APPROVED

MINUTES

SCOTTSDALE CITY COUNCIL

MONDAY, MAY 17, 2004

CITY HALL KIVA
3939 DRINKWATER BOULEVARD
SCOTTSDALE AZ 85251

MINUTES
SCOTTSDALE CITY COUNCIL
Monday, May 17, 2004

CALL TO ORDER

Mayor Manross called to order a Regular Meeting of the Scottsdale City Council on Monday, May 17, 2004 in the Kiva, City Hall, at 5:16 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 #2029, Aztec Elementary School, and their leader Lisa Kerley, led the audience in the pledge.

Invocation

Reverend Jack Sylvester, Brotherhood of Man Church, gave the invocation.

Public Comment

Jeanne Duffy, 9279 E Karen Dr, 85260, thanked Council on behalf of Arizona Action for Foster Children for funding provided through the Scottsdale Cares Program.

Rick Kidder, Chamber of Commerce, 7343 Scottsdale Mall, 85251, thanked Council and city staff for extending the fee reduction program to the southern portion of Scottsdale.

Judy Crider, Library Advisory Board, 3634 N Drinkwater Blvd, thanked Council for supporting the city's libraries and library expansions.

Lyle Wurtz, 6510 E Palm Ln, 85257, expressed concern regarding the assessed values of homes in the northern part of the city. He then questioned the legality of City Cable 11 airing political ads.

Mayor Manross assured citizens that staff would review the legality of City Cable 11 airing political programs.

Minutes

SPECIAL MEETINGS	REGULAR MEETINGS
May 3, 2004	May 4, 2004

COUNCILWOMAN PILCHER MOVED FOR APPROVAL OF THE SPECIAL MEETING MINUTES OF MAY 3, 2004, AND THE REGULAR MEETING MINUTES OF MAY 4, 2004. COUNCILMAN SILVERMAN SECONDED THE MOTION, WHICH CARRIED 7-0.

CONSENT AGENDA ITEMS 1 – 30A

Mayor Manross removed Item 9 from the Consent Agenda for separate action and noted Item 28 had been continued to a later date.

1. **Target 1327 Liquor License**
   Request: This request is for a new series 10 (beer/wine store) license for a department store located in the Summit of Scottsdale shopping center.
   Location: 32351 N. Scottsdale Road
   Reference: 26-LL-2004
   Staff Contact(s): Kroy Ekblaw, Planning and Development Services General Manager, 480-312-7064, kekblaw@scottsdaleaz.gov; Bob Bushfield, Plan Review and Permit Services Director, 480-312-7096, bbushfield@scottsdaleaz.gov

2. **Oggis Pizza & Brewing Company Liquor Licenses**
   Requests: This request is for a series 3 (microbrewery) and a series 12 (restaurant) liquor license for a new restaurant located in the Desert Fairways shopping center. This location is currently under construction with a proposed opening date of July 31, 2004.
   Location: 8763 E. Bell Road, Suite 101
   Reference: 27-LL-2004 & 31-LL-2004
   Staff Contact(s): Kroy Ekblaw, Planning and Development Services General Manager, 480-312-7064, kekblaw@scottsdaleaz.gov; Bob Bushfield, Plan Review and Permit Services Director, 480-312-7096, bbushfield@scottsdaleaz.gov

3. **Maggiano's Little Italy Liquor License**
   Request: This request is for a series 12 (restaurant) liquor license for a new restaurant located in the Scottsdale Promenade. This location is currently under construction with a proposed opening date of June 1, 2004.
   Location: 16405 N. Scottsdale Road, Building A
   Reference: 28-LL-2004
   Staff Contact(s): Kroy Ekblaw, Planning and Development Services General Manager, 480-312-7064, kekblaw@scottsdaleaz.gov; Bob Bushfield, Plan Review and Permit Services Director, 480-312-7096, bbushfield@scottsdaleaz.gov

4. **Mardis Gras Bar & Grill Liquor License**
   Request: This is a person transfer of a series 6 (bar) liquor license for a location that is currently open and operating under an interim permit. This business previously operated under the name Bogie's.
   Location: 8040 E. McDowell Road
   Reference: 29-LL-2004

Staff Contact(s): Kroy Ekblaw, Planning and Development Services General Manager, 480-312-7064, kekblaw@scottsdaleaz.gov; Bob Bushfield, Plan Review and Permit Services Director, 480-312-7096, bbushfield@scottsdaleaz.gov

5. **Banana Leaf Asia Bistro Liquor License**
Request: This request is for a series 12 (restaurant) liquor license for a location that previously operated as Livingston's Soul Food Kitchen & Bar. This restaurant is currently closed for remodeling and has an estimated proposed opening date of May 2004.
Location: 7111 E. Thomas Road
Reference: 30-LL-2004
Staff Contact(s): Kroy Ekblaw, Planning and Development Services General Manager, 480-312-7064, kekblaw@scottsdaleaz.gov; Bob Bushfield, Plan Review and Permit Services Director, 480-312-7096, bbushfield@scottsdaleaz.gov

6. **DC Ranch - Generalized Design Concept (GDC) for Town Center**
Request: Adopt Resolution No. 6493 approving the Generalized Design Concept for the Town Center Study Area at DC Ranch.
Location: DC Ranch
Reference: 54-ZN-1989#8
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

7. **Main Street Residences & Main Street Mews Rezoning**
Requests:
1. Rezone from Highway Commercial, Downtown Overlay District (C-3 DO) to Downtown District, Residential/Hotel Subdistrict Type 2, Planned Block Development Overlay, Downtown Overlay (D-RH-2 PBD DO) with amended development standards on a 4.5 +/- acre parcel located at 6833 and 6875 E. Main Street (Southwest corner of Main Street and 69th Street).
2. Adopt Ordinance No. 3570 affirming the above rezoning.

Location: 6833 and 6875 E. Main Street (Southwest corner of Main Street and 69th Street)
Reference: 1-ZN-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

Mayor Manross opened public testimony.

Sam West, 8160 N Hayden, #J-210, 85258, expressed concern about building heights and felt the project warranted additional discussion. He wondered how the project would impact tourism years from now.

Mayor Manross closed public testimony.

Councilman Ortega noted that the project is in conformance with the Downtown Plan.

8. **Property-Casualty Insurance Agent/Broker Services**
Request: Consider authorizing a Contract Modification, 2002-022A-COS, and extension to secure the professional services of a Property-Casualty Insurance Agent/Broker with Marsh USA, Inc. for services to be rendered for the period 5/28/04-05.
Staff Contact(s): Craig Clifford, Financial Services General Manager/CFO, 480-312-2364, cclifford@scottsdaleaz.gov; Myron Kuklok, Risk Management Director, 480-312-7841, mkuklok@scottsdaleaz.gov

9. **Municipal Marketing Policy – Sponsorship and Naming Rights**
ITEM 9 REMOVED FROM CONSENT AGENDA FOR SEPARATE ACTION. SEE PAGE 11.

10. **Comprehensive Financial Policies**
Request: Adopt Resolution No. 6488 relating to Comprehensive Financial Policies as the formal guidelines for the City of Scottsdale's financial planning and management.
Staff Contact(s): Craig Clifford, General Manager, 480-312-2364, cclifford@scottsdaleaz.gov

Councilman Ortega clarified with Ms. Dolan that the City has removed some investments from the State pool. Mr. Clifford added that the city's investments are averaging about 3% yield.

