

**SCOTTSDALE CITY COUNCIL
REGULAR MEETING MINUTES
TUESDAY, JANUARY 8, 2019**



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

CALL TO ORDER

Mayor W.J. "Jim" Lane called to order a Regular Meeting of the Scottsdale City Council at 5:03 P.M. on Tuesday, January 8, 2019, in the City Hall Kiva.

ROLL CALL

Present: Mayor W.J. "Jim" Lane; Vice Mayor Guy Phillips; and Councilmembers Suzanne Klapp, Virginia L. Korte, Kathleen S. Littlefield, Linda Milhaven, and Solange Whitehead

Also Present: City Manager Jim Thompson, City Attorney Bruce Washburn, City Treasurer Jeff Nichols, City Auditor Sharron Walker, and City Clerk Carolyn Jagger

PLEDGE OF ALLEGIANCE – Councilwoman Whitehead

INVOCATION – Chaplain Mark Yule, Scottsdale Fire Department

MAYOR'S REPORT

Mayor Lane highlighted some of Scottsdale's upcoming special events, including the Barrett-Jackson Auto Auction, Waste Management Phoenix Open, Scottsdale Arabian Horse Show, Parada del Sol and Trails Ends Festival, and Cactus League Spring Training.

PRESENTATIONS/INFORMATION UPDATES

- **American Heart Association**
Presenter(s): Alissa McKersie, American Heart Association

American Heart Association representative Alissa McKersie gave a presentation on the organization's efforts to build a culture of health throughout America's workplaces.

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

- **APS Peak Solutions Rebate**

Presenter(s): Brian Biesemeyer, Water Resources Director; Joel Fisher, Itron; Tammy Tepper-Cunningham, Arizona Public Service; Kathleen Prendergast, Pinnaclewest

Itron Representative Joel Fisher, Arizona Public Service Representative Tammy Tepper-Cunningham, and Pinnaclewest Representative Kathleen Prendergast presented an APS Peak Solutions Rebate check to Water Resources Director Brian Biesemeyer.

PUBLIC COMMENT

- Richard McCaughan spoke in support of light rail.
- Pat Shaler commented on the City's Neptune Swimming Foundation citizen petition report.
- Alex McLaren reported on equipment replacement at Osborn Park.
- Sandy Schenkat advocated for campaign contribution limits.
- Sonnie Kirtley commented on the publication covers for Scottsdale Life, Sunday A'Fair, and the Scottsdale Visitor Guide.

MINUTES

Request: Approve the Special Meeting Minutes of November 26, 2018; and Regular Meeting Minutes of November 26, 2018, December 11, 2018, and December 12, 2018.

MOTION AND VOTE – MINUTES

Vice Mayor Phillips made a motion to approve the Special Meeting Minutes of November 26, 2018; and Regular Meeting Minutes of November 26, 2018, December 11, 2018, and December 12, 2018. Councilwoman Klapp seconded the motion, which carried 7/0, with Mayor Lane; Vice Mayor Phillips; and Councilmembers Klapp, Korte, Littlefield, Milhaven, and Whitehead voting in the affirmative.

CONSENT AGENDA

1. **Sienna Hills Ph. 2 Final Plat (15-PP-2017)**

Request: Approve the final plat for a new residential subdivision comprised of 16 lots and 4 tracts on an 8±-acre site with Single-Family Residential, Environmentally Sensitive Lands (R1-10 ESL) zoning.

Location: West of the northwest corner of Shea Boulevard and 124th Street

Staff Contact(s): Randy Grant, Planning and Development Services Director, 480-312-2664, rgrant@scottsdaleaz.gov

2. **Engineering Services Contract for the Osborn Road Complete Street Project**

Request: Adopt **Resolution No. 11301** authorizing Contract No. 2019-002-COS with Ritoch-Powell and Associates, Inc., in the amount of \$405,187.54, for complete civil engineering services for the Osborn Road Complete Street Project – Hayden Road to Scottsdale Road.

Staff Contact(s): Daniel Worth, Public Works Director, 480-312-5555, dworth@scottsdaleaz.gov

3. Off Road Expo

Request: Adopt **Resolution No. 11352** to authorize:

1. Funding, not to exceed \$75,000, from the portion of the FY 2018/19 Tourism Development Fund that is allocated toward event retention and development for the Off Road Expo event.
2. New Event Funding Agreement No. 2019-009-COS with Bonnier Corporation.

