

**SUMMARIZED MINUTES
SCOTTSDALE CITY COUNCIL
REGULAR MEETING
TUESDAY, AUGUST 31, 2010**



**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 5:05 P.M. on Tuesday, August 31, 2010 in the City Hall Kiva.

ROLL CALL

Present: Mayor W.J. "Jim" Lane
Vice Mayor Suzanne Klapp
Councilmembers Lisa Borowsky, Wayne Ecton, Robert Littlefield, Ron McCullagh, and Marg Nelssen

Also Present: City Manager David Richert
City Attorney Bruce Washburn
City Treasurer David N. Smith
City Clerk Carolyn Jagger

PLEDGE OF ALLEGIANCE – Presentation of Colors by the Buffalo Soldiers of the Arizona Territory

INVOCATION – Pastor Bill Good, Mountain View Presbyterian Church

CITY MANAGER'S REPORT – Chief Alan Rodbell reported on the partnership between the City's Police Department and Scottsdale Fashion Square to provide information on City services and events.

PRESENTATIONS/INFORMATION UPDATES – Mayor Lane announced that the Arizona Disability Advocacy Coalition presented the City of Scottsdale, in partnership with the McDowell Sonoran Conservancy, a Justice and Equality Liberty Award for the Bajada Nature Trail.

NOTE: IN ACCORDANCE WITH PROVISIONS OF THE ARIZONA REVISED STATUTES THE SUMMARIZED MINUTES OF CITY COUNCIL MEETINGS ARE NOT VERBATIM TRANSCRIPTS. THESE MINUTES ARE INTENDED TO BE AN ACCURATE REFLECTION OF ACTION TAKEN BY THE CITY COUNCIL. DIGITAL RECORDINGS OF CITY COUNCIL MEETINGS ARE ON FILE IN THE CITY CLERK'S OFFICE.

PUBLIC COMMENT

Jerome Landau, Scottsdale resident, asked the Council and staff to consider holiday and vacation schedules when planning public meetings.

Guy Phillips, Scottsdale resident, expressed displeasure with the Channel 11 Programming Commission and the Scottsdale Chamber of Commerce candidate forum.

ADDED ITEMS

A1. Added Items

Mayor and Council Item No. 20 was added to the agenda on August 30.

Request: Vote to accept the agenda as presented or to continue the added item to the next scheduled Council meeting, which is September 14, 2010.

MOTION AND VOTE – ADDED ITEMS

COUNCILMEMBER LITTLEFIELD MOVED TO ACCEPT THE AGENDA AS PRESENTED. MAYOR LANE SECONDED THE MOTION, WHICH CARRIED 6/1, WITH COUNCILMEMBER MCCULLAGH DISSENTING.

CONSENT AGENDA

1. **Clancy's Conditional Use Permit (15-UP-2010)**
Request: Adopt **Resolution No. 8410** approving a Conditional Use Permit to serve alcoholic beverages as an accessory use at an existing 2,904± square foot restaurant with Planned Neighborhood Center (PNC) zoning, and finding that the conditional use permit criteria have been met.
Location: 7551 E. Camelback Road, Suite 107
Staff Contact(s): Connie Padian, Acting Planning, Neighborhood, and Transportation Executive Director, 480-312-2664, cpadian@scottsdaleaz.gov
2. **Schubert Residence Hardship Exemption (2-HE-2010)**
Request: Adopt **Resolution No. 8394** approving a hardship exemption from the Environmentally Sensitive Lands Ordinance (ESL) requirement of a 15-foot setback for walls from the side and rear property lines for a property with Single-Family Residential, Environmentally Sensitive Lands (R1-43/ESL) zoning.
Location: 23401 N. 81st Street
Staff Contact(s): Connie Padian, Acting Planning, Neighborhood, and Transportation Executive Director, 480-312-2664, cpadian@scottsdaleaz.gov
3. **Construction Bid Award for Troon Ridge Subdivision Sewer Lift Stations 12, 16, and 17 Rehabilitation**
Request: Adopt **Resolution No. 8417** authorizing Construction Bid Award No. 10PB027 with City Wide Contracting, LLC, the lowest responsive bidder, at the bid amount of \$865,454, for Sewer Lift Stations 12, 16 and 17 rehabilitation within the Troon Ridge Subdivision.
Staff Contact(s): Dan Worth, Public Works Executive Director, 480-312-5555, dworth@scottsdaleaz.gov