11. **Intergovernmental Agreement for Feasibility Study of a Regional Granular Activated Carbon Reactivation Facility**
Request: Adopt Resolution No. 6489 authorizing the execution of Intergovernmental Agreement No. 2004-037-COS among the cities of Chandler, Glendale, Mesa, Peoria, Phoenix, Scottsdale and Tempe for the shared funding of a feasibility study of a regional granular activated carbon reactivation facility to ensure compliance with Federal drinking water requirements.
Related Policies, References:
Scottsdale Charter Sec. 3-1, Intergovernmental Relations
Scottsdale Procurement Code, Section 2-181
Staff Contact(s): David M. Mansfield, General Manager, Water Resources Department, 480-312-5681, dmansfield@scottsdaleaz.gov; Greg Crossman, Sr. Water Resources Engineer, 480-312-5319, gcrossman@scottsdaleaz.gov

12. **Engineering Services to Evaluate Methods to Reduce Salinity in Reclaimed Effluent**
Request: Authorize contract modification #2003-007A-COS with Damon S. Williams Associates, L.L.C., in the amount of $108,250 for the evaluation of methods to reduce salinity in reclaimed effluent delivered through the Reclaimed Water Distribution System (RWDS) to golf courses.
Related Policies, References:
Engineering Services Contract No. 2003-007-COS, approved by City Council on February 3, 2003.
Staff Contact(s): David M. Mansfield, General Manager, Water Resources Department, 480-312-5681, dmansfield@scottsdaleaz.gov; Greg Crossman, Sr. Water Resources Engineer, 480-312-5319, gcrossman@scottsdaleaz.gov

Vice Mayor Ecton commented that he wanted the public to understand that the contract is fully funded through the RWDS.

Councilman O'Hearn noted the salinity problem is not limited to Scottsdale and is being investigated on a regional and national level. He wondered if thought had been given to collaborating with other municipalities. Mr. Klingler said this particular issue is an immediate concern and unique to Scottsdale golf courses.

13. **Agreement with Maricopa County for Animal Care and Control Services**
Request: Adopt Resolution No. 6483 authorizing the City of Scottsdale to enter into Intergovernmental Agreement No. 2001-030A-COS with Maricopa County for animal care and control services during Fiscal Year 2004-05.
Related Policies, References: Scottsdale City Code, Chapter 4 "Animal Control", Sections 4-31 through 4-43.
Staff Contact(s): Judy Register, Citizen and Neighborhood Resources General Manager, 480-312-2454, jregister@scottsdaleaz.gov; Molly E. Edwards, Housing Resources Manager/Mediation Program Manager, 480-312-4304, medwards@scottsdaleaz.gov

14. **Federal Lobbying and Information Services Contract Extension**
Request: Approve a one-year extension of Contract Number 2003-122-COS with Carolyn C. Chaney and Associates to provide federal lobbying and information services on behalf of the City of Scottsdale for an annual compensation of $69,300, and up to $3,000 for reimbursable expenses incurred on behalf of Scottsdale while carrying out the terms of the contract.
Staff Contact(s): Steve Olson, Governmental Relations Director, 480-312-2423, solson@scottsdaleaz.gov

Vice Mayor Ecton stated his belief that the company deserves the proposed increase and expressed support for the work the company is doing.

15. **Lease Agreement at the Scottsdale Airport Aviation Business Center for Arizona Scottsdale Network Airpark (AzSnap)**
Request: Authorize Lease Agreement No. 2004-012-COS for the commercial office space (Suite 107/108) at the Scottsdale Airport Aviation Business Center for AzSnap to continue to provide general office space for their non-profit organization.
Staff Contact(s): Mary O'Connor, Transportation General Manager, 480-312-2334, moconnor@scottsdaleaz.gov; Scott T. Gray, Aviation Director, 480-312-7735, sgray@scottsdaleaz.gov

16. **Lease Agreement at the Scottsdale Airport Aviation Business Center for Hague, Inc.**
Request: Authorize Lease Agreement No. 2004-032-COS for the commercial office space (Suite 112) at the Scottsdale Airport Aviation Business Center for Hague, Inc. to continue to provide ancillary office space for their real estate business.
Staff Contact(s): Mary O'Connor, Transportation General Manager, 480-312-2334, moconnor@scottsdaleaz.gov; Scott T. Gray, Aviation Director, 480-312-7735, sgray@scottsdaleaz.gov

17. Public Safety Software, Software Licenses, and Maintenance Agreements

Request: Authorize and approve contract # 2004-043-COS (which includes the software licensing, services agreement and the software maintenance agreement) with Intergraph Public Safety for a new Computer-Aided Dispatch, Records Management System, Jail Management System, Automated Field Reporting, National Incident Based Reporting System, mobile client support, Crime Analysis and mobile access software suite. Funding in the amount of $4,725,000 for this project was approved and made available in the 2003/04 CIP budget.

Staff Contact(s): Brad Hartig, Chief Information Officer, 480-312-7615, bhartig@scottsdaleaz.gov; Alan Rodbell, Chief of Police, 480-312-5310, arodbell@scottsdaleaz.gov; Joe Hindman, Police Tech. Director, 480-312- 5072, jhindman@scottsdaleaz.gov

Responding to Vice Mayor Ecton, Mr. Hartig said the system should last about five to eight years. He confirmed that the total cost for the system would be $4.7M.

18. Construction Bid Award for Downtown Parking Structures (Fifth Avenue and Old Town)

Request: Authorize Bid Award No. 04PB097, consisting of the Base Bid and Bid Alternates No. 1 and No. 2, for Phase II Building Construction for Downtown Parking Structures (Fifth Avenue and Old Town) to Smith/Woods Contracting, LLC, the lowest responsive bidder, at their total lump sum bid of $7,340,000.

Staff Contact(s): Al Dreska, Municipal Services General Manager, 480-312-2776, adreska@scottsdaleaz.gov; Corey E. Lew, Project Manager, 480-312-7769, clew@scottsdaleaz.gov

Responding to questions from Vice Mayor Ecton regarding cost recovery options, Ms. Dolan explained that serious consideration was being given to nighttime parking, however, implications and costs have not been analyzed as of yet.

19. Sale of Water Resources Surplus City Property

Request: Adopt Resolution No. 6480 authorizing the sale of Lot 48 Pinnacle Peak Estates Unit Two, Assessor Parcel 212-01-124 (the "Foothills Property"), located at 8102 East Foothills Drive, Scottsdale, Arizona, to Brian and Kimberly Oliver in the amount of $256,000.

Related Policies, References:

Scottsdale Revised Code Section 2-221(a) allows the City to sell property to the highest and best bidder, but the City Council shall have the right to reject any and all bids.

Staff Contact(s): Al Dreska, Municipal Services General Manager, 480-312-2776, adreska@scottsdaleaz.gov; David Mansfield, Water Resources General Manager, 480-312-5681, dmansfield@scottsdaleaz.gov

20. Architectural Services for Vista del Camino Renovation and Expansion Design

Request: Authorize Architectural Services Contract No. 2004-041-COS with OWP/P Architects, in the amount of $358,385 for the design of the Vista del Camino Renovation and Expansion.

Related Policies, References:

FY 2003/04 Capital Improvement Plan

Staff Contact(s): Al Dreska, Municipal Services General Manager, 480-312-2776, adreska@scottsdaleaz.gov; Doreen Song, P.E., Project Manager, 480-312-2367, dsong@scottsdaleaz.gov

21. Three-year Lease for the Community Assistance Office

Request: Adopt Resolution No. 6485 authorizing Agreement No. 2004-038-COS with Carolyn A. Stout to lease office space at 7515 East First Street in Scottsdale for the City's Community Assistance Office.

Related Policies, References:

- Resolution No. 5906 authorizing Lease Agreement No. 2001-126-COS was adopted September 4, 2001.
- Resolution No. 5153 authorizing Lease Agreement No. 980124 was adopted September 14, 1998.
- Lease Agreement Nos. 930065 and 930066 were approved by the City Council September 20, 1993.

Debra Baird, Community Services General Manager, 480-312-2377, dbaird@scottsdaleaz.gov; Al Dreska, Municipal Services General Manager, 480-312-2776, adreska@scottsdaleaz.gov

22. Construction Bid Award for Scottsdale Road, Phase Two, from McCormick Parkway To Gold Dust Avenue and Approval of 69 kV Underground Corridor Agreement

Requests:

1. Authorize Construction Bid Award No. 04PB070 to Hunter Contracting, Inc., the lowest responsive bidder, at their total unit price bid of $5,900,082.26.
2. Authorize Agreement No. 2004-087-COS with Arizona Public Service Company to establish and maintain a protected underground conductor corridor for converted 69 kV power lines.

Related Policies, References:

- Intergovernmental Agreement (IGA) No. 96-0001 between City of Scottsdale (city) and Town of Paradise Valley (town) (approved 2/5/96 by Scottsdale City Council).
- Amendment to IGA No 96-001A which established responsibilities for under grounding of the existing 69kV electrical power line between the city and the town (approved 12/9/02 by Scottsdale City Council and approved 12/19/02 by Paradise Valley Town Council).
- De-annexation Ordinance (approved 11/7/02 by Paradise Valley Town Council and approved 12/9/02 by Scottsdale City Council).
- On January 6, 2003 the City Council approved Construction Bid Award No. 03PB041 to Achen-Gardner Engineering, LLC for the Utility Phase of the project.
- On April 14, 2003 the City Council approved Construction Bid Award No. 03PB073 to Hunter Contracting Co. for Phase 1 of this project.

Staff Contact(s): Al Dreska, Municipal Services General Manager, 480-312-5555, adreska@scottsdaleaz.gov; Alex McLaren, Construction and Design Director, 480-312-7099, amclaren@scottsdaleaz.gov

Vice Mayor Ecton pointed out that this project is not new, but is for the completion of the improvements along Scottsdale Road.

23. Two Engineering Services Contracts for the Design of Roadway Capacity Improvements and Traffic Calming Projects

Requests:

1. Authorize Engineering Services Contract No. 2004-021-COS with Carter Burgess, in the amount of $249,800 for the design of roadway capacity and traffic calming improvements.
2. Authorize Engineering Services Contract No. 2004-022-COS with Stanley Consultants, in the amount of $265,587.83 for the design of roadway capacity and traffic calming improvements.

Staff Contact(s): Al Dreska, Municipal Services General Manager, 480-312-2776, adreska@scottdaleaz.gov; Chris Perkins, Project Coordinator, 480-312-7845, cperkings@scottsdaleaz.gov

Responding to Vice Mayor Ecton, Mr. Klingler confirmed that these contracts are not related to specific projects. The projects would have to come back to the Council for approval.

24. Renewal of Contract with AYERS & BROWN, P.C., for Legal Services

Request: Adopt Resolution No. 6484 authorizing the Mayor to execute Contract No. 2004-035-COS, an outside counsel contract in a maximum amount of one hundred and fifty thousand dollars ($150,000.00), with the law firm of AYERS & BROWN, P.C. for legal services regarding representation of the City of Scottsdale in *City of Scottsdale v. Edmunds-Toll Construction Company*, CV2004-001025, a condemnation action brought to acquire property for McDowell Sonoran Preserve gateway.

Staff Contact(s): Joseph R. Bertoldo, City Attorney, 480-312-2405, jbertoldo@scottsdaleaz.gov; Bruce Washburn, Assistant City Attorney, 480-312-2405, bwashburn@scottsdaleaz.gov

25. Settlement of David W. Sweet v. City of Scottsdale

Request: Consider authorization of the Mayor to approve settlement agreement for $80,000 for a claim filed against the City by David W. Sweet in connection with a police dog bite received on July 30, 2003.

Related Policies, References: Settlement Agreement No. 2004-088-COS

Staff Contact(s): Joseph R. Bertoldo, City Attorney, 480-312-2405, jbertoldo@scottsdaleaz.gov; Deborah W. Robberson, Deputy City Attorney, 480-312-2405, drobberson@scottsdaleaz.gov Michael Mason, Risk Management Claims Manager, 480-312-2490, mmason@scottsdaleaz.gov

26. Settlement of Jones v. City of Scottsdale

Request: Consider approval of settlement of $30,000 in lawsuit filed against the City, *Jones v. City of Scottsdale*, Cause No. CV 2002-006533, Maricopa County Superior Court.

Staff Contact(s): Joseph R. Bertoldo, City Attorney, 480-312-2405, jbertoldo@scottsdaleaz.gov; R. Scott Currey, Assistant City Attorney, 480-312-2405, scurrey@scottsdaleaz.gov; Michael Mason, Risk Management Claims Manager, 480-312-7040, mmason@scottsdaleaz.gov

27. Authorize Joint Representation and Cost Sharing Agreement with Other Legal Entities

Request: Consider approval of Resolution No. 6495 authorizing the Mayor to enter into Intergovernmental Agreement (IGA) No. 2004-091-COS between the City of Scottsdale and other legal entities for the joint representation and defense of a tax refund protest filed by a taxpayer currently pending in the Municipal Tax Hearing Office.

Staff Contact(s): Joseph R. Bertoldo, 480-312-2405, jbertoldo@scottsdaleaz.gov; Sherry R. Scott, Assistant City Attorney, 480-312-2405, sscott@scottsdaleaz.gov

*****28. Proposed Settlement Agreement with Happy Peak, Inc. – CONTINUED TO A FUTURE MEETING**

Staff Contact(s): Joseph R. Bertoldo, City Attorney, 480-312-2405, jbertoldo@scottsdaleaz.gov; Donna Bronski, 480-312-2624, dbronski@scottsdaleaz.gov

29. Scottsdale's Convention and Tourism Destination Marketing Program

Request: As recommended unanimously by the Tourism Development Commission at their April 20, 2004 meeting, Council is requested to approve Contract No. 2004-086-COS, the "Destination Marketing Services Agreement between the City of Scottsdale and the Scottsdale Convention and Visitors Bureau, Inc." (SCVB) authorizing $5,109,120 for provision of these services during Fiscal Year 2004-05.

Related Policies, References: City of Scottsdale Ordinances No. 2045 and 2049/2702 (amended) provide for funding of a destination marketing program on behalf of the City and the Scottsdale Tourism Industry from the City's bed tax revenues.

Staff Contact(s): David Roderique, General Manager, 480-312-7601, droderique@scottsdaleaz.gov; Kathy Carlisle O'Connor, Tourism Development Manager, 480-312-7057, koconnor@scottsdaleaz.gov

30. Tourism Development Commission and Transient Lodging (Bed Tax)

Requests: Increase funds for tourism marketing by

1. Adopt Ordinance No. 3576 (Attachment No. 1) amending Section 447, Article IV, Appendix E of the Scottsdale Revised City Code, relating to transient lodging taxes (i.e. bed taxes).
2. Adopt Ordinance No. 3577 (Attachment No. 2) updating the Scottsdale Revised City Code, Division 5, Tourism Development Commission, Chapter 2, Administration, relating to the Tourism Development Commission.

Adoption of these ordinances will: a) increase the percentage of tourism development funds from the bed tax to 80 percent from the current 66.7 percent; and b) clarify the ordinance to update Tourism Development Commission procedures.

Staff Contact(s): David Roderique, General Manager, 480-312-7601, droderique@scottsdaleaz.gov; Kathy Carlisle O'Connor, Tourism Development Manager, 480-312-7057, koconnor@scottsdaleaz.gov

Responding to questions from Councilman O'Hearn, Ms. O'Connor agreed that one of the objectives of the ordinance revision is to simplify the allocation process.

***30A. **Amendment to Development Agreement No. 2004-026-COS with the Arizona State Land Department and Edmunds-Toll Construction Company**

Request: Adopt Resolution No. 6497 to approve amendment No. 1 to Development Agreement 2004-026-COS among the City, the Arizona State Land Department and Edmunds-Toll Construction Company for the purpose of making certain technical, non-substantive changes to the original Development Agreement, and to extend the time for final approval of the preliminary plat to May 20, 2004.

Related policies, references: Development Agreement No. 2004-026-COS dated April 1, 2004.

Staff contact(s): Robert J. Cafarella, Preservation Director, 480-312-2577, rcafarella@scottsdaleaz.gov; Kroy Ekblaw, Planning and Development Services General Manager, 480-312-7064, kekblaw@scottsdaleaz.gov; Bruce Washburn, Assistant City Attorney, 480-312-2659, bwashburn@scottsdaleaz.gov

MOTION AND VOTE – CONSENT AGENDA

VICE MAYOR ECTON MOVED FOR APPROVAL OF CONSENT AGENDA ITEMS 1 THROUGH 30A, WITH THE EXCEPTION OF ITEMS 9 AND 28. COUNCILWOMAN PILCHER SECONDED THE MOTION, WHICH CARRIED 7-0.

REMOVED FROM CONSENT AGENDA FOR SEPARATE ACTION

9. **Municipal Marketing Policy – Sponsorship and Naming Rights**

Request: Adopt Resolution No. 6473 allowing City staff to pursue marketing and naming rights agreements with individuals, commercial enterprises and other organizations, and establishing a policy for these types of agreements. The intent of the resolution is to establish a consistent approach, criteria and guidelines specific to selling the names of City of Scottsdale owned or operated facilities or events or entering into sponsorship agreements as a means of recognizing support from an external organization or corporation.

Related Policies, References:
City Code Sign Requirements 8.100-8.615
City Procurement Code, Chapter 2, Article IV, Division 4

Staff Contact(s): Craig Clifford, Financial Services General Manager/CFO, 480-3122364, cclifford@scottsdaleaz.gov; Lisa Murphy, Accounting Director 480-312-7009, lmurphy@scottsdaleaz.gov

Councilman O'Hearn and Vice Mayor Ecton agreed that there are still many questions surrounding this item, therefore, the issue warranted further review before action is taken.

COUNCILMAN ECTON MOVED TO CONTINUE ITEM 9 TO A FUTURE DATE. COUNCILMAN O'HEARN SECONDED THE MOTION, WHICH CARRIED 7-0.

REGULAR AGENDA ITEMS 31 - 35

31. Public Hearing and Adoption of Rates and Fees Ordinance and Resolutions Requests:

1. ACCEPT citizen comments at a public hearing regarding proposed rates and fees.
2. ADOPT Resolution No. 6482 and Ordinance No. 3568 amending Scottsdale Revised Code, Chapter 49, increasing water rate revenues 2.5 percent effective November 1, 2004, increasing wastewater rate revenues 3.0 percent effective July 1, 2004, and increasing the environmental water quality charge 1.0 percent, effective July 1, 2004.
3. ADOPT Resolution No. 6491, authorizing Amendment No. 10 into the Cost-Sharing and Land Use Agreement between the Bureau of Reclamation (BOR) and the City of Scottsdale (City). No rate or fee increases are proposed for WestWorld in fiscal year (FY) 2004/05. Amendment No. 10 simply gives the City annual adjustment authority for fees up to five percent (5.0%) at WestWorld without BOR approval to address inflationary and market conditions (rate and fee indexing). Amendment 10 also gives the City the authority to implement a fifty-cent ($0.50) per ticket user fee surcharge on all event tickets priced under twenty dollars ($20.00) and a one dollar ($1.00) per ticket user fee surcharge on all event tickets priced twenty dollars ($20.00) and higher for all events that impose an entrance fee at the WestWorld facility. Revenue generated from the ticket surcharge will be restricted to finance capital improvements as part of WestWorld's $90.0 million Updated Master Plan and to offset estimated annual debt service costs and General Fund burden of $2.2 million related to bond issuance.

Related Policies, References

- Resolution No. 6288: A Resolution of the City of Scottsdale, Arizona, Establishing Financial Policies Section 1. Operating Management Policy Number 8: "Enterprise (Water, Sewer, Solid Waste Management, and Airport) user fees and charges will be examined annually to ensure that they recover all direct and indirect costs of service and be approved by City Council." "Rate adjustments for enterprise operations will be based on five-year fund plans."
- Resolution No. 6288: A Resolution of the City of Scottsdale, Arizona, Establishing Financial Policies Section 1. Operating Management Policy Number 9: "All non-enterprise user fees and charges will be examined annually to determine the direct and indirect cost of service recovery rate. The acceptable recovery rate and any associated changes to user fees and charges will be approved by the City Council."
- Water and Wastewater Rates, Scottsdale Revised Code, Chapter 49
- Ordinance No. 2022, July 18, 1988, establishing a process for setting fees and charges for City recreation facilities, equipment, and programs.
- Cost Sharing and Recreational Land Use Agreement For Use of the WestWorld Property Between the United States Bureau of Reclamation (BOR) and the City of Scottsdale (Agreement), dated July 29, 1982. Article IV, Section A of the Agreement requires that "not less often than every five years, the parties will review [the] fee schedule and, upon request of either, renegotiate the schedule."

- Scottsdale Golf Complex Fee Adjustment Policy, adopted December 1996, regarding Contract L0213, Article 4, Fees and Charges, authorizing the City of Scottsdale to increase rates up to five percent (5.0%) without BOR approval.
- Updated WestWorld Master Plan, City Ordinance No. 3494, March 4, 2003.
- Superior Court Administrative Order 2002-096, issued October 28, 2002.
- City of Scottsdale Revised Code, Chapter 20; Ordinance No. 2022 and Resolution No. 6314, approved June 16, 2003.
- Building and Development Fee Schedule, Scottsdale Revised Code, Chapter 46

Staff Contact: Craig Clifford, Chief Financial Officer, 480-312-2364, cclifford@ScottsdaleAZ.gov

Craig Clifford presented an overview of the proposed rates and fees for FY 2004/05.

No public comment cards were submitted for this item.

MOTION AND VOTE – ITEM 31

COUNCILMAN SILVERMAN MOVED FOR ADOPTION OF RESOLUTION NO. 6482 AND ORDINANCE NO. 3568, AMENDING SCOTTSDALE REVISED CODE, AND ADOPTION OF RESOLUTION NO. 6491, AUTHORIZING AMENDMENT NO. 10 INTO THE COST-SHARING AND LAND USE AGREEMENT BETWEEN THE BUREAU OF RECLAMATION AND THE CITY OF SCOTTSDALE. COUNCILMAN ORTEGA SECONDED THE MOTION, WHICH CARRIED 7-0.

32. Second Public Hearing on the Fiscal Year 2004-05 Operating Budget and Capital Improvement Plan

Requests:

1. Solicit public testimony on the FY 2004/05 Operating Budget and Capital Improvement Plan.
2. Adopt Ordinance No. 3573, the Tentative Budget estimates for FY 2004/05.

The City Council receives public input relative to the proposed FY 2004/05 Operating Budget and Capital Improvement Plan, and adopts the Tentative Budget estimates in accordance with Arizona State Statutes and the City Charter.

Staff Contact(s): Craig Clifford, General Manager, 480-312-2364, CClifford@ScottsdaleAz.gov; Art Rullo, Budget Director, 480-312-2435, ARullo@ScottsdaleAz.gov

Craig Clifford reviewed the FY 2004/05 Budget Proposals. He noted that this is the second public hearing on the proposed budget with final adoption taking place on June 8, 2004.

No public comment cards were submitted.

Responding to questions from Councilman Ortega regarding the $320,000 appropriated for storefront improvements in the downtown, Mr. Little clarified there would be no carry-over from this year, but the entire amount would be re-appropriated.

MOTION AND VOTE – ITEM 32

COUNCILMAN LITTLEFIELD MOVED TO ADOPT ORDINANCE NO. 3573. VICE MAYOR ECTON SECONDED THE MOTION, WHICH CARRIED 7-0.

33. South Bank Canal Mixed Use Development with Public Underground Parking Garage

Requests:

1. Adopt Resolution No. 6479 authorizing the Mayor to execute Development Agreement No. 2004-034-COS for this project at Stetson Drive and Sixth Avenue along the south bank of the Canal.
2. Authorize Construction Modification to Bid Award No. 03PB034, Arizona Canal Banks Phase 1- Marshall Way, to Archon Construction, Inc. to construct a Parking Garage under Marshall Way Plaza.
3. Authorize a payment of approximately $70,000 to Arizona Public Service to temporarily relocate overhead electric line during construction of Parking Garage under Marshall Way Plaza.

Related Policies, References:

- Extension of Downtown Fee Reduction Program, adopted April, 2004
- 5th Avenue Parking Structure, contract approval April, 2004
- Specialty Retail District Incentive Program, adopted October, 2003, Resolution No. 6424
- Downtown Fee Reduction Program, adopted January, 2003, Resolution No. 6238
- Canal Bank Improvements, adopted December 8, 2003, Bid Award No. 04PB034
- Economic Vitality Strategic Plan, approved December, 2002
- Downtown Vision Principles, adopted February, 2002

Staff Contact(s): Ed Gawf, Deputy City Manager, 480-312-4510, egawf@scottsdaleaz.gov; David Roderique, Economic Vitality General Manager, 480-312-7601, droderique@scottsdaleaz.gov; Laurel Edgar, Revitalization Manager, 480-312-7313, ledgar@scottsdaleaz.gov

John Little reviewed key terms in the proposed project and development agreement, current downtown activities, the city's overall focus for the downtown, as well as the downtown vision principles. Discussion was also held regarding parking demand and supply. He noted that a specific site plan will be prepared and will go through the public process.

Mr. Little reviewed the process for calculating building heights according to the ordinance to ensure consistency.

Following a strict timeline, Mr. Little said construction would start in June of 2005, the parking garage would open summer of 2006, and private buildings would open in winter of 2006.

Mr. Roderique discussed the city's financial benefits and financial obligations.

Mr. Robert Scharar, the applicant, outlined the project's amenities.

Mr. Ken Allen, architect for the project, discussed building design and presented a conceptual drawing.

Councilman Ortega encouraged opportunities for festivals on the south canal bank.

Mayor Manross opened public testimony.

Rick Kidder, Chamber of Commerce, 7343 Scottsdale Mall, 85251, applauded the Council's actions and efforts in revitalizing downtown. He strongly urged passage of the item.

Michael Fernandez, 4338 N Scottsdale Rd, 85251, expressed concerns about parking, saying the parking garage was needed now. He urged the city to consider building a parking garage on the city-owned property known as the Rose Garden area.

Sam West, 8160 N Hayden, #J-210, 85258, expressed concerns about how height and floor areas are measured. He displayed a portion of Scottsdale's zoning ordinance and questioned if the ordinance was recently revised.

Dewey Schade, 7567 E Cactus Wren Rd, 85250, encouraged Council to support the project. He also expressed approval of the developer's, Mr. Unger, involvement in the project.

Frank McGuire, 7121 E Fifth Av, #16, 85251, representing the Fifth Avenue Merchant's Association, expressed support of the project stressing that it is needed for revitalization.

Babbi Gabel, 7150 E Camelback Rd, #100, 85251, with Scottsdale Waterfront Residences, spoke in support of the project and Fred Unger.

Mayor Manross closed public testimony.

Mr. Little confirmed that the City would own the parking garage.

Mr. Grant reviewed the ordinance that referenced building heights in the Base Zoning Ordinance, and noted the ordinance referenced by Mr. West referred to the Downtown District. Mr. Grant also reviewed the criteria for determining floor area in C-2 and Downtown Overlay zoning districts.

MOTION AND VOTE – ITEM 33

COUNCILMAN ORTEGA MOVED FOR ADOPTION OF RESOLUTION NO. 6479, MODIFICATION OF BID AWARD NO. 03PB034, AND PAYMENT OF $70,000 TO ARIZONA PUBLIC SERVICE FOR RELOCATION OF OVERHEAD ELECTRIC LINES. COUNCILWOMAN PILCHER SECONDED THE MOTION (which carried 7/0).

Council members expressed their support.

Following the discussion, THE MOTION FOR APPROVAL CARRIED 7-0.

34. Hotel Valley Ho Historic Preservation Plan and Development Standard Amendments

Requests:

1. Approve the amended Hotel Valley Ho Historic Preservation (HP) Plan for the amended building height in the Development Assistance category on Page 10, and
2. Approve an amended development standard in Highway Commercial (C-3) and Downtown Overlay (DO) for the Hotel Valley Ho for building height for the tower building only, and
3. Adopt Ordinance No. 3572 affirming the amended HP Plan and amended development standard for building height for the Hotel Valley Ho on a 8.86 +/- acre parcel located at 6850 E. Main Street with Highway Commercial, Historic Property, Downtown Overlay (C-3 HP DO) zoning.

Location: 6850 E. Main Street

Reference: 7-ZN-2002#3/2-HP-2004

Staff Contact(s): Robert Cafarella, AICP, Preservation Director, 480-312-2523, rcafarella@scottsdaleaz.gov; Don Meserve, Preservation Planner, 480-312-2523, dmeserve@scottsdaleaz.gov; Randy Grant, Chief Planning Officer, 480-312-7995, rgrant@scottsdaleaz.gov

Robert Cafarella presented the request to amend the building height for Hotel Valley Ho, and reviewed citizen involvement through public meetings. He noted that an anticipated federal tax credit was denied by the National Park Service, but the owner plans to appeal the decision. Mr. John Berry, representing the applicant, said if the tax credit is regained in the future, the applicant would be willing to ensure that some value of the credit be applied against the previous historic preservation agreement entered into with the city. He explained that he is currently working with the city attorney's office to work out the details.

Mayor Manross opened public testimony.

Dewey Schade, 7567 E Cactus Wren Rd, 85250, expressed support for the project since he felt it would be a catalyst for improvement of other properties.

Mayor Manross closed public testimony.

Assistant City Attorney Pat Boomsma read into the record a proposed draft stipulation: ***"If the owner appeals the denial of certification of the rehabilitation in the letter from the National Parks Service dated May 7, 2004, and is successful in its appeal to have the project determined eligible for the 20% investment tax credit for historic preservation, Development Agreement No. 2003-175-COS, approved by Council on November 4, 2003 by Resolution No. 6399, shall be terminated. The City and developer may pursue a new agreement with different terms after Agreement No. 2003-175-CIS is terminated."***

MOTION AND VOTE ITEM 34

COUNCILMAN LITTLEFIELD MOVED TO APPROVE ITEM 34 WITH THE ADDITIONAL STIPULATION AS STATED ABOVE. COUNCILWOMAN PILCHER SECONDED THE MOTION, WHICH CARRIED 7-0.

Vice Mayor Ecton noted the applicant explored many options before requesting the amendment.

35. Scottsdale City Treasurer

Request: Consider and assess position and appointment of Scottsdale City Treasurer.
Related Policies, References: Scottsdale Revised City Code Article IV, Sections 2-92, 2-131, 2-132 and Scottsdale City Charter Article 4, Sections 1 and 3.
Staff Contact(s): Joseph Bertoldo, City Attorney, 480-312-2405, jbertoldo@scottsdaleaz.gov; Donna Bronski, Assistant City Attorney, 480-312-2624, dbronski@scottsdaleaz.gov

Mr. Bertoldo reviewed Council's options including: 1) leaving the City Manager in the position temporarily, 2) appointing the City Manager as Treasurer permanently, or 3) appointing someone else to the position.

Councilman Ortega expressed the need for some checks and balances to provide greater objectivity.

Mayor Manross was comfortable with either maintaining the status quo or formally appointing the City Manager to the Treasurer position.

Councilman O'Hearn felt there were checks and balances by having the Chief Financial Officer reporting to the City Treasurer.

MOTION AND VOTE – ITEM 35

COUNCILMAN O'HEARN MOVED TO APPOINT CITY MANAGER JAN DOLAN AS SCOTTSDALE CITY TREASURER. COUNCILMAN SILVERMAN SECONDED THE MOTION, WHICH CARRIED 7-0.

Public Comment - None

City Manager's Report - None

Mayor and Council Items - None

Adjournment

With no further business to discuss, Mayor Manross adjourned the meeting at 8:26.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 17th day of May 2004.

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

DATED this 21st day of May 2004.

CAROLYN JAGGER
City Clerk

To: Scottsdale Mayor Mary Manross
Scottsdale City Council members: Wayne Ecton, Bob Littlefield, Tom Silverman, Ned O'Hearn, David Ortega, Roberta Pilcher
Scottsdale City Manager Jan Dolan, Scottsdale City Attorney Joseph Bertoldo, Scottsdale City Clerk Carolyn Jagger
3939 Civic Center Plaza, Scottsdale AZ 85251

Notice of Claim - A.R.S. 12-821.01

Pursuant to Title 12, Chapter 7, Article 2, A.R.S. 12-821.01, this document will serve as Notice to all above named that we intend to file a claim in an amount in excess of $14,400,000. against you in both your capacity as civil officials and personally, for damages resulting to owners of property adjacent the Coronado Golf Course and public park, and on behalf of all residents of Scottsdale materially damaged by loss of their Community Park, in connection with your gross negligence in determining whether to seek or whether to provide for the construction of private baseball practice fields on the site known as the Coronado Golf Course, located at 2829 N. Miller Rd. Scottsdale, AZ, for a facility commonly referred to as the Giant's Training Center.

On December 26, 1979, a Warranty Deed was granted to the City of Scottsdale by Foxgal, Inc., an Arizona Corporation, which conveyed the land now occupied by the Coronado Golf Course and related facilities as "land to be used by the Grantee (City of Scottsdale) for open space, park, golf course or playground purposes for a period of 45 years, from date hereof, and then for any governmental purpose". The deed did not grant using the gifted land as a private training facility for a professional baseball team. Such a use restricts access to the land gifted to the city of Scottsdale, its residents, adjacent property owners and the general public. As such, your actions in determining to seek or whether to provide for the construction of baseball practice fields for the principal private use as the Giant's Training Center, a project materially detrimental to the public's recreational interest, under the pretense of zoning categories designated as 'Open Space' or 'Park' directly oversteps the clearly defined intent and spirit of <u>unrestricted</u> public recreational use and <u>unrestricted</u> access under which this property was gifted to the citizens of Scottsdale by its Grantor. Furthermore, when the land gift was recorded on the public record on December 26, 1979, the city of Scottsdale's adopted General Plan guidelines and Zoning Ordinance at that time did not provide for the category known as OS (open space). The OS category, upon which the city council and the city manager are relying now as the valid authority under which the Giant's Training Facility (buildings and private ball fields) are allowed uses on the gifted land, was not adopted by city council action until March 2, 1981 when Ordinance 1323 passed and adopted Section 6.900 Open Space Zone and council initiated zoning case 3-Z-80 which established the OS District.

Section 6.900 Open Space (OS) Zone and its commensurate permitted uses of "park" (which includes "ballfields"), under an approved Conditional Use Permit, was adopted <u>after</u> the land was gifted to the city. Therefore, 'park' use allowed in the OS Zone upon which the city council, city manager, city staff and city lawyers are now relying upon as their valid authority to impose a private training facility on the gifted land are not automatically <u>retroactive</u> and in effect do not apply to the gifted land. The gifted land is 'grandfathered' for the uses defined in the deed restrictions of pubic record at the time the gift was accepted by the city.

The land gift was made to and for the benefit of all citizens of Scottsdale. In reliance upon the restrictions of use defined in the deed restrictions of this gift, some citizens purchased or built homes next to or nearby the gifted land based upon the representations of the uses ensured under the deed restrictions. The gift's uses accrue to property owners as a part of the value of their homes and thereby gives them standing in this matter.

The Coronado Golf Course has been open to the public without interruption for the past 25 years. In 2003, 53,000 rounds of golf were played on this golf course by the general public and Scottsdale residents. The city has made no provisions for replacing the Coronado Golf Course and thus are denying the public from the use and benefit of the gift that was made by the Grantor and are knowingly depriving the citizens of Scottsdale the enjoyment and use of a low cost golf recreation amenity.

By and through your actions instructing the City Manager to expend taxpayer dollars to 'study', 'design', and take all necessary actions to 'move this project forward' flies in the face of the restrictions of use granted in the Warranty Deed and negligently apply the uses allowed in OS when the city's adopted OS category does not lawfully apply to this land gift. As such, you are knowingly acting in gross negligence of your sworn oath of office and directing actions which waste the valuable resources of taxpayer's monies, staff time and city resources. You have had knowledge of the deed restrictions for some time, you should have known that the OS Zone does not apply to this land gift as the OS Zone was adopted after the gift was recorded, and yet continue to pursue a course of actions in dereliction of your duty to preserve and protect the public's interest in this land gift even after the Grantor recently protested in writing that the land was gifted to the city with the intent that it be "free of buildings or other improvement, for the benefit of the public". The "benefit of the public" is not served when a private baseball training facility restricts public access to the gifted land.

You are hereby urged to immediately cease and desist from taking any further actions which you know to be in violation of city ordinances, the spirit and intent of the land gift, continuing to waste taxpayer resources, detrimental actions which work against the public's unrestricted right to use the property for the uses under which it was conveyed to them, and order the city manager to immediately abandon this project. Your failure to comply will result in legal action to enforce the deed restrictions on the property and will seek relief in compensatory and punitive monetary damages caused by your gross negligence to the citizens of Scottsdale and property owners adjacent to the gifted land.

Sincerely,

Robert Usdane et al

for and in the interests of all Scottsdale citizens and taxpayers

CITIZEN INFORMATION REGARDING
SCOTTSDALE PLANNING COMMISSION REPORT
CASE NO. 8-UP-2004

Use Permit Criteria:

Conditional use permits, which may be revocable, conditional, or valid for a specified time period, may be granted ONLY WHEN EXPRESSLY PERMITTED AFTER the Planning Commission has made a recommendation AND THE CITY COUNCIL HAS FOUND AS FOLLOWS:

A. That the granting of such conditional use permit will not be materially detrimental to the public health, safety or welfare. In reaching this conclusion, the Planning Commission and the City Council's consideration shall include, but not be limited to, the following factors:

1. Damage or nuisance arising from noise, smoke, odor, dust, vibration or illumination.

City Staff:

- *There will be no damage or nuisance from noise, smoke, odor, dust, vibration, or illumination. There are no outdoor baseball field activities permitted prior to dawn or after dusk, no ball field lighting is permitted, and no outdoor speakers or public address system shall be permitted.*

Citizens' opposition:

- **To preserve the privacy and quiet enjoyment of our neighborhoods, no baseball training facility or any high-intense sports related land use shall be allowed in the existing site. The proposed training facility will severely impact our privacy by:**
  - **1. Increased outdoor use by large amounts of people hence transforming the proposed use into a nuisance;**
  - **2. Noise: its clear that a sports facility such as an outdoor training field generates loud noise coming from player yelling, fans cheering, baseball bats knocking balls, coaches yelling at players, group buses & shuttles driving and parking, celebrations taking place, etc.**
  - **3. Noise: the hours of operation begin at 7am, seven days a week and clearly impact the early morning quiet enjoyment of surrounding neighborhoods EVERY DAY!**
  - **4. Vibration: balls impacting metal screens will vibrate in the air and can be clearly heard by residents;**
  - **5. Dust: the nature of baseball playing implies dust movement in the air.**

Citizens respectfully request evidence supporting the above claim that 'there will be no damage or nuisance from noise, smoke, odor, dust, vibration, or illumination.'

2. Impact on surrounding areas resulting from an unusual volume or character of traffic.

City Staff:

- *There will be no impact on the surrounding areas resulting from an unusual volume or character of traffic. The difference between the existing golf course traffic and the proposed training facility traffic is marginal (See Traffic impact Analysis, Attachment #7).*

Citizens respectfully oppose the permit and request that further research is done:

- **The Planning Commission has overlooked the transportation study results provided by the consultant as Attachment #7 of the staff report. The consultant's conclusion clearly shows an increase in trip generation (hence, traffic congestion) during am peak hours, precisely at the time many of our neighbors need to exit quickly to go to work. 650% increase**

- **The traffic study states that the only change would occur during the 5-6 weeks of spring training, Feb 22-Mar 30. The facility will be used for 10 months of the year and since it is unclear exactly 'who' will be using it for the remainder of the time. It has been suggested that in addition to little league games, the minor league players will be training. There was no mention on how this would affect traffic and this encompasses the majority of the year. It is possible that the impact would be much higher with the added people and observers.**

- **We respectfully request the City Staff to do a more complete traffic study be done. It should include the impact specifically on Thomas Rd should that become the entrance to the training facility as it is already dangerous and time consuming to enter & exit from those neighborhoods (Villa Coronado &) during peak hours. It should also include the impact of 'the other groups' using the facility during the rest of the year.**

3. There are no other factors associated with this project that will be materially detrimental to the public.

City Staff:

- *There will be no impact on the surrounding areas resulting from an unusual volume or There are no other factors associated with this project that will be materially detrimental to the public.*

Citizens' opposition:

- **This statement is simply not true. The privacy of ALL homeowners along the golf course will now be changed forever!**

- **The training facility will attract onlookers curious to see the famous ball players. This will cause much pedestrian traffic along what is now only golfers concerned with playing golf.**

- **The noise a bat hitting a ball is much louder than that of a golf ball hitting a club. In addition, should any of those balls go astray to the surrounding homeowner's yards, the danger and destruction factor is increasingly higher.**

- **From the site plans approved in the Master Plan it can be clearly concluded that the screens that need to be in place to control flying balls will affect the public view of the park, and as a result, will depreciate in value all houses in close proximity to the screens. There is a direct detriment to the public because people paid premiums for lots adjacent to the golf course and they were never told that higher land use intensity would affect their property values.**

- **In addition, the City Ordinance requires that buildings (or any built component including screens) shall not exceed 24 feet. Even with screens 24 feet in height there is visual impact of the open space due to the close proximity of the houses to the open space and the training facilities to the houses themselves. Furthermore, it is highly possible that a future variance would have to be approved for taller screens because the average screen in any baseball facility exceeds by far 24 feet in height (two stories approximately).**

B. The characteristics of the proposed conditional use are reasonably compatible with the types of uses permitted in the surrounding areas.

City Staff:

- *The proposed recreational use (baseball facility) is reasonably compatible with the existing golf course and driving range that are also recreational uses, which both have clubhouses, fences, parking, etc.*

Citizens' opposition:

- **While the above similarities are notable, Staff neglected to mention the fact that the golf course is open to the public ALWAYS! The proposed baseball facility will not be open to the public except when the Giants decide. As a daily operation, the public WILL NOT be allowed on the premises. Therefore, it essentially takes approximately 18 of the proposed 44 acres and deems it 'for private use only,' which is not reasonably compatible with the current use!**

- **Although a baseball training facility MAY be considered as a consistent use within the Open Space designation in the General Plan, this use MUST be compatible with the surrounding areas. The existing golf course IS compatible with existing areas because it is for PUBLIC use whereas the proposed baseball facility neglects by its own land use nature access to the public. The Planning Commission report has overlooked and oversimplified a clear inconsistency between similar but entirely incompatible land uses.**

- **We respectfully call the attention of the City Council members to realistically examine the nature of the proposed master plan. The idea of a baseball training facility clearly deceives the public as a compatible use for open space because apparently the lack of buildings sends the perception that the "openness" remains. The fact is that the use of a baseball training facility is dominated by the intensity of completely different use due to the presence of a large group of humans concentrated in one place. Not only players but the entire infrastructure of the baseball playing activity draws a multitude of people and invite them to concentrate in one place. The nature of this sport and its practice is the same as that of a public arena such a concert venue. Its built facilities say nothing about the true intensity of the land use. Therefore, a baseball facility IS NOT compatible with the open space designation nor with the privacy of surrounding neighborhoods.**

ALTERNATIVE SITE ANALYSIS:

Citizens' opposition:

- **We were just given the actual written analysis yesterday by the Press which does not constitute a timely manner.**

- **The Alternative Site Analysis is simply a list of 'pros and cons.' Specifically regarding the Coronado Site: under pros, number 4 lists 'Added security for neighbors' and when questioned for clarification, Barbara Burns from City Staff replied that back when the analysis was done there were vagrants 'hanging out' on the golf course at night, sometimes making bon fires.**

- **In addition, in regards to one of the sites investigated at 64th St. & McDowell Rd., Staff indicated the number one 'con' to be "impacts to existing neighborhood" yet on the Coronado site which has five separate neighborhoods bordering the facility site plans, there is no mention of the impact on those neighborhoods as a 'con.' This implicitly suggests that Staff has not thoroughly researched the impact on the adjacent neighborhoods as I have cited in this report.**

- **Kirk Johnson of the Charros stated publicly that the Coronado facility is a compromise and that they would like to be at Los Arcos. The only 'con' that seems to be stopping the city is money.**

Citizen's respectfully request clarification and detailed answers to the following questions and concerns regarding the Staff's alternative site analysis:

- **What added security will the baseball facility provide directly to the surrounding neighborhoods?**

- **Will there now be security guards 24 hours a day paid for by the Giants?**

- **It fair to say that with the added famous ball players, there will be added crazed fans? Fans that might possibly enter into my neighborhood Villa Coronado or Coronado Estates & El Cuadro via Miller Road access with hopes to access this new private facility? What security measures will be implemented to prevent this from becoming a problem?**

- **Please have Staff provide the detailed financial analysis done showing the monies needed to make this a viable option AND also, the financial analysis showing how much money the City of Scottsdale has lost while Los Arcos remains stagnant and how much more the City stands to lose if it remains that way for the next 5 + years.**

I respectfully request that the City Council direct Staff to provide me with answers in writing to all of the questions and requests in the attached report within 5 business days, thus allowing ample time to appeal the decision of the City Council should the permit be approved.

Please direct all written documents to:
Shari Zanoff
info@sneakertime.com
480-970-8231 phone
480-970-9554 fax

OFFICE OF THE
CITY CLERK

2004 MAY 26 PM 4:50

May 26, 2004

James McCay
2647 N Miller Rd, #21
Scottsdale AZ 85257
coronadocoalition@yahoo.com

TO: All Council, City Attorney, City Clerk
3939 N. Drinkwater Bl
Scottsdale, AZ 85251

PUBLIC RECORD FOR COUNCIL MEETING May 26, 2004
RE: 8-UP-2004 and Municipal Use Master Site Plan

To all concerned,

Per my previous email that you should all have copies of, I wish to solicit responses on the following items:

1. **Financial Viability:**
   where are the statistics that prove beyond a reasonable doubt that this "proposal" IS a win-win for Scottsdale?
   All I have seen are 4 pages from Economic Vitality that factor in none of the major costs that this project will involve.

2. **Property Values:**
   http://www.scottsdaleaz.gov/projects/giants/CitizenQuestions.asp:**Property Values – How might this impact my property value?**
   Based on a consultant's review of market data from properties along the Indian Bend Wash, there is no measurable difference in the valued added to a property because of its location next to a golf course and the value added to a property because of its location next to other types of open space.

   Regardless of what the City consultant found, please review the following attached tax record for my house that clearly states my land premium of "$10,000 Golf course lot". How is the City going to compensate me for this loss?

3. **Alternative Site Analysis:**
where is this information please? Is the City going to continue to conclude that "Coronado is the best site, and quite frankly, it is the only site"?

The sheer fact that the City now suddenly chooses to re-evaluate two sites, and take until September until findings can be presented, definitely seems to indicate that the initial analysis was FAR from adequate.

Furthermore, and correct me if I am incorrect, however El Dorado is not even an option that was considered – even though your own agenda today clearly states "reviewed previously".
If the City insists El Dorado was considered, why isn't in the Alternative Site Analysis – or if it is claimed that it is under "Other locations in IBW", why the re-analysis when it was the ONLY site concluded with "No pros".

4. **All Legal Issues with the Coronado Proposal:**
If the City had not been so focused on trying to get around the Deed Restrictions of Mr. Galbraith, then they may have also noticed that the 8 acres owned by Mr. Planeta have restrictions ONLY for a golf course (attached). How does the City intend on getting around these restrictions in this project "proposal"?

Related to the Financial Viability, the cost of the various impending legal battles will be costly – not only in tax payer funds that should be used more prudently – but in time – and time that may end up costing Scottsdale the Giants anyway. Note that is it the continued actions of the City that have brought these events to bearing, and hence those who have that responsibility.

Please vote for **continuation** and MAKE this a win-win project because it certainly is not at Coronado!

Regards,

James McCay

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NETVALUECENTRAL
ARMLS TAX SYSTEM

Owner/Property	Tax Mailing Address
MCCAY JAMES W 2647 N MILLER RD UNIT 21 SCOTTSDALE, AZ 85257-1628 Maricopa County	MCCAY JAMES W 2647 N MILLER RD 21 SCOTTSDALE, AZ 85257-1628

APN	MCR#	Lot SqFt	Property Use	
13125117	38313	3189	0746 - R7-4	
Lot/Blk	**Township**	**Range**	**Section**	**Maps**
21	2N	4E	35	GIS Map
Census Tract	**Block**	**Latitude**	**Longitude**	
217900	1000	33.477379	-111.917374	Flood Map

Residential Physicals

Stories:	1	**Class:**	R4
Rooms:	5	**Construction:**	frame wood
Bath Fixtures:	6	**Quality:**	good
Heating:	forced air	**RoofType:**	a tile
A/C:	refrigeration	**Patios:**	no patios or porches
SqFt:	1542	**Parking:**	2 car garage
Pool:	No	**YearBuilt:**	1995
Improvement%:	0 -	**AddedValueArea:**	-
Land Prem$:	10000.00 - Golf course lot	**Added SqFt:**	0 -
Elem Schl Dist:	SCOTTSDALE UNIFIED DISTRICT	**High Schl Dist:**	SCOTTSDALE USD #48
		Legal Class:	Owner Occupied

SubDivision: CORONADO PARK ESTATES REPLAT

The subdivision this property is located in has a total of 33 improved lots. The homes were constructed between 1981 and 1995. An average property in this subdivision has 1608.09 square feet with 5.21 rooms and 7.09 bath fixtures. There are 0 residences with pools which is 0% of the total. There are 33 single story homes in this subdivision.

Legal Description

CORONADO PARK ESTATES REPLAT MCR 383/13

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL

Recording Number
94-0680486

COPY

09/15/94 02:20

1 of 1 ANTHONY

When recorded mail to: FOXWORTH-GALBRAITH LUMBER COMPANY
P. O. BOX 4085
MESA, AZ 85211-4085
ATTENTION: H. S. GALBRAITH

DECLARATION OF RESTRICTIONS FOR GOLF COURSE USE

This Declaration is made by H. S. Galbraith, a Vice-President ("Declarant"), as present owner of, and to establish the nature of use and enjoyment of, the real property located in Maricopa County, Arizona, which is more particularly described in Exhibit A attached hereto (the "Premises"). Declarant declares the Premises to be subject to the following express covenants, stipulations and restrictions, all of which are to be construed as restrictive covenants running with the title to the Premises:

1. The Premises shall be used solely as a golf course, as such term is defined in A.R.S. § 42-146, or any successor statute thereto.

2. The covenants and restrictions set forth in Paragraph 1 hereof shall run with the land and shall bind all owners of the Premises and their heirs, legal representatives, successors and assigns for a period of eleven years; provided however, that on the date one year from the effective date hereof and each anniversary date thereafter, the term of the covenants and restrictions set forth in Paragraph 1 hereof shall be extended automatically by one year (so that the restriction will always apply for at least ten years) unless and until the holder(s) of the legal and equitable title to the Premises execute and record an amendment to this Declaration that specifies otherwise.

3. Except as otherwise provided in Paragraph 2 hereof, or in A.R.S. § 42-146, no third party shall, by reason of this Declaration, acquire any rights or interest with respect to the use of the Premises.

IN WITNESS WHEREOF, the Declarant has executed this Declaration effective as of the 29th day of August, 1994.

FOXWORTH-GALBRAITH LUMBER COMPANY/FOXGAL, INC.
By: H S Galbraith
Its: Vice-President

STATE OF ARIZONA)
)
County of Maricopa)

On this 29th day of August, 1994, before me, the undersigned officer, H. S. Galbraith, personally appeared, who acknowledged himself to be the Vice-President of Foxworth-Galbraith Lumber Company d/b/a Foxgal, Inc., and acknowledged that he, as such officer, being duly authorized to do so, executed the foregoing instrument for the purposes therein contained.

My Commission Expires:
October 29, 1994

Shirley J. Beck
Notary Public