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

4. Fire Protection System Compliance Reporting Fee

Request: Adopt **Resolution No. 11347** authorizing the addition of a new \$30 fire protection system compliance reporting fee to the *Fire Department Fee Schedule* for utilization of the required fire inspection compliance engine tracking system.

Staff Contact(s): Tom Shannon, Fire Chief, 480-312-1821, tshannon@scottsdaleaz.gov

5. Proposition 202 Grant Funds Acceptance

Request: Adopt **Resolution No. 11355** to authorize:

1. Agreement No. 2019-013-COS with Ak-Chin Indian Community and Catholic Charities Community Services to accept Proposition 202 Tribal Gaming Funds in the amount of \$100,000.
2. Agreement No. 2019-014-COS with Ak-Chin Indian Community and Reigning Grace Ranch to accept Proposition 202 Tribal Gaming Funds in the amount of \$50,000.
3. A budget transfer in the amount of \$150,000 from the adopted FY 2018/19 Grant Contingency and/or the Future Grants Budget to newly created cost centers assigned to record the grant activity.

Staff Contact(s): Brad Lundahl, Government Relations Director, 480-312-2683, blundahl@scottsdaleaz.gov

6. Marcellus v. City of Scottsdale et al. Offer of Judgment

Request: Adopt **Resolution No. 11346** authorizing the City to make an Offer of Judgment in the amount of \$65,000 to the plaintiff in *Marcellus v. City of Scottsdale, et al.*, Maricopa County Superior Court, Cause No. CV2015-091140, or otherwise resolving the pending litigation.

Staff Contact(s): Bruce Washburn, City Attorney, 480-312-2405, bwashburn@scottsdaleaz.gov

7. Council Committee and Subcommittee Appointments

Request: Confirm Mayor Lane's City Council committee and subcommittee appointments for the Audit Committee, Economic Development Subcommittee, WestWorld Subcommittee, and Capital Improvement Plan Subcommittee as follows:

1. Audit Committee – Councilmembers Korte, Littlefield, and Whitehead
2. Economic Development Subcommittee – Councilmembers Klapp, Milhaven, and Whitehead
3. WestWorld Subcommittee – Vice Mayor Phillips and Councilmembers Korte and Milhaven
4. Capital Improvement Plan Subcommittee – Vice Mayor Phillips and Councilmembers Klapp and Littlefield

Staff Contact(s): Rachel Smetana, Mayor's Chief of Staff, 480-312-7806, rsmetana@scottsdaleaz.gov

MOTION AND VOTE – CONSENT AGENDA

Councilmember Korte made a motion to approve Consent Agenda Items 1 through 7. Vice Mayor Phillips seconded the motion, which carried 7/0, with Mayor Lane; Vice Mayor Phillips; and Councilmembers Klapp, Korte, Littlefield, Milhaven, and Whitehead voting in the affirmative.

PUBLIC COMMENT – None

CITIZEN PETITIONS

8. Receipt of Citizen Petitions

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

Staff Contact(s): Carolyn Jagger, City Clerk, 480-312-2411, cjagger@scottsdaleaz.gov

No citizen petitions were received.

MAYOR AND COUNCIL ITEMS

9. Ethics Refresher Training

On May 2, 2006, the Scottsdale City Council adopted Resolution No. 6879 and Ordinance No. 3675 establishing the City of Scottsdale Public Service Ethics Program and a Code of Ethical Behavior related to elected and appointed officials, which became effective July 1, 2006. The City's Ethics Program and the Code require that the Councilmembers receive annual ethics training.

This ethics training for the City Council will include the following components:

1. A discussion of the requirements of the Code of Ethical Behavior that are most frequently implicated in the Councilmembers' activities.
2. An update on any changes that might have occurred in the last year relating to the Code of Ethical Behavior.
3. An opportunity for Councilmembers to raise any issues of particular concern to them.

The training session is instructional and informational. No public business will be considered and no public comment will be taken; however, City Councilmembers may engage in discussion about ethics issues as part of this training session.

Presenter(s): Bruce Washburn, City Attorney

Staff Contact(s): Bruce Washburn, City Attorney, 480-312-2405,
bwashburn@scottsdaleaz.gov

City Attorney Bruce Washburn gave a PowerPoint presentation (attached) on the City's Ethics Ordinance.

10. Initiate City Council Review of the Development Review Board's December 20, 2018, Decision

Regarding 58-DR-2018 (The Maverick Mural)

Request: At the request of Councilwoman Littlefield, consider whether to initiate a formal City Council review of the Development Review Board's December 20, 2018, decision, which approved a mural on the north elevation of an existing building in Old Town Scottsdale (4235 N. Marshall Way).