4. **Construction Bid Award for South Scottsdale Road Drainage Corridor Improvements**
Request: Adopt **Resolution No. 8411** rescinding Construction Bid Award No. 09PB061 to Double D Construction, Inc., and authorizing the award to Tierra Construction Inc., in the amount of \$749,437, for the construction of the South Scottsdale Road Drainage Corridor Project.
Staff Contact(s): Dan Worth, Public Works Executive Director, 480-312-5555, dworth@scottsdaleaz.gov
5. **On-Call Engineering Services Contracts for Stormwater Management Projects**
Request: Adopt **Resolution No. 8405** authorizing the following contracts to provide on-call engineering services, for an amount not to exceed \$400,000 each, for the design of various stormwater management projects:
 1. Engineering Services Contract No. 2010-140-COS with Gavan & Barker
 2. Engineering Services Contract No. 2010-141-COS with Cardno WRG**Staff Contact(s):** Dan Worth, Public Works Executive Director, 480-312-5555, dworth@scottsdaleaz.gov
6. **Job Order Contract Modifications for Citywide Sewer Rehabilitation**
Request: Adopt **Resolution No. 8349** authorizing the following job order contract modifications for citywide sewer line rehabilitation:
 1. Job Order Contract Modification No. 2008-061-COS-A2 with Insituform
 2. Job Order Contract Modification No. 2008-082-COS-A2 with Achen Gardner Engineering, LLC**Staff Contact(s):** Dan Worth, Public Works Executive Director, 480-312-5555, dworth@scottsdaleaz.gov
7. **Capital Improvement Project Budget Transfer for Ballfield Netting Safety Improvements**
Removed
8. **Intergovernmental Agreement with the Arizona Department of Transportation for Construction of Various Street Mill and Overlay Projects**
Request: Adopt **Resolution No. 8403** authorizing Intergovernmental Agreement No. 2010-139-COS with the Arizona Department of Transportation to reimburse the City \$831,860 for construction of various street mill and overlay projects.
Staff Contact(s): Dan Worth, Public Works Executive Director, 480-312-5555, dworth@scottsdaleaz.gov
9. **Amended Intergovernmental Agreement with Maricopa County Library District for Reciprocal Borrowing**
Request: Adopt **Resolution No. 8391** authorizing Intergovernmental Agreement Amendment No. 2001-094-COS-A4 with Maricopa County Library District to extend the Reciprocal Borrowing Program for one year.
Staff Contact(s): William Murphy, Community Services Executive Director, 480-312-7954, bmurphy@scottsdaleaz.gov

10. **First Aid and CPR Training Agreement with Desert Mountain Properties Limited Partnership**
Request: Adopt **Resolution No. 8406** authorizing Contract No. 2010-142-COS with Desert Mountain Properties Limited Partnership for the provision of first aid and CPR training.
Staff Contact(s): Steve Randall, Interim Fire Chief, 480-312-1882, srandall@scottsdaleaz.gov
11. **First Aid and CPR Training Agreement with Desert Mountain Master Association**
Request: Adopt **Resolution No. 8407** authorizing Contract No. 2010-143-COS with Desert Mountain Master Association for the provision of first aid and CPR training.
Staff Contact(s): Steve Randall, Interim Fire Chief, 480-312-1882, srandall@scottsdaleaz.gov
12. **Reorganization Budget Adjustments**
Request: Adopt **Resolution No. 8420** authorizing the necessary FY 2010/11 budget adjustments and transfers to implement Ordinance No. 3905 which was approved by Council on July 7, 2010.
Staff Contact(s): Brent Stockwell, Senior Advisor, 480-312-7288, bstockwell@scottsdaleaz.gov
13. **Amended Legal Services Contract for City of Scottsdale v. Hualapai, LLC, et al.**
Request: Adopt **Resolution No. 8426** authorizing Contract Amendment No. 2009-160-COS-A1, in an amount not to exceed \$200,000, with Mariscal, Weeks, McIntyre & Friedlander, P.A. for legal fees and costs in connection with City of Scottsdale v. Hualapai, LLC, et al., CV2006-013543, an action brought to condemn land.
Staff Contact(s): Bruce Washburn, City Attorney, 480-312-2405, bwashburn@scottsdaleaz.gov
14. **Scottsdale Industrial Development Authority Issuance of Refunding Bonds**
Request: Adopt **Resolution No. 8430** approving the issuance by the Industrial Development Authority of the City of Scottsdale of Hospital Revenue Refunding Bonds (Scottsdale Healthcare) Series 2010 in an aggregate principal amount not to exceed \$40 million.
Staff Contact(s): Harold Stewart, Economic Vitality Executive Director, 480-312-2311, hstewart@scottsdaleaz.gov

MOTION AND VOTE – CONSENT AGENDA

VICE MAYOR KLAPP MOVED TO APPROVE CONSENT AGENDA ITEMS 1 THROUGH 14.
COUNCILMEMBER MCCULLAGH SECONDED THE MOTION, WHICH CARRIED 7/0.

REGULAR AGENDA

15. **Stormwater Utility Feasibility Study**
Request: Adopt **Resolution No. 8421** authorizing Contract No. 2010-145-COS with Black & Veatch Corporation in the amount of \$82,000 to conduct a stormwater utility feasibility study; and authorizing a general fund operating budget contingency transfer of \$100,000 to a newly created operating project titled Stormwater Utility Feasibility Study.
Presenter(s): Ashley Couch, Stormwater Manager
Staff Contact(s): Dan Worth, Public Works Executive Director, 480-312-5555, dworth@scottsdaleaz.gov

Stormwater Manager Ashley Couch gave a PowerPoint presentation (attached) outlining the stormwater program, stormwater utilities, alternative funding sources, and a proposed feasibility study.

Mayor Lane opened public testimony.

The following spoke in opposition to funding the stormwater utility feasibility study:

Guy Phillips, Scottsdale resident
Marilynn Andrews, Scottsdale resident

Mayor Lane closed public testimony.

Discussion:

- Some Councilmembers, speaking in opposition to funding the feasibility study, cited concerns regarding depressed economic conditions and the potential for additional taxes. They also questioned the need for a stormwater utility.
- Some Councilmembers spoke in support of funding the study. They noted that the study would provide an opportunity for public outreach and provide information on a variety of alternative funding sources.

MOTION AND VOTE – ITEM 15

COUNCILMEMBER LITTLEFIELD MOVED TO DENY RESOLUTION NO. 8421.
COUNCILMEMBER ECTON SECONDED THE MOTION, WHICH CARRIED 5/2, WITH VICE
MAYOR KLAPP AND COUNCILMEMBER MCCULLAGH DISSENTING.

THE DISCUSSION AND PRESENTATION FOR ITEMS 16, 17, AND 18 WERE
CONSOLIDATED.

16. Residential Health Care Facility Text Amendment (5-TA-2009)

Request: Adopt **Ordinance No. 3907** affirming the text amendment to the City Zoning Ordinance No. 455 to amend Article V. District Regulations, Section 5.030, R1-70 Single-Family Residential District, pertaining to Section 5.032, Use Regulations, and Section 5.034, Property Development Standards, to allow Residential Health Care Facility as a conditional use in the R1-70 district.

Presenter(s): Louisa Garbo, Senior Planner

Staff Contact(s): Connie Padian, Acting Planning, Neighborhood, and Transportation Executive Director, 480-312-2664, cpadian@scottsdaleaz.gov

17. Residential Health Care Facility Conditional Use Permit (35-UP-2009)

Request: Adopt **Resolution No. 8395** approving a Conditional Use Permit for a Residential Health Care Facility providing specialized healthcare services on an approximately five-acre parcel with Single-Family Residential, Environmentally Sensitive Lands/Foothill Overlay (R1-70 ESL/FO) zoning, and finding that the conditional use permit criteria have been met, subject to the adoption of Text Amendment 5-TA-2009.

Location: 7171 E. Lone Mountain Road

Presenter(s): Louisa Garbo, Senior Planner

Staff Contact(s): Connie Padian, Acting Planning, Neighborhood, and Transportation Executive Director, 480-312-2664, cpadian@scottsdaleaz.gov

18. Residential Health Care Facility Abandonment (4-AB-2010)

Requests:

1. Adopt **Resolution No. 8326** vacating and abandoning a portion of the east side of the public rights-of-way located near the southwest corner of North Scottsdale and East Lone Mountain roads, zoned Single-Family Residential, Environmentally Sensitive Lands, Foothill Overlay (R1-70 ESL FO) District.
2. Adopt **Resolution No. 8412** vacating and abandoning a portion of the west side of the public rights-of-way located near the southwest corner of North Scottsdale and East Lone Mountain roads, zoned Single-Family Residential, Environmentally Sensitive Lands, Foothill Overlay (R1-70 ESL FO).

Location: 7075 E. Lone Mountain Road

Presenter(s): Louisa Garbo, Senior Planner

Staff Contact(s): Connie Padian, Acting Planning, Neighborhood, and Transportation Executive Director, 480-312-2664, cpadian@scottsdaleaz.gov

Senior Planner Louisa Garbo gave a PowerPoint presentation (attached) outlining the application for Case No. 5-TA-2009, Case No. 35-UP-2009, and Case No. 4-AB-2010.

John Berry, representing the applicant, explained that the text amendment application is an appropriate use of the process, and that a residential health care facility is an appropriate land use for R1-70 zoning. He noted support of the bordering neighbors, and cited the Planning Commission's approval of Case No. 35-UP-2009 and Case No. 4-AB-2010. Mr. Berry submitted 117 statements of support for the project.

Mayor Lane opened public testimony.

The following individuals spoke in opposition to Case No. 5-TA-2009, Case No. 35-UP-2009, and Case No. 4-AB-2010. They cited increased density, lack of neighborhood support for a residential health care facility, lack of public meetings, incompatible use for a rural character area, bypassing the General Plan and zoning ordinances, and concern about setting a precedent as reasons for their opposition.

Jandark Savaya, Scottsdale resident

Stephanie Bradley, Scottsdale resident

Steve Bradley, Scottsdale resident

Linda Whitehead, Coalition of Pinnacle Peak

Jane Rau, Scottsdale resident

Robert Cappel, Wingate Owners Community Association, Greater Pinnacle Peak Association

Tom Marchetti, Winfield Homeowners Association

James Patterson, Las Piedras at Sevano Village Homeowners Association

Harvey Epstein, Scottsdale resident

Richard Hetke, Winfield Homeowners Association

David Talbert, Scottsdale resident

Jerome Landau, Scottsdale resident

Paul Agranoff, Scottsdale resident

Guy Phillips, Scottsdale resident

Ned O'Hearn, Scottsdale resident

Linda Ambrose, Scottsdale resident

Les Conklin, Greater Pinnacle Peak Association, Friends of Scenic Drive

Howard Myers, Scottsdale resident

Mayor Lane closed public testimony.

Discussion:

- In response to concerns expressed during public testimony, Mr. Berry reported that:
 - The conceptual site plan is consistent with the Foothills Character Area Plan, Desert Foothills Overlay, and Environmentally Sensitive Lands Overlay.
 - The Council Report states that public meetings were held December 1 and 2, 2009; and March 16, 2010.
 - The Council must make a finding that the characteristics of the proposed conditional use permit are reasonably compatible with the types of uses permitted in surrounding areas. He noted that the property is located at a signalized intersection and across the street from a commercial establishment.
- Council asked for the floor area ratio (FAR) of the property. Mr. Berry advised that he did not know the actual size of the FAR; however, the applicant stipulates to limiting the FAR to .35 per gross acre.
- Council asked how they could be assured that the project would be built as presented. Principal Planner Tim Curtis pointed out that the stipulations associated with the conditional use permit would govern the land use issues. However, there are no stipulations requested through the text amendment to regulate the site plan design.
- Some Councilmembers expressed dissatisfaction with the applications. They believe the residential health care facility is a commercial operation that is inconsistent with the City's General Plan, Desert Foothills Overlay, Foothills Character Area Plan, and Environmentally Sensitive Lands Ordinance.
- A Councilmember noted that the text amendment processes were originally designed to fix problems within the zoning ordinance; however, she believes the proposed text amendment will create problems.
- Some Councilmembers expressed support for the applications and cited the need for affordable, convenient housing for senior citizens; flexibility in the General Plan; and the applicant's sensitivity to existing development standards.

MOTION – ITEMS 16, 17, AND 18

COUNCILMEMBER ECTON MOVED TO APPROVE CASE NO. 5-TA-2009 (ORDINANCE NO. 3907); CASE NO. 35-UP-2009 (RESOLUTION NO. 8395), FINDING THAT THE CONDITIONAL USE PERMIT CRITERIA HAVE BEEN MET; AND CASE NO. 4-AB-2010 (RESOLUTION NOS. 8326 AND 8412), WITH AN ADDITIONAL REQUIREMENT THAT THE FAR BE LIMITED TO .35 PER GROSS ACRE TO ADDRESS THE CONCERNS THAT THE PEOPLE HAVE OVER THE ISSUE. COUNCILMEMBER MCCULLAGH SECONDED THE MOTION.

Discussion:

- Some Councilmembers expressed opposition to the motion, reiterating their belief that the applications are inconsistent with the General Plan, that the facility is for commercial purposes and does not belong in a rural area, and there is not a need for the facility.
- Some Councilmembers spoke in favor of the motion, and reiterated their belief that there is a need for quality, affordable, and convenient health care for the aged.
- It was noted that the City Attorney had assured the Council that the proposal was not illegal, and that staff confirmed that the proposal does not violate the zoning ordinance, or conflict with the elements of the City's General Plan.

VOTE ON MOTION – ITEMS 16, 17, AND 18

THE COUNCIL VOTE ON THE MOTION TO APPROVE CASE NO. 5-TA-2009 (ORDINANCE NO. 3907); CASE NO. 35-UP-2009 (RESOLUTION NO. 8395), FINDING THAT THE CONDITIONAL USE PERMIT CRITERIA HAVE BEEN MET; AND CASE NO. 4-AB-2010 (RESOLUTION NOS. 8326 AND 8412), WITH AN ADDITIONAL REQUIREMENT THAT THE FAR BE LIMITED TO .35 PER GROSS ACRE TO ADDRESS THE CONCERNS THAT THE PEOPLE HAVE OVER THE ISSUE, CARRIED 5/2, WITH COUNCILMEMBERS LITTLEFIELD AND NELSEN DISSENTING.

19. Alternative Service Delivery Options for Fleet Parts Management

Request: Staff presentation and possible Council direction regarding alternative service delivery options for fleet parts management.

Presenter: Dan Worth, Public Works Executive Director

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

Public Works Executive Director Dan Worth gave a PowerPoint presentation (attached) providing an overview of the City's fleet parts management program and an analysis of alternative service delivery options.

Discussion:

- Several Councilmembers expressed support for seeking bids from outside vendors to determine if the City can save money by outsourcing the fleet parts management program.

MOTION AND VOTE – ITEM 19

MAYOR LANE MOVED TO DIRECT STAFF TO SEEK COMPETITIVE BIDS WITH SPECIFIC TERMS AND CONDITIONS FOR FLEET PARTS MANAGEMENT. COUNCILMEMBER ECTON SECONDED THE MOTION, WHICH CARRIED 7/0.

MAYOR AND COUNCIL ITEMS

20. City of Scottsdale Participation in Scottsdale Area Chamber of Commerce's Events

Request: At the request of Councilman Littlefield, discuss and possibly provide direction to staff prohibiting City of Scottsdale funds and other resources from being spent or used in connection with events hosted or sponsored by the Scottsdale Area Chamber of Commerce.

Discussion:

- A Councilmember objected to any City funds or staff time being spent for City staff or board and commission members to attend a Scottsdale Area Chamber of Commerce fund raising event.
- City Manager David Richert explained that there would be no charge for Councilmembers, City staff, or board and commission members to attend the event. He added that staff will be in attendance for purposes of networking on the General Plan update.

- Council asked if the City had written any checks to the Chamber of Commerce for the event. Mr. Richert assured the Council that the City would not write a check to the Chamber for this event, or any future event, without the Council being fully aware of the circumstances.
- A Councilmember read excerpts from a letter authored by Rick Kidder, President/CEO of the Scottsdale Area Chamber of Commerce, stating that the Chamber is not seeking City funds for the event (attached).

Public Comment – None

Mayor and Council Items – None


Adjournment

With no further business to discuss, the Regular Meeting adjourned at 9:28 P.M.

SUBMITTED BY:


Cathleen Butteweg
Deputy City Clerk

REVIEWED BY:


Carolyn Jagger
City Clerk


Officially approved by the City Council on September 28, 2010

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 31st of August 2010.

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

DATED this 28th day of September 2010.



CAROLYN JAGGER
City Clerk