APPROVED

MINUTES

SCOTTSDALE CITY COUNCIL

TUESDAY, MAY 4, 2004

CITY HALL KIVA
3939 DRINKWATER BOULEVARD
SCOTTSDALE AZ 85251

MINUTES
SCOTTSDALE CITY COUNCIL
Tuesday, May 4, 2004

CALL TO ORDER

Mayor Manross called to order a Regular Meeting of the Scottsdale City Council on Tuesday, May 4, 2004 in the Kiva, City Hall, at 5:06 P.M.

ROLL CALL

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

Also Present: City Manager Jan Dolan
City Attorney Joseph Bertoldo
City Clerk Carolyn Jagger

Pledge of Allegiance

Scouts from Troop #1627 at Cheyenne Elementary School and their Troop Leader, Melinda Ducios, led the audience in the pledge.

Invocation

Pastor Bob Goess from Rock Church offered the invocation.

Presentations/Information Updates

State Spelling Bee Proclamation **(Presented at the May 3, 2004 Work study Session.)**

Arizona Dispute Resolution Week Proclamation **(Presented at the May 3, 2004 Work study Session.)**

Public Comment

Mayor Manross opened public testimony.

Howard Myers, 6631 E Horned Owl Tr, 85262, thanked outgoing council members for their service.

Lyle Wurtz, 6510 E Palm Ln, 85257, expressed concern about too many Consent Agenda items and read an excerpt from Arizona Revised Statutes as a reference (attached).

Leon Spiro, 7814 E Oberlin Wy, 85262, expressed his belief that the Mayor and Council were violating Open Meeting Laws in regard to items placed on the Consent Agenda.

Mayor Manross closed public testimony.

Minutes

SPECIAL MEETINGS	REGULAR MEETINGS	EXECUTIVE SESSIONS
April 20, 2004	April 20, 2004	March 16, 2004

COUNCILWOMAN PILCHER MOVED FOR APPROVAL OF THE SPECIAL AND REGULAR MEETING MINUTES OF APRIL 20, 2004, AND THE EXECUTIVE SESSION MINUTES OF MARCH 16, 2004. COUNCILMAN SILVERMAN SECONDED THE MOTION, WHICH CARRIED 7/0.

CONSENT AGENDA ITEMS 1 - 23

1. **Harry's Strip Club 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 an existing restaurant that formerly operated under the business name Ayako of Japan.
Location: 7042 E. Indian School Road
Reference: 19-LL-2004
Staff Contact(s): Kroy Ekblaw, Planning and Development Services General Manager, 480-312-7064, kekblaw@scottsdaleaz.gov; Bob Bushfield, Development Review and Permit Services Director, 480-312-7096, bbushfield@scottsdaleaz.gov

2. **Spice Restaurant & Lounge 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 an existing location that previously operated with a series 12 license under the business name Moloko.
Location: 7228 E. 1st Avenue
Reference: 20-LL-2004
Staff Contact(s): Kroy Ekblaw, Planning and Development Services General Manager, 480-312-7064, kekblaw@scottsdaleaz.gov; Bob Bushfield, Development Review and Permit Services Director, 480-312-7096, bbushfield@scottsdaleaz.gov

3. **Phoenix Wine Liquor License**
Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 10 (beer/wine store) State liquor license for a new beer/wine store location.
Location: 10820 N. 71st Place
Reference: 21-LL-2004
Staff Contact(s): Kroy Ekblaw, Planning and Development Services General Manager, 480-312-7064, kekblaw@scottsdaleaz.gov; Bob Bushfield, Development Review and Permit Services Director, 480-312-7096, bbushfield@scottsdaleaz.gov

4. **Maria's When in Naples 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 an existing restaurant.
Location: 7000 E. Shea Boulevard, Suite 1010
Reference: 22-LL-2004
Staff Contacts: Kroy Ekblaw, Planning and Development Services General Manager, 480-312-7064, kekblaw@scottsdaleaz.gov; Bob Bushfield, Development Review and Permit Services Director, 480-312-7096, bbushfield@scottsdaleaz.gov

5. **Saigon Nites Vietnamese Cuisine 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 previously unlicensed location.
Location: 15111 N. Hayden Road, Suite 110
Reference: 23-LL-2004
Staff Contact(s): Kroy Ekblaw, Planning and Development Services General Manager, 480-312-7064, kekblaw@scottsdaleaz.gov; Bob Bushfield, Development Review and Permit Services Director, 480-312-7096, bbushfield@scottsdaleaz.gov

6. **Cocina Mexico Restaurante 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 an existing restaurant location that previously operated with a restaurant license under the business name Casa Mia Ristorante Italiano.
Location: 11219 E. Via Linda, #D-1
Reference: 24-LL-2004
Staff Contact(s): Kroy Ekblaw, Planning and Development Services General Manager, 480-312-7064, kekblaw@scottsdaleaz.gov; Bob Bushfield, Development Review and Permit Services Director, 480-312-7096, bbushfield@scottsdaleaz.gov

7. **Jack's Convenient Store Liquor License**
Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 10 (beer/wine store) State liquor license for an establishment that previously operated with a series 09 (liquor store) license under the business name Scottsdale Liquor Mart.
Location: 2931 N. 68th Street
Reference: 25-LL-2004
Staff Contact(s): Kroy Ekblaw, Planning and Development Services General Manager, 480-312-7064, kekblaw@scottsdaleaz.gov; Bob Bushfield, Development Review and Permit Services Director, 480-312-7096, bbushfield@scottsdaleaz.gov

8. **Dirty Dogg Bar Conditional Use Permit**
Request: Consider approving a conditional use permit for a bar in an existing building located at 10409 N. Scottsdale Road with Highway Commercial District (C-3) zoning.
Location: 10409 N. Scottsdale Road
Reference: 4-UP-2004

Staff Contact(s): Randy Grant, Chief Planning Officer, 480-312-7995, rgrant@scottsdaleaz.gov; Kira Wauwie, Project Coordination Manager, 480-312-7061, kwauwie@scottsdaleaz.gov

9. **Dirty Dogg Bar Liquor License**
Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 6 (bar) State liquor license for a location that previously operated with a series 12 (restaurant) license under the business name El Camino Cafe.
Location: 10409 N. Scottsdale Road
Reference: 3-LL-2004
Staff Contact(s): Kroy Ekblaw, Planning and Development Services General Manager, 480-312-7064, kekblaw@scottsdaleaz.gov; Bob Bushfield, Development Review and Permit Services Director, 480-312-7096, bbushfield@scottsdaleaz.gov

10. **Patsy Grimaldis Pizzeria Permanent Extension of Premises**
Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a permanent extension of premises that will add a new waiting/seating area to an existing restaurant.
Location: 4000 N. Scottsdale Road
Reference: 15-EX-2004
Staff Contacts: Kroy Ekblaw, Planning and Development Services General Manager, 480-312-7064, kekblaw@scottsdaleaz.gov; Bob Bushfield, Development Review and Permit Services Director, 480-312-7096, bbushfield@scottsdaleaz.gov

11. **E4 Development Group Conditional Use Permit**
Request: Consider approving a conditional use permit for a bar on a .98 +/- acre parcel located at 4282 N. Drinkwater Blvd. with Downtown/Office Residential Type 2, Planned Block Development, Downtown Overlay (D/OR-2 PBD DO) zoning.
Location: 4282 N. Drinkwater Boulevard
Reference: 1-UP-2004
Staff Contact(s): Randy Grant, Chief Planning Officer, 480-312-7995, rgrant@scottsdaleaz.gov; Bill Verschuren, Senior Planner, 480-312-7734, bverschuren@scottsdaleaz.gov

12. **Jamaican Blue Conditional Use Permit**
Request: Consider approving a conditional use permit for a bar in a building located at 4017 N. Scottsdale Road, Suite 104 with Downtown, Retail Specialty Type 1 District, Downtown Overlay (D/RS-1 DO) zoning.
Location: 4017 N. Scottsdale Road, Suite 104
Reference: 5-UP-2004
Staff Contact(s): Randy Grant, Chief Planning Officer, 480-312-7995, rgrant@scottsdaleaz.gov; Bill Verschuren, Senior Planner, 480-312-7734, bverschuren@scottsdaleaz.gov

13. Montacino McDowell Mountain Final Plat

Request: Approve the Final Plat for 28 residential lots with amended development standards on a 7.226 acre parcel.
Location: 330' west of the southwest corner of Shea Boulevard and 124th Street
Reference: 10-PP-2003
Staff Contact(s): Randy Grant, Chief Planning Officer, 480-312-7995, rgrant@scottsdaleaz.gov; Tim Curtis, Project Coordination Manager, 480-312-4210, tcurtis@scottsdaleaz.gov

Mayor Manross opened public testimony.

Leon Spiro, 7814 E Oberlin Wy, 85262, requested a staff presentation. Mayor Manross reminded Mr. Spiro that the item was on the Consent Agenda. She urged Mr. Spiro to make his comments for the record. Mr. Spiro stated his belief that the Council was acting illegally in these types of cases and pointed out what he considered to be a flaw in the subdivision plan regarding access from Cochise Street.

Mayor Manross closed public testimony.

14. Pink Pony Restaurant Historic Property Overlay

Requests:

1. Consider a request to rezone from Central Business District Downtown Overlay (C-2 DO) to Central Business District, Downtown Overlay, Historic Property (C-2 DO HP) for the Pink Pony Restaurant (.2 +/- acre parcel) at 3831 N. Scottsdale Road and to place the property on the Scottsdale Historic Register.
2. Consider adopting Ordinance No. 3562 affirming the rezoning.

Location: 3831 N. Scottsdale Road
Reference: 19-ZN-2003/5-HP-2003
Staff Contact(s): Robert J. Cafarella, Director, Preservation Division, 480-312-2577, rcafarella@scottsdaleaz.gov; Don Meserve, Preservation Planner, 480-312-2523, dmeserve@scottsdaleaz.gov; Randy Grant, Chief Planning Officer, 480-312-7995, rgrant@scottsdaleaz.gov

15. Sugar Bowl Restaurant Historic Property Overlay

Requests:

1. Consider a request to rezone from Central Business District, Downtown Overlay (C-2 DO) to Central Business District, Downtown Overlay, Historic Property (C-2 DO HP) for the Sugar Bowl Restaurant (.13 +/- acre parcel) at 3935 and 4005 N. Scottsdale Road and to place the property on the Scottsdale Historic Register.
2. Consider adopting Ordinance No. 3563 affirming the rezoning.

Location: 3935 and 4005 N. Scottsdale Road
Reference: 20-ZN-2003/6-HP-2003
Staff Contact(s): Robert J. Cafarella, Director, Preservation Division, 480-312-2577, rcafarella@scottsdaleaz.gov; Don Meserve, Preservation Planner, 480-312-2523, dmeserve@scottsdaleaz.gov; Randy Grant, Chief Planning Officer, 480-312-7995, rgrant@scottsdaleaz.gov

Councilman Ortega congratulated the owners of the Pink Pony and Sugar Bowl for becoming part of the Scottsdale Historic Register.

16. Scottsdale National 30-Acre Rezoning

Requests:

1. To rezone from Single-Family Residential, Environmentally Sensitive Lands District (R1-190 ESL) to Single Family Residential, Environmentally Sensitive Lands District (R1-190 ESL and R1-70 ESL) on 30 +/- acre property located at the southeast corner of Rio Verde Drive and 136th Street.
2. Consider adopting Ordinance No. 3564 affirming the rezoning.

Location: East Rio Verde Drive/136th Street (Southeast corner)

Reference: 2-ZN-2004

Staff Contact(s): Randy Grant, Chief Planning Officer, 480-312-7995, rgrant@scottsdaleaz.gov; Kurt Jones, Current Planning Director, 480-312-2524, kjones@scottsdaleaz.gov

17. McKnight and Main Office/Residential Building Rezoning

Requests:

1. To rezone from Single-Family Residential District, Downtown Overlay (R1-7 DO) to Service Residential District, Downtown Overlay (S-R DO) on a .25 +/- acre parcel located at 7539 McKnight Avenue.
2. To consider adopting Ordinance No. 3566 affirming the rezoning.

Location: 7539 E. McKnight Avenue

Reference: 4-ZN-2004

Staff Contact(s): Randy Grant, Chief Planning Officer, 480-312-7995, rgrant@scottsdaleaz.gov; Greg Williams, Senior Planner, 480-312-4205, gwilliams@scottsdaleaz.gov

18. Code Enforcement Text Amendment Extending Administrative Citation Authority for Zoning Ordinance Violations

Requests:

1. To approve a Text Amendment to amend Ordinance 455 (Zoning Ordinance) Article I., Administration and Procedures, Section 1.1400. Violation and Penalty to allow for Administrative penalties for violations of the Zoning Ordinance.
2. To adopt Ordinance No. 3565 affirming the above Text Amendment.

Location: City-wide

Reference: 3-TA-2004

Staff Contact(s): Randy Grant, Chief Planning Officer, 480-312-7995, rgrant@scottsdaleaz.gov; Raun Keagy, Neighborhood Services Director, 480-312-2373, rkeagy@scottsdaleaz.gov

Councilman Silverman expressed his pleasure at seeing the amendment come forward as it would help tremendously in correcting many code violations.

19. Construction Bid Award for Sidewalk Improvements - Phase III

Request: Authorize Construction Bid Award No. 04PB056 for construction of wheelchair ramps in existing sidewalks and new concrete sidewalks and associated work to Carson Construction, Inc., the lowest responsive bidder, at their lump sum bid of $139,994.

Related Policies, References: The Sidewalk Element of the General Plan supports increasing the level of service for pedestrians through completion of the City's system of sidewalk and wheelchair ramps.
Staff Contact(s): Al Dreska, Municipal Services General Manager, 480-312-5555, adreska@scottsdaleaz.gov; Chris Perkins, Public Works Project Coordinator, 480-312-7845, cperkins@scottsdaleaz.gov

20. Construction Bid Award for Roadway Capacity Improvements
Request: Authorize Construction Bid Award No. 04PB051 for construction of Roadway Capacity Improvements at Four Separate Locations to JMH Company, LTD, the lowest responsive bidder, at their unit price bid of $254,655.10.
Staff Contact(s): Al Dreska, Municipal Services General Manager, 480-312-5555, adreska@scottsdaleaz.gov; Chris Perkins, Public Works Project Coordinator, 480-312-7845, cperkins@scottsdaleaz.gov

21. Architectural Services Contract for Scottsdale Center for the Arts Renovations
Request: Authorize Architectural Services Contract 2004-030-COS with John Douglas Architecture & Planning, in the total amount of $115,849 to prepare construction documents for facility improvements at the Scottsdale Center for the Arts
Staff Contact(s): Al Dreska, Municipal Services General Manager, 480-312-5555, adreska@scottsdaleaz.gov; Bill Peifer, Sr. Project Manager, 480-312-2367, bpeifer@scottsdaleaz.gov

22. Hirsch Electronics Sole Source Designation Product
Request: Authorize the designation of Hirsch Electronics manufactured software and equipment as a sole source product for future solicitations for electronic, card-key access control installations at City facilities.
Related Policies, References: Administrative Regulation 100: Access to Facilities
Staff Contact(s): Alan A. Rodbell, Police Chief, 480-312-5310, arodbell@scottsdaleaz.gov; Marc Eisen, Director Homeland Security, 480-312-7999, meisen@scottsdaleaz.gov; Monroe Warren, Purchasing Director, 480-312-5705, mwarren@scottsdaleaz.gov; Dave Petty, Water and Wastewater Operations Director, 480-312-5661, dpetty@scottsdaleaz.gov

23. Construction Bid Award for Well 23 Site Improvements and Transmission Main and Shea Boulevard and 65th Place Area Water Distribution System Improvements
Request: Authorize Construction Bid Award No. 04PB073 to Blucor Contracting, Inc., the lowest responsive bidder, at their unit price bid of $921,756.
Related Policies, References:

a. Contract Modification to Engineering Services Contract No. 2000-198A-COS with David Evans and Associates, Inc. for the design of Water Distribution Systems Improvements on December 10, 2001.
b. Contract Modification to Engineering Services Contract No. 2002-030A-COS with CSA Engineering, Inc. for the design of waterline replacement projects on March 17, 2003.
c. Construction Bid Award No. 04PB025 with Garney Companies for the Arsenic Removal Water Treatment Facility at Well Site 32, located at 11606 N. 64th Street on February 17, 2004.

Staff Contact(s): Al Dreska, Municipal Services General Manager, 480-312-5555, adreska@scottsdaleaz.gov; Alison Tymkiw, Sr. Project Manager, 480-312-7985,

atymkiw@scottsdaleaz.gov; Joe Gross, Water Resources Director, 480-312-5628, jgross@scottsdaleaz.gov

MOTION AND VOTE – CONSENT AGENDA ITEMS 1-23

COUNCILMAN SILVERMAN MOVED FOR APPROVAL OF CONSENT AGENDA ITEMS 1-23, AND SPECIFICALLY USE PERMIT CASE NUMBERS 4-UP-2004 (ITEM 8), 1-UP-2004 (ITEM 11), AND 5-UP-2004 (ITEM 12), FINDING THAT THE USE PERMITS COMPLY WITH THE USE PERMIT CRITERIA AS SET OUT IN THE STAFF REPORT. COUNCILMAN ORTEGA SECONDED THE MOTION, WHICH CARRIED 7/0.

REGULAR AGENDA ITEM 24

24. Solicit public testimony on the Proposed FY 2004/05 Operating Budget and Capital Improvement Plan.
Request: The City Council receives public input relative to the Proposed FY 2004/05 Operating Budget and Capital Improvement Plan.
Staff Contact(s): Craig Clifford, Financial Services General Manager, 480-312-2364, cclifford@scottsdaleaz.gov; Art Rullo, Budget Director, 480-312-2335, arullo@scottsdaleaz.gov

Mr. Clifford reviewed the FY 2004/05 Proposed Budget and requested Council direction in order for staff to prepare documents for the tentative budget adoption on May 17, 2004.

Mayor Manross opened public testimony.

Darlene Petersen, 7327 E Wilshire Dr, 85257, requested that some of the money allocated to the Cultural Council be stipulated for bringing the symphony orchestra back to the Center for the Arts.

Lyle Wurtz, 6510 E Palm Ln, 85257, questioned expenditures for the preserve and stated his belief that there could be a danger of increased property taxes.

Mayor Manross asked Ms. Dolan to comment on the number of police officers needed for the preserve.

Ms. Dolan said eight new officers would be allocated for all city parks and the preserve replacing some positions, which were eliminated a couple years ago due to budget constraints. As access to the preserve was made available, the parks and preserve police unit would add those areas to their workloads.

Ms. Dolan further discussed the GO Bonds, saying the city would not issue any bonds or go into debt any further than what sales tax projections would support.

Mr. Clifford added that it has been stated over and over again in the city's financial statements that the city has no intention of raising property taxes. Only sales tax will be used to pay debt service.

Lois Fitch, 1229 N Granite Reef Rd, 85257, reviewed efforts to raise funds for the Winfield Scott Memorial sculpture. She requested a contribution of $80,000 from the city.

Mayor Manross closed public testimony.

MOTION – ITEM 24

COUNCILMAN LITTLEFIELD MOVED TO APPROVE THE BUDGET SUBCOMMITTEE RECOMMENDATIONS FOR THE FY 2004/05 BUDGET. COUNCILWOMAN PILCHER SECONDED THE MOTION (which carried 6/1 with Councilman Ortega dissenting).

Councilman O'Hearn questioned the removal of fees in the Youth Sports Program, saying that it defied traditional financial policies. He noted that it would be difficult to reinstate the fees in the future if necessary. Mayor Manross disagreed, saying removal of the fees was not about right or wrong, but was a value judgment by the Council.

Councilman Ortega again expressed his belief that it is bad policy to add $8M to the Economic Investment Fund as it could be interpreted many ways.

COUNCILMAN ORTEGA MOVED TO AMEND THE MOTION TO REDIRECT $4M OF THE PROPOSED FUNDING FOR ECONOMIC INVESTMENT TO THE GENERAL FUND CIP CONTINGENCY FUND. THE MOTION DIED FOR LACK OF A SECOND.

Councilman O'Hearn noted the amendment made some sense, but the money in the Economic Investment Fund would be resting there and could be transferred to other areas at any time. It did not mean that all $8M had to be spent on economic development.

Following the discussion, THE MOTION FOR APPROVAL OF THE BUDGET SUBCOMMITTEE RECOMMENDATIONS CARRIED 6/1 WITH COUNCILMAN ORTEGA DISSENTING.

City Manager's Report - None

Mayor and Council Items - None

Adjournment

With no further business to discuss, Mayor Manross adjourned the meeting at 6:53 P.M.

SUBMITTED BY:

Sandra K. Dragman

Sandy Dragman
Recording Secretary

REVIEWED BY:

Carolyn Jagger

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 4th day of May 2004.

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

DATED this 10th day of May 2004.

CAROLYN JAGGER
City Clerk

privacy interests, the board may eliminate from the agenda description the identity of the employee being considered. If it is already publicly known that the board is considering charges against the employee, disclosure of the employee's identity in the agenda would not defeat the purpose of the executive session.

7.7.4 Distribution of the Agenda. The agenda may be made available to the public by including it as part of the public notice or by stating in the public notice how the public may obtain a copy of the agenda and then distributing the agenda in the manner prescribed. A.R.S. § 38-431.02(C); see Forms 7.2 - 7.4, 7.6, 7.7.

Because both the public notice and the agenda must be available at least twenty-four hours in advance of a meeting, the simplest procedure is to include the agenda with the public notice. See Form 7.7 (Sample Notice and Agenda).

However, when the public notice is issued well in advance of a meeting, as in the case of notice of regularly scheduled meetings, see Section 7.6.6, it may be more appropriate to state how the public may obtain a copy of the agenda and distribute it accordingly.

7.7.5 Consent Agendas. Public bodies may use "consent agendas" so long as certain requirements are met. Consent agendas are typically used as a time saving device when there are certain items on the agenda which are unlikely to generate controversy and are ministerial in nature. Some examples are approval of travel requests and approval of minutes. Public bodies often take one vote to approve or disapprove the consent agenda as a whole. When using a consent agenda format for some of the items on a meeting agenda, public bodies should fully describe the matters on the agenda and inform the public where more information can be obtained. A good practice is to require that an item be removed from the consent agenda upon the request of any member of the public body. See Form 7.7 (Sample Notice and Agenda).

Public bodies should take caution when using consent agendas. The Arizona Supreme Court has held that taking legal action, including that taken after an executive session, must be preceded by a disclosure of "that amount of information sufficient to apprise the public in attendance of the basic subject matter of the action so that the public may scrutinize the action taken during the meeting . . . ." *Karol v. Board of Educ. Trustees*, 122 Ariz. 95, 98, 593 P.2d 649, 652 (1979). The court also specifically condemned the practice of voting on matters designated only by number, thereby effectively hiding actions from public examination. *Id.*

7.7.6 Discussing and Deciding Matters Not Listed on the Agenda. The public body may discuss, consider, or decide only those matters listed on the agenda and "other matters related thereto." A.R.S. § 38-431.02(H). The "other matters" clause provides some flexibility to a public body but should be used cautiously. The "other matters" must in some reasonable manner be "related" to an item specifically listed on the agenda. *Thurston v. City of Phoenix*, 157 Ariz. 343, 344, 757 P.2d 619, 620 (App. 1988).