MOTION AND VOTE – ITEM 10

Councilwoman Littlefield made a motion to initiate a review of the Development Review Board's December 20, 2018, decision regarding 58-DR-2018, The Maverick Mural. Councilwoman Klapp seconded the motion, which carried 5/2, with Mayor Lane; Vice Mayor Phillips; and Councilmembers Klapp, Littlefield, and Whitehead voting in the affirmative, and Councilmembers Korte and Milhaven dissenting.

ADJOURNMENT

The Regular City Council Meeting adjourned at 6:05 P.M.

SUBMITTED BY:



**Carolyn Jagger
City Clerk**

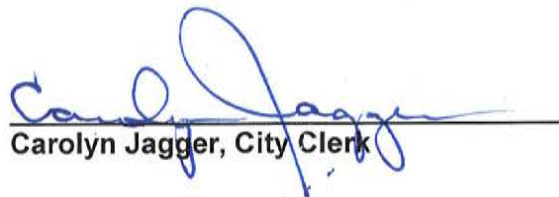
Officially approved by the City Council on February 5, 2019

CERTIFICATE

I hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Regular Meeting of the City Council of Scottsdale, Arizona held on the 8th day of January 2019.

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

DATED this 5th day of February 2019.



Carolyn Jagger, City Clerk

**COUNCIL ETHICS REFRESHER
JANUARY 8, 2019**



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**CITY COUNCIL ETHICS
REFRESHER TOPICS**

1. OPEN MEETING LAW
 - a) NEW "MEETING" DEFINITION
 - b) NEW MINUTES REQUIREMENTS
 - c) NEW ENFORCEMENT PROVISIONS
2. GIFTS
 - a) PROHIBITIONS
 - b) EXCEPTIONS

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HB 2065

New definition of "meeting" includes:

- i. A one-way electronic communication by one member of a public body that is sent to a quorum of the members of a public body and that proposes legal action.
- ii. An exchange of electronic communications among a quorum of the members of a public body that involves a discussion, deliberation or the taking of legal action by the public body concerning a matter likely to come before the public body for action.

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NO DRASTIC CHANGE EFFECTED

- Restrictions on electronic communications first set forth in 2005 AG opinion
- Adoption in statute documents legislature's concurrence in this opinion

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CHANGE TO REQUIREMENT FOR MEETING MINUTES

- Minutes must now include “a record of how each member voted” and shall include “the names of the members who propose each motion.”
- This information was already in City’s minutes.
- The Clerk’s office is making any necessary adjustments.

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ENFORCEMENT

- New provision allows for Attorney General to sue individual members who knowingly violate OML
- Penalty unspecified for first offense, up to \$500 for second offense and up to \$2,500 for third
- Public body cannot pay the penalty
- “Safe harbor” provision if member objects to action on the public record

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GIFTS; PROHIBITED; EXCEPTIONS – SRC § 2-50

(a) Prohibitions

- ✦** Soliciting, receiving, accepting gifts
- ✦** “of any kind”
- ✦** From:
 - Anyone engaged in general practice
 - or
 - Specific situation involving City decision-making or permitting processes
- ✦** Exceptions – subpart (b)

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EXCEPTIONS – SRC § 2-50(b)

- ✦** Entertainment, hospitality (meals), transportation and token mementos
- ✦** Directly associated with events attending as representative of City

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EXCEPTIONS - SRC § 2-50(b) (Cont'd)

- ✘ If permissible gift
 - Declare to City Clerk if over \$25
 - Use Declaration of Gift Form

- ✘ Unless SRC § 14-135 does not require reporting

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SRC § 14-135

- ✘ Applies to elected officials and employees
- ✘ Prohibits:
 - Soliciting for personal gain
 - Payment or reward for services
 - Reasonably construed as attempt to exert improper influence

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SRC § 14-135 – NOT CONSIDERED GIFT

- ✦ “Reflect legitimate public duties or purposes”
- ✦ Not considered gifts
 1. Events sponsored or funded, in whole or part, by City
 2. Reasonable hosting expenses for official speaking, engagements, ceremonies or appearance on behalf of City when public or civil purpose is served.
 3. Gifts of goodwill or tokens of appreciation accepted on behalf of City
 - Food – shared with others
 4. Received and donated to charity

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SPONSORED EVENTS

- ✦ These are events where the City has an agreement to act as a sponsor or co-sponsor
- ✦ Not all events on City property
- ✦ Current list being provided

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