

SCOTTSDALE

CITY COUNCIL MEