoodford@scottsdaleaz.gov, (480) 312-2405; Donna M. Bronski, Deputy City Attorney, dbronski@scottsdaleaz.gov, (480) 312-2405

Mayor Manross opened public testimony.

Leon Spiro and Lyle Wurtz combined their comments for items 2, 3, 4, and 5.

Leon Spiro, 7814 E. Oberlin Way, questioned the policy of using outside counsel for eminent domain cases. He suggested that the city request a legal opinion on the city's abandonment policy from the law firm of Ayers and Brown since the city is contracting with them for their legal expertise.

Lyle Wurtz, 6510 E. Palm Lane, expressed his belief that the preservation tax is unfair since it benefits a few people. He stated concern that the distribution of costs and benefits are discriminatorily benefiting the citizens who live in the northern part of the city. He felt the preserve would become a tax burden for maintenance and police protection. He questioned if all the costs associated with the preserve are captured for accounting purposes.

Mayor Manross closed public testimony.

3. **Contract for Legal Services in connection with *City of Scottsdale v. Bruce Corey, et. al,* Superior Court Case No. CV2000-017994.**
Request: Adopt Resolution No. 6381 authorizing the Mayor to execute Contract No. 2003-166-COS, an outside counsel contract renewal in a maximum amount of Sixty Thousand Dollars ($60,000.00) with the law firm of AYERS & BROWN, P.C. for legal services regarding representation of the City of Scottsdale in the litigation entitled *City of Scottsdale v. Bruce Corey, et. al*, Superior Court Case No. CV2000-017994, an eminent domain action brought to acquire real property for McDowell Sonoran Preserve.
Related Policies, References: Resolution No. 6381
Staff Contact(s): C. Brad Woodford, City Attorney, bwoodford@scottsdaleaz.gov, (480) 312-2405;
Donna M. Bronski, Deputy City Attorney, dbronski@scottsdaleaz.gov, (480) 312-2405

4. **Contract for Legal Services in connection with *City of Scottsdale v. Alpine Valley Limited Partnership,* Superior Court Case No. CV2001-012496.**
Request: Adopt Resolution No. 6382 authorizing the Mayor to execute Contract No. 2003-167-COS, an outside counsel contract renewal in a maximum amount of Forty Thousand Dollars ($40,000.00) with the law firm of AYERS & BROWN, P.C. for legal services regarding representation of the City of Scottsdale in the litigation entitled *City of Scottsdale v. Alpine Valley Limited Partnership*, Superior Court Case No. CV2001-012496, an eminent domain action brought to acquire real property for McDowell Sonoran Preserve.
Related Policies, References: Resolution No. 6382
Staff Contact(s): C. Brad Woodford, City Attorney, bwoodford@scottsdaleaz.gov; (480) 312-2405; Donna M. Bronski, Deputy City Attorney, dbronski@scottsdaleaz.gov, (480) 312-2405

5. **Contract for Legal Services in connection with *City of Scottsdale v. Bartlett View Properties II Limited,* Superior Court Case No. CV2001-012495.**
Request: Adopt Resolution No. 6383 authorizing the Mayor to execute Contract No. 2003-168-COS, an outside counsel contract renewal in a maximum amount of Forty Thousand Dollars ($40,000.00) with the law firm of AYERS & BROWN, P.C. for legal services regarding representation of the City of Scottsdale in the litigation entitled *City of Scottsdale v. Bartlett View Properties II Limited*, Superior Court Case No. CV2001-012495, an eminent domain action brought to acquire real property for McDowell Sonoran Preserve.
Related Policies, References: Resolution No. 6383
C. Brad Woodford, City Attorney, bwoodford@scottsdaleaz.gov, (480) 312-2405; Donna M. Bronski, Deputy City Attorney, dbronski@scottsdaleaz.gov, (480) 312-2405

6. **Design Arsenic Treatment Demonstration Project using partial funding from a U.S. Environmental Protection Agency grant.**
Request: Adopt Resolution No. 6378, authorizing the Water Resources Department to accept the Arsenic Treatment Demonstration Project matching grant from the U.S. Environmental Protection Agency for $433,700.
Related Policies, References:
   a. City of Scottsdale Water Resources Master Plan, approved by City Council on October 15, 2001.
   b. Engineering Services Contract No. 2002-139-COS, approved by City Council on November 18, 2002.
   c. US Congress Appropriations Act of 2003.

Staff Contact(s): David M. Mansfield, Water Resources General Manager, dmansfield@ScottsdaleAZ.gov, (480) 312-5681; Joe Gross, Water Resources Director, jgross@ScottsdaleAZ.gov, (480) 312-5628

Councilman Ortega requested that staff provide a brief status report on the city's arsenic mitigation efforts. Joe Gross explained that 90% of the design for the demonstration project is complete with construction targeted in early January.

Although the master plan identified eight sites, the number of anticipated arsenic treatment facilities have been reduced during the conceptual design phase. He noted that cost savings and efficiencies have been identified, with a blended system being used in some instances.

Councilman Ortega encouraged staff to continue to look for other federal funding. Mr. Gross estimated the costs for arsenic treatment at a little less than $50 million. He stated that the city's liaison group is working with the Washington liaison to include money for this year's appropriation bill.

7. **Construction Bid Award for Construction of two Groundwater Monitoring Wells near existing Aquifer Storage and Recovery (ASR) Well Site No. 122.**
Request: Authorize Construction Bid Award No. 04PB021 to Rainbow Drilling, the lowest responsive bidder, at their lump sum base bid of $148,620.00, for the construction of two groundwater monitoring wells near ASR Well No. 122 to ensure compliance with State monitoring requirements.
Related Policies, References:
   - Arizona Groundwater Management Act of 1980.
   - 2001 City of Scottsdale Water Resources Master Plan.
   - On November 18, 2002, City Council approved Engineering Services Contract No. 2002-137-COS for implementation of an ASR demonstration project at existing City Well Nos. 122 and 41. This contract will provide construction of monitoring wells required for regulatory compliance during ASR activities at Well No. 122.

Staff Contact(s): David M. Mansfield, Water Resources General Manager, dmansfield@ScottsdaleAZ.gov, (480) 312-5681; Marshall Brown, Hydrogeologist mpbrown@scottsdaleaz.gov (480) 312-5683

8. **WestWorld Paid Parking Vendor/Concession Agreement**
Request: Adopt Resolution No. 6390 authorizing Vendor/Concession Agreement No. 2003-169-COS to Professional Event Management, L.L.C., (ProEm) to administer the paid parking program during special events at WestWorld Equestrian and Special Event

Facility for an initial term of five years with an extension of another five-year term if mutually agreed upon. Vendor/Concessionaire management fee will be 8% of gross revenue collected, and their rates for staff and equipment will be as outlined in their bid proposal (Attachment No. 2).
Staff Contact(s): Brad Gessner, WestWorld General Manager (480) 312-6825, bgessner@scottsdaleaz.gov

In response to a request for additional information from Councilwoman Lukas, Brad Gessner explained that last year a pilot paid parking program was initiated. Five non-equestrian shows were included in the program netting over $40,000. He estimated that over $100,000 would be generated over the next year if this contract were approved.

9. Magnums Bar Liquor License
Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a person transfer of a series 6 (bar) State liquor license for an existing establishment that is currently operating with a series 6 license.
Location: 2623 N Scottsdale Rd
Reference: 70-LL-2003
Staff Contact(s): Yvonne Steill, Technology Coordinator, (480) 312-2699, ysteill@Scottsdaleaz.gov;
Robert Bushfield, Development Review and Permit Services Director, (480) 312-7096, rbushfield@ScottsdaleAZ.Gov

Mayor Manross opened public testimony.

Lyle Wurtz spoke regarding items 9, 10, 11, 12, 13, 14, and 15.

Lyle Wurtz, 6510 E. Palm Lane, suggested that a moratorium be placed on any new bars south of Shea to stop the concentration of this type of business in the downtown area.

Mayor Manross closed public testimony.

10. Benihana Liquor License
Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) State liquor license for a new restaurant/sushi bar located in the Promenade shopping center.
Location: 16403 N Scottsdale Rd
Reference: 71-LL-2003
Staff Contact(s): Yvonne Steill, Technology Coordinator, (480) 312-2699, ysteill@Scottsdaleaz.gov;
Robert Bushfield, Development Review and Permit Services Director, (480) 312-7096, rbushfield@ScottsdaleAZ.Gov

11. Papago Inn Liquor License

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a person transfer of a series 6 (bar) State liquor license for an existing bar located within a hotel.
Location: 7017 E McDowell Rd
Reference: 72-LL-2003
Staff Contacts: Yvonne Steill, Technology Coordinator, (480) 312-2699, ysteill@Scottsdaleaz.gov;
Robert Bushfield, Development Review and Permit Services Director, (480) 312-7096, rbushfield@ScottsdaleAZ.Gov

12. Loco Patron Liquor License

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) State liquor license for a vacant location which previously operated under the business name VooDoo Lounge.
Location: 4228 N Scottsdale Rd
Reference: 73-LL-2003
Staff Contacts: Yvonne Steill, Technology Coordinator, (480) 312-2699, ysteill@Scottsdaleaz.gov;
Robert Bushfield, Development Review and Permit Services Director, (480) 312-7096, rbushfield@ScottsdaleAZ.Gov

Councilman Ecton commented on items 12 and 14. He emphasized the importance of public input since it is a major factor when the state approves liquor licenses. He pointed out the concentration of businesses selling liquor within a half mile of the VooDoo Lounge (item 12) and the four previous liquor license violations disclosed by the applicant of item 14. He mentioned that staff is working on additional restrictions/procedures to be presented to Council in the near future.

13. Blue Wasabi Liquor License

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) State liquor license for a new restaurant/sushi bar location.
Location: 20751 N Pima Rd Ste 110
Reference: 74-LL-2003
Staff Contact(s): Yvonne Steill, Technology Coordinator, (480) 312-2699, ysteill@Scottsdaleaz.gov;
Robert Bushfield, Development Review and Permit Services Director, (480) 312-7096, rbushfield@ScottsdaleAZ.Gov

14. The Salty Senorita Liquor License

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) State liquor license for a vacant building which previously operated with a series 12 license under the business name Whiskey Creek Steakhouse.
Location: 3636 N Scottsdale Rd
Reference: 75-LL-2003
Staff Contact(s): Yvonne Steill, Technology Coordinator, (480) 312-2699, ysteill@Scottsdaleaz.gov;

Robert Bushfield, Development Review and Permit Services Director, (480) 312-7096, rbushfield@ScottsdaleAZ.Gov

Please see Councilman Ecton's comments under item 12.

15. Z Tejas Grill Liquor License

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a permanent extension of premises for an existing establishment currently operating with a series 12 (restaurant) liquor license.
Location: 7014 E Camelback Rd
Reference: 26-EX-2003
Staff Contact(s): Yvonne Steill, Technology Coordinator, (480) 312-2699, ysteill@Scottsdaleaz.gov;
Robert Bushfield, Development Review and Permit Services Director, (480) 312-7096, rbushfield@ScottsdaleAZ.Gov

16. DC Ranch Parcels 5.2 & 5.3 Final Plat

Request: Approve the Final Plat for DC Ranch Parcels 5.2 and 5.3 to construct 8 residential lots on a 22-acre parcel.
Location: East of Thompson Peak Parkway and South of Windgate Pass
Reference: 22-PP-2001
Staff Contact(s): Tim Curtis, Project Coordination Manager, (480) 312-4210, tcurtis@ScottsdaleAZ.gov; Kroy Ekblaw, Planning and Development Services General Manager,
(480) 312-7064, kekblaw@ScottsdaleAZ.gov

17. Pinnacle Vista Final Plat

Request: Approve the Final Plat for 6 residential lots with amended development standards, on private internal streets (tracts) on a 26.5 +/- acre parcel.
Location: SWC 114th St. & Oberlin
Reference: 21-PP-2002
Staff Contact(s): Al Ward, Senior Planner, (480) 312-7067, award@ScottsdaleAZ.gov; Kroy Ekblaw, Planning and Development Services General Manager, (480) 312-7064, kekblaw@ScottsdaleAZ.gov

18. Desert Mountain Cactus Use Permit

Request: Approve a conditional use permit for an alternative concealment wireless communication facility (30 ft tall stealth saguaro cactus) on a 26 +/- acre parcel located at 39730 N Cave Creek Road with Open Space Environmentally Sensitive Lands District (O-S ESL) zoning.
Location: 39730 N Cave Creek Rd
Reference: 22-UP-2003
Staff Contact(s): Tim Curtis, Project Coordination Manager, (480) 312-4210, tcurtis@ScottsdaleAZ.gov;
Kroy Ekblaw, Planning and Development Services General Manager, (480) 312-7064, kekblaw@ScottsdaleAZ.gov

19. Engineering Services Contracts for the design of Intelligent Transportation System Improvements along Pima Road, the Indian Bend Wash, Shea Blvd & the Arizona Canal

Request: Authorize the following contracts:

- Engineering Services Contract No. 2003-155-COS with ITS Engineers & Constructors, Inc, in the amount of $337,877 for the design of intelligent transportation system improvements on Pima Road-Indian School Road to Via Linda and Indian Bend Wash-Indian School Rd. to McDowell Rd.
- Engineering Services Contract No. 2003-159-COS with DKS Associates in the amount of $291,007 for the design of intelligent transportation system improvements along the Arizona Canal-Pima Road to Oak Street and Shea Blvd.-Scottsdale Rd. to 96th Street.

Related Policies, References:

- Design Concept Report Pima Road-June 2003
- Design Concept Report- Shea Blvd: Scottsdale to Pima August 2002
- Design Concept Report- Indian Bend Wash- June 2003
- ITS Master Plan- July 2003

Staff Contact(s): Al Dreska, Capital Project Management Administrator, (480) 312-5555, adreska@scottsdaleaz.gov; Douglas G. Cullinane, P.E., Sr. Project Manager, (480) 312-2681, dcullinane@scottsdaleaz.gov

20. Construction Bid Award for Water Distribution System Improvements – Group 1 (56th St. & Dixileta, Apache Peak Reservoir, and 64th St & Pinnacle Vista).

Request: Authorize Construction Bid Award No. 04PB008 to Blucor Contracting, Inc., the lowest responsive bidder, at their unit price bid of $382,704.56 for the construction of Water Distribution System Improvements - Group 1 (Vicinities of 56th Street and Dixileta, Apache Peak Reservoir, and 64th Street and Pinnacle Vista).

Staff Contact(s): Al Dreska, Capital Project Management Administrator, (480) 312-5555, adresdka@scottsdaleaz.gov, Alison Tymkiw, Project Manager, (480) 312-7985, atymkiw@ScottsdaleAZ.gov

****20A. Funds forwarding agreement with the Salt River Pima Maricopa Indian Community (SRPMIC) for the purpose of conveying $24,000 in SRPMIC revenue sharing grant funds to Living Well Traditionally Program and $7,000 to the American Indian Program at Scottsdale Community College.**

Request: Adopt Resolution No. 6397 (Attachment 1) to authorize Agreement No. 2003-173-COS (Attachment 2) that will enable the City to accept and appropriate $31,000 from Salt River Pima Maricopa Indian Community (SRP-MIC) This IGA is in accordance with Proposition 202, ARS 5-601 and will assist the SRP-MIC in conveying $24,000 of SRP-MIC funds to twelve student stipends for the Living Well Traditionally program for diabetes prevention and $7,000 of SRP-MIC funds for the purchase of computer equipment for the American Indian Program at Scottsdale Community College. The FY 02/03 Grants Budget included budget for this grant.

Related Policies, References: Proposition 202; ARS 5-601

Staff Contact(s): Steve Olson, Government Relations Director, 312-2423, solson@scottsdaleaz.gov

Per a request by Councilman Ortega, Attorney Woodford explained that slight revisions in paragraphs 5 and 6 of the proposed agreement were completed at the tribe's request.

****20B. REMOVED FROM CONSENT AGENDA FOR SEPARATE DISCUSSION. SEE PAGE 10**

****20C. Adopt Resolution 6395 authorizing city defense and indemnification of the City Manager in new lawsuit filed by former City Police Chief.**

Request: Authorization for the City to pay for the defense and indemnification of the City Manager, Jan Dolan, in the lawsuit by Douglas L. Bartosh against the City of Scottsdale, City Council Members, and the City Manager, in the U.S. District Court for the District of Arizona, Case No. CV'03-1986-PHX-EHC.

Related Policies, References: S.R.C. Section 2-179.

Staff Contact(s): C. Brad Woodford, City Attorney, bwoodford@scottsdaleaz.gov; (480) 312-2405; Donna M. Bronski, Deputy City Attorney, dbronski@scottsdaleaz.gov, (480) 312-2405

COUNCILMAN ORTEGA MOVED TO APPROVE CONSENT AGENDA ITEMS 1-20C EXCLUDING 20B ACCEPTING THE PROPOSED REVISIONS OF ITEM 20A. COUNCILWOMAN LUKAS SECONDED THE MOTION WHICH CARRIED 7/0.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION

****20B. Financial Advance to the Scottsdale Cultural Council for preparation of the former IMAX Theater located at 4301 N. Scottsdale Road for live theater performances.**

Request: Authorize Agreement No. 2003-172-COS approving an advance of $150,000 to the Scottsdale Cultural Council for preparation of the former IMAX Theater ("Theater") for production of MENOPAUSE, The MUSICAL and authorize the use of the Community Arts Trust Fund for that purpose.

Staff Contact(s): William Exham, Community Services General Manager, (480) 312-2377 bexham@scottsdaleaz.gov

Ed Gawf presented the following information to introduce item 20B for discussion.

Production at Former IMAX Theater

- Cultural Council leases theater from JEMB Realty
  - Hosts production of Menopause, The Musical
    - Begins January, 2004; long term run
    - 87% paid capacity at SCA this summer (838 seat theater)
    - Production successful around country
  - Production will have 8 performances per week
    - Average projected ticket price = $33.00
    - 325 seats

Production at Former IMAX Theater
Theater to be Refurbished
–Cultural Council provides $160,000 (for start up costs, marketing, and production)
–JEMB Realty provides $150,000 (for building improvements)
•Initial rent of 2% of gross ticket sales plus utilities
–City advances $150,000 to the Cultural Council (paid back from revenue generated from the play)
•Community Arts Trust is the funding

Mr. Gawf explained that the Cultural Council wanted to ensure the play was successful before signing a long-term contract; therefore, the property owner is reluctant to invest additional money in the building at this time.

Production at Former IMAX Theater
Repayment of City Advance
–Start-up costs and equipment rental recovered in approximately 22 weeks @ 81.5% paid capacity
–City advance and CC investment repaid dollar for dollar basis each month
•Funds to City go back to Community Arts Trust
–If production does not meet revenue projections, City may not be repaid total advance
•Arts Trust still utilized for intended purpose

Production at Former IMAX Theater
Benefits of Proposal
–Activate a currently vacant property in Downtown
–Brings 2000 more people per week Downtown
–Test case for viability of expanding cultural activities Downtown

****

Mayor Manross opened public testimony.

Lyle Wurtz, 6510 E. Palm Lane, expressed his opposition to the city backing a Broadway play with no guarantee that the money would be reimbursed. He stated concern that some of the money would be used to refurbish the theater with the potential to purchase it at a later time. He questioned if the investment would increase the value of the property; thereby, increasing the purchase price.

Mayor Manross closed public testimony.

Councilman Littlefield explained that the issue is proposed as an art item. He expressed his belief that the proposal is basically an unsecured loan for tenant improvements on private property. He felt that this is an inappropriate use for the funds, and suggested that the city redirect the money to services the city cut in the last budget process.

Mayor Manross clarified that the city's portion of the money would come from the Cultural Arts Trust Fund, which was created to provide and enhance arts in the community. She stated her belief that this would be a small investment relative to the positive benefits it would bring to the downtown. She noted that the project is a creative way to "jump start" the arts in the waterfront area in the downtown.

Councilman Ortega explained that the ERA study completed a few years ago identified the advantages of cultural venues in the downtown. In response to a request from Councilman Ortega, Frank Jacobson explained that the ERA study indicated that the demographics of the area and tourists would support cultural events.

In response to additional questions from Councilman Ortega, Bill Exham explained that the Community Arts Trust is funded through the rent city receives from the Scottsdale Artist School. The trust was established to support the arts, although there are no specific restrictions. He noted that there is currently approximately $283,000 in the fund since it hasn't been used for any other projects.

Councilman O'Hearn explained that once a year or so Council meets with the Cultural Council to determine the goals for city art and cultural events. He recalled that Council encouraged the Cultural Council to seek space downtown in existing buildings to house productions, rather than constructing new buildings. He noted that the Cultural Council is doing exactly what Council instructed them to do with this proposal.

COUNCILMAN O'HEARN MOVED TO AUTHORIZE AGREEMENT NO. 2003-172-COS APPROVING AN ADVANCE OF $150,000 TO THE SCOTTSDALE CULTURAL COUNCIL FOR PREPARATION OF THE FORMER IMAX THEATER ("THEATER") FOR PRODUCTION OF MENOPAUSE, THE MUSICAL AND AUTHORIZE THE USE OF THE COMMUNITY ARTS TRUST FUND FOR THAT PURPOSE. COUNCILMAN SILVERMAN SECONDED THE MOTION (WHICH CARRIED 6/1 – R.L.).

Councilman Silverman expressed his belief that this project is exactly what is needed downtown to provide evening activities.

Councilwoman Lukas stated her opinion that this is another good investment in the downtown area. She felt it would compliment the waterfront development. She emphasized that the plan is a creative use of appropriate funds.

Councilman Ecton stated that the city's participation in this project is a small investment with high potential. If this project is successful, he questioned why the city couldn't move forward with other ventures such as this one.

Councilman Littlefield reiterated his opposition to the city's participation in the project. He stressed his opinion that this project is the wrong use of city money in general.

Mayor Manross stated her belief that the play would be wonderful for the entire community. She felt the city must be creative in bringing business into the downtown area.

Following the discussion, THE MOTION CARRIED 6/1 (R.L.).

REGULAR AGENDA ITEM 21

21. City of Scottsdale Streets Master Plan

Request: Consider adoption of Resolution 6377, accepting the Streets Master Plan as the official street plan for the City of Scottsdale.

Staff Contact(s): John C. Little, Transportation General Manager, (480) 312-2539, jlittle@scottsdaleaz.gov; Michelle Korf, Transportation Planning Director, (480) 312-2638, mkorf@scottsdaleaz.gov; Aaron Iverson, Transportation Planner, (480)-312-7637, aiverson@scottsdaleaz.gov

John Little introduced the Streets Master Plan with the following information.

Streets Master Plan

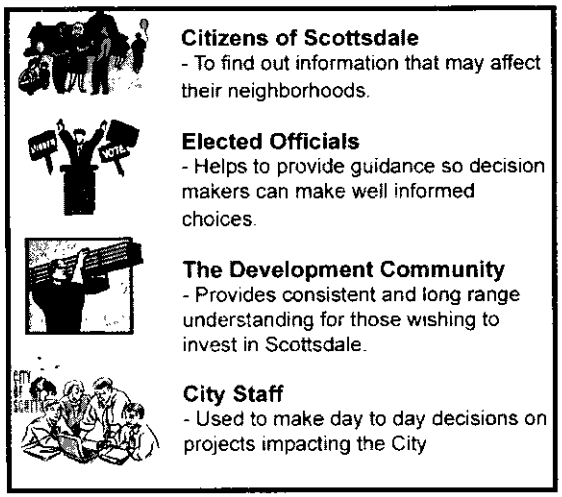
Presentation Overview

-Streets Master Plan Background
- How it is Used
-- Process in Creating the Plan
-What's in the Plan

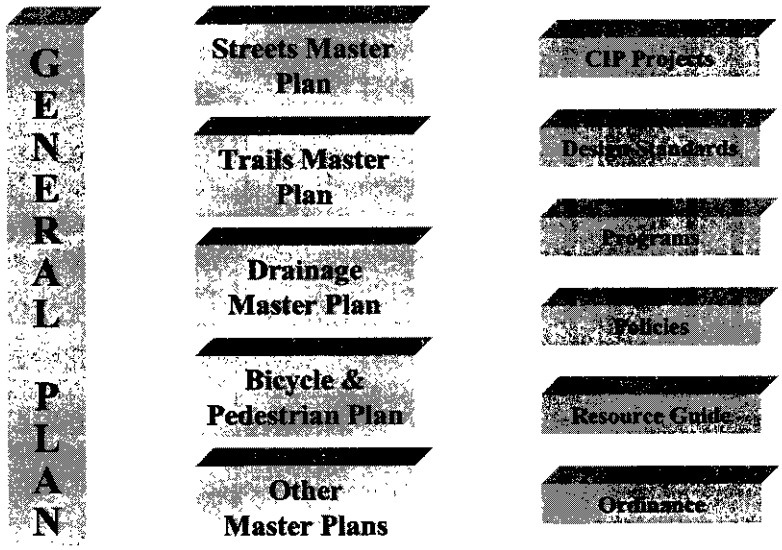
Plan Background

- New General Plan Adopted in 2001
- Classification Map Needed Updating
- Street Cross-Sections Needed Reviewing

How is the Plan Used?



Plan Background



Michelle Korf presented the following information.

Plan Process
Working Team

❖Inter – Departmental
•Transportation Planning
•Land Use Planning
•Traffic Engineering
•Trails
•Transit

❖Planning Workshops
•Existing Conditions
•Cross-Sections
•Classification Map
•Draft Plan Review

The working team represents a collaboration—pulled together cross-disciplinary team with representatives from several areas:

A series of workshops were conducted where staff looked at…
existing data such as recent aerials, the map from the previous GP and cross sections that had been in use over the past several years
traffic projections
land use projections (employment cores)

Together this group developed a draft plan that would be submitted for further review by the public

Public Involvement

❖Web-Site, Jan. 2003

•General Info
•Downloads of Draft Plan
•Public Meetings Posted
•Contact and Feedback

❖Public Open Houses

•Dixileta Neighborhood (Feb. 13)
•Open House 1 (Feb. 27)
•Open House 2 (March 6)
•Open House 3 (March 18)

Plan went out into the community in several different forms

Launched a website earlier this year
overview of our effort to update the SMP
contained draft versions of the plan itself so that anyone could download it if they wished
info on upcoming mtgs
opportunities for feedback

Open houses held throughout the city
Including a request by Dixileta neighborhood for a presentation

Over 100 people attended…

This plan generated a lot of interest in the media
Coverage was positive—encouraged citizens to think about the future roadway network
Get involved in helping to shape the plan

Plan Process

Presentation at Joint TC and Parks (Aug. 02)
Planning Commission (Nov, Dec. 02)
"Let's Get Moving" Segment for Channel 11 (Jan. 03)
Present Draft to Planning Commission (Feb. 03)
Present Draft to Parks Commission (March 03)
Transportation Commission **Recommends for Approval** (June 03)
Individual meetings with adjacent communities (Summer 03)
Ongoing participation with individual citizens (throughout process)

As plan was being refined more and more people looked at it
Transportation Commission received several updates, each of which was televised on City Cable 11
Joint meeting between the TC & Parks Commission where additional public comment was taken
Planning Commission heard two briefings on the status of this effort.
An informational segment was taped for "let's get moving" on Channel 11

Staff met with adjacent communities to ensure continuity wherever possible
One on one meetings with individuals with a particular interest
Culminated in a recommendation by TC in June requesting that CC approve plan

So what's in the plan?
Goals and objectives
Street classification map
Street cross sections---what the road should look like

Goals and Objectives---make the plan come alive-- "A roadmap for our roadmap"
Within this section are specific strategies for implementing the plan
For example...this goal speaks to the importance of protecting regional connections.
To achieve this we have objectives that address access control policies---limiting driveways---on major streets
By limiting direct driveway access to busy streets such as Shea Blvd, we are able to protect the capacity of the thru traffic movements
Other goals include creating a street network that is multimodal and to protect neighborhoods from cut-thru traffic

Street Classification Map
Significant Changes
Protecting the Preserve
•Lone Mountain 6 to 4 lanes
•Dixileta from 4 to 2 lanes
Ultimate roadway widths tended to decrease
Reflects proposed MAG Regional Transportation Plan
This is the new proposed classification map: what council is being asked to approve.

Tells us how wide roads should ultimately be. Several functional classifications:
Arterial roads are our regional connectors—widest---up to 6 lanes—and carry up to 55,00 cars per day (Scottsdale, Shea, Hayden)
Collectors---generally 4-lanes, think of them as providing citywide connections (Mountain View, Cactus, Miller)
Local & Residential—2-lane low volume roads that serve neighborhoods and small businesses
Differences in classifications can be characterized by the number of lanes, how much traffic they carry, signal spacing and access control
Some specific changes from the old map:
Not planning to build any roads in the preserve—Lone Mtn thru preserve has been removed
Roads in the vicinity of the preserve changed as well--Lone Mountain west of Pima changed from 6 to 4 lanes
Dixileta changed from 4 to 2 lanes

Cross sections---what the road should look like, whether there should be landscaped medians, trails or sidewalks
There are more cross sections than previously used, which reflects community feedback we received that says one size does not fit all
Our objective is to make sure roads are built appropriate to the environment we are trying to maintain
For example....Hayden Road looks different at
McDowell Road (surrounded by businesses---needs sidewalks, bus bays)
McCormick Parkway (more residential, wider medians)
Pinnacle Peak (more rural—no sidewalks or bus bays)
These cross sections are descriptors that show citizens, policymakers and developers what they can expect to see when a road is being planned for an area.

How Changes are Made
•Changes to the document can be implemented via staff with oversight by Transportation Commission.
••Changes to the Classification Map, which would be changing a street classification, must be approved by City Council

This plan represents our best thinking today. However as with any projections, it can be impacted by unforeseen circumstances. It can also be impacted by the cumulative effect of decisions made every day, by a change in community values or the city council's strategic plan. In other words, it is subject to change.
Plan to update it on a regular basis (every five years)
Allows for changes to be made
Minor changes—decisions regarding whether bus bays are appropriate, will be made with participation from the TC
Major changes---those that affect the map—or number of lanes a road should have---will require council approval
This ensures flexibility in the SMP, yet provides a solid foundation of guidelines for staff, for developers and for the community in planning for our future roadway network

Action to be considered:
Approval of Resolution No. 6377
-Accepts October 2003 document.
-Adopts Streets Classification Map (page 14, figure 3-C).
****

Councilman Ecton explained that the Streets Master Plan clearly illustrates some of the needs that must be addressed within the city. The plan directs attention towards the ultimate street network, although he pointed out that the city's network system is being impacted by surrounding communities. He suggested that the city consider placing specific requirements on developers in terms of street design, bicycle lanes, setbacks, etc., rather than the guidelines that are followed currently. He expressed his opinion that the city might not want to wait five years to update the plan and should think further in the future to accommodate technological advances.

COUNCILMAN ECTON MOVED TO ADOPT RESOLUTION 6377, ACCEPTING THE STREETS MASTER PLAN AS THE OFFICIAL STREET PLAN FOR THE CITY OF SCOTTSDALE. COUNCILMAN SILVERMAN SECONDED THE MOTION (WHICH CARRIED 7/0).

In response to questions from Councilman Silverman, Ms. Korf confirmed that the proposed plan doesn't address a light rail system.

Councilwoman Lukas agreed that the city might not want to wait five years to update the plan. She stated her appreciation of the goals listed in the plan, and stressed the extensive outreach that was conducted. In response to questions from Councilwoman Lukas, Mr. Little explained that the city's best projects occur when citizens are involved early in the process. In the case of the Hayden-Miller Road changes that are under construction, a number of neighborhood meetings were conducted. Towards the end of the process, concern was expressed over the engineer's recommendation to prohibit left turns out of Sonoran Hills onto Hayden. He stated that he would be happy to meet with concerned citizens to discuss the decision and to try to develop alternatives.

Councilman Littlefield questioned the language in the proposed plan stating that the plan is consistent with the proposed 20-year Regional Transportation Plan, which includes light rail. Ms. Korf clarified that there is no provision for funding in the Regional Transportation Plan. The reference to the proposed Regional Transportation Plan in the Street Master Plan referred to arterial streets.

Mayor Manross opened public testimony.

Leon Spiro, 7814 E. Oberlin Way, questioned if the plan addresses local neighborhood streets and if a change in a neighborhood circulation plan requires Council approval.

Howard Myers, 6631 E. Horned Owl Trail, spoke in support of the proposed Street Plan. He stated that staff has worked with citizens to develop rural road cross-sections and emphasized that the proposed plan would be the first step in implementing them. He urged the city not to abandon excess right-of-ways in the future to allow options for hiking trails, bike lanes, etc.

Mayor Manross closed public testimony.

Councilwoman Lukas questioned how changes would be made to the classification map in response to citizen requests. Ms. Korf explained that if concerns that initiated a request remain after follow-up measures are taken, staff would look at the impacts of making further changes at the request of Council. She confirmed that the intersection improvements at Hayden-Chaparral and Hayden-Camelback are due to be completed in early November.

Mr. Little confirmed for Councilman Ortega that the Regional Transportation Plan would be voted on countywide. Councilman Ortega noted that the Streets Master Plan would remain regardless of whether or not the regional plan is approved.

In response to additional questions from Councilman Ortega, Mr. Little explained that the city has funds that are used for transportation improvements that are not regional in nature. If voters do not adopt the regional plan, the city would move forward on local transportation improvements. The city would tackle regional transportation improvements over a longer period of time.

Councilman Ortega questioned if the proposed Pima Road improvements are located on city land. Mr. Little clarified that proposed improvements in the regional plan includes portions of Pima Road within the city boundary and on Indian property. The city does not have any bond money or capital funds for Pima Road improvements from McKellips to Via DeVentura. If Pima Road from McKellips to 90th Street were to be widened, the improvements would be completed to the east on the Salt River Pima-Maricopa Indian Community property. Ms. Dolan clarified that the city's position, as far as direct funds from the city for

Pima Road improvements, is that the city would only fund improvements that have a positive impact for the city. The regional transportation tax is a blended tax that is centrally collected and then distributed through MAG.

Councilman Ortega explained that the Regional Transportation Plan creates prime real estate just west of the 101. He expressed concern that, without an agreement stipulating revenue sharing, any improvements to Pima Road funded by the city would essentially be subsidizing development along the entire corridor. Ms. Dolan explained that discussions with the community about any direct city funds would be based upon benefit. The topic of tax sharing is appropriate as part of any future discussions.

Mr. Little confirmed for Councilman Ortega that cost estimates for road improvements, especially if they are adjacent to residential areas, include mitigation as a potential cost. He explained that no lanes would be added to Shea Boulevard with the plan; however, capacity could be increased with the introduction of technology, left and right turn lanes, etc. He assured Council that he would provide additional information on the estimated costs associated with Shea improvements.

Mayor Manross emphasized that the proposed Regional Transportation Plan would benefit all communities to create a regionally connected transportation system.

Councilman O'Hearn questioned if the Streets Master Plan was controversial during the public outreach process. Mr. Little explained that the meetings were not controversial, although there was a lot of citizen interest. He pointed out that the city's website that focuses on the Streets Master Plan is one of the top sites in terms of the number of hits it gets from citizens. He assured Council that any downsizing of roads is consistent with the city's forecast since it is imperative that the roadway system work.

Following the discussion, THE MOTION CARRIED 7/0.

Public Comment

Lyle Wurtz, 7814 E. Oberlin Way, suggested that Council wait until public testimony is over before stating their position on an issue.

City Manager's Report - None

Mayor and Council Items - None

Adjournment

With no further business to discuss, Mayor Manross adjourned the meeting at 7:18 P.M.

SUBMITTED BY:

Ann Eyerly, Council Recorder

REVIEWED BY:

Carolyn Jagger, City Clerk

CERTIFICATE

I hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Regular City Council Meeting of the City Council of Scottsdale, Arizona held on the 20th day of October 2003.

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

DATED this 27th day of October 2003.

CAROLYN JAGGER
City Clerk

Jagger, Carolyn

From: leon spiro [leonspiro@hotmail.com]
Sent: Friday, September 05, 2003 9:06 AM
To: Deeley, Pete
Cc: Manross, Mary
Subject: Comment for 4-AB-2003

P.Deeley,Project Coordination Manager; Mayor Manross and all Council Members. The following comment is for the PUBLIC RECORD and to be read at Council Meeting on 9 September 2003 and to be placed into Minutes for this meeting. Item # 11, Chalphin GLO Abandonment Request. Comment: A Realtor friend of mine has used the term "buyer beware" when purchasing Real Estate. Council members,would anyone of you purchase a property with a portion of the home constructed on a roadway easement? Well, when Case 4-AB-2003 was presented to the Planning Commission this is exactly what was stated "for the record" that Mr. Chalphin purchased his property with a portion of his home constructed in a Federal Patent Roadway Easement. If the Council approves this roadway abandonment request is the City declaring tonight that they are the responsible party, the liabled party, for this construction for certainly the City Staff approved the building plans and the site plan for construction on this Federal Patent Roadway Easement? Mr. Chalphin, I believe , you own a property for which you have a "clouded" title. Maybe you should seek the advice of a non-vested Attorney. May I say, a Mr. Charles Ayers, a Phoenix Attorney, recently litigated a case very similar to this. the case was Hampton vs. Zelman. L.Spiro, a Concerned Citizen of Scottsdale and a GLO Property Owner.

Jagger, Carolyn

From: Dolan, Jan
Sent: Tuesday, September 09, 2003 12:24 PM
To: Jagger, Carolyn; Manross, Mary; Kulaga, Jeff
Subject: FW: Consent Agenda Items #11, #19, #21, Council Meeting 9 Sept.2003

Jan

Jan Dolan
City Manager
3939 N. Drinkwater Blvd.
Scottsdale, AZ 85251
480.312.2422
www.scottsdaleaz.gov

-----Original Message-----
From: leon spiro [mailto:leonspiro@hotmail.com]
Sent: Tuesday, September 09, 2003 6:20 AM
To: Dolan, Jan
Cc: jsaleo@msn.com
Subject: Consent Agenda Items #11, #19, #21, Council Meeting 9 Sept.2003

City Manager J.Dolan: As the leader of the Administrative Staff of the City of Scottsdale, will you please see that these Citizen Input Statements are read at the appropriate time for presentationt to the Council and to all those in attendence at this meeting. Please see ,too, that these Input Statements are recorded in the Council Minutes for this session. P. Deeley, C. Sumners, and K. Jones all have been sent this correspondence that applies to them.. There may be others whose Input Statements should also be honored. Thank you. L. Spiro, A Concerned Citizen of Scottsdale.

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From : "leon spiro" <leonspiro@hotmail.com>
To : jdolan@scottsdaleaz.gov
CC : psalex@msn.com
Subject : Fwd: Consent Agenda#6c, Sept.2003 Trails NOrth
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>From: "leon spiro"

>To: kjones@scottsdaleaz.gov
>CC: mmanross@scottsdaleaz.gov
>Subject: Consent Agenda#6c, Sept.2003 Trails NOrth
>Date: Mon, 08 Sep 2003 09:11:30 -0700
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Item # 19 9 SEPT. 2003

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To : kjones@scottsdaleaz.gov
CC : mmanross@scottsdaleaz.gov
Subject : Consent Agenda #6c, Sept.2003 Trails NOrth
Date : Mon, 08 Sep 2003 09:11:30 -0700

FOR THE PUBLIC RECORD: Request that the following Citizen Input Statement be read at the time of presentation of consideration of Consent Agenda Item #19, Trails North Final Plat,and placed in the recorded Minutes for this meeting. Statement to the Council and all in attendence at the 9 September 2003 Council Meeting. I reference Item #19, Trails North Final Plat,4-PP-2002#2, for presentation aproval/disapproval on 9 September 2003. It is stated " for the record " that the City of Scottsdale when abandoning GLO, Federal Land Patented Roadway Easement Reservations, "is only abandoning the public access rights to these easements and no private property rights , should they exist". This statement has been made by the Ex- City Attorney David Pennartz and Mayor Manross which is "for the record statements". If by approving this Plat Plan which permits construction/blockage on these Federal Roadway Easements is the City assuming liability for this construction should there ever be a "private property rights " claim made against these properties? Is the Attorney for the Developer aware of the fact that the City is only abandoning the "public access rights and not any private property right should they exist"? Has the Attorney for the Law Firm informed the Developer and all others concerned of this fact? Once again the question to the Council is this, is the City the liabled party if there is ever such a law suit? L. Spiro , A Concerned Citizen of Scottsdale and a GLO Property Owner.

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From : "leon spiro" <leonspiro@hotmail.com>
To : jdolan@scottsdale.gov
CC : psaleo@msn.com
Subject : Fwd: Consent Agenda Item#21,Resolution 6369,Meeting 9 Sept.2003
Date : Tue, 09 Sep 2003 06:31:31 -0700

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>From: "leon spiro"
>To: ssumners@scottsdaleaz.gov
>CC: mmanross@scottsdaleaz.gov
>Subject: Consent Agenda Item#21,Resolution 6369,Meeting 9 Sept.2003
>Date: Sun, 07 Sep 2003 07:51:39 -0700
> #21 9 SEPT. 2003

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From : "leon spiro" <leonspiro@hotmail.com>
To : ssumners@scottsdaleaz.gov
CC : mmanross@scottsdaleaz.gov
Subject : Consent Agenda Item#21,Resolution 6369,Meeting 9 Sept.2003
Date : Sun, 07 Sep 2003 07:51:39 -0700

FOR THE RECORD : S. Sumners, Senior Planner, Mayor Manross and all Council Members: Request that the following Comment for Consent Agenda Item #21 for Approval Resolution #6369 ,9 September 2003 Council Meeting, be read to at the appropriate time for presentation of this case to the City Council and all in attendence at this public Council Meeting. Statement: I wish to state that I am of the understanding that the City of Scottsdale upon approval of this Resolution#6369 " is only abandoning the Cities interest and Public Access rights to these Federal Land Patented Roadway Easements and not any private property rights , if they exist. This is a previous "For the Record" statement made by both the Ex City Attorney David Pennartz and Mayor Mary Manross. With construction/ blockage/,gating being authorized with approval of Consent Agenda Item # 19, Trails North Hat Han, which shows construction on these Federal Patented Roadway Easement Reservations, isn't the City admitting liability in the event of any future private property"appurtenant / in gross" easement claim? And "if not", please explain to all, "why not"? L. Spiro A concerned citizen and GLO property owner. PS: In this Case File presented to the Council , why is there no Legal Department Check List Statement regarding a "private property right" disclaimer as was done in Case 4-AB-2003 which is also a Federal Patent Roadway Easement abandonment case? LS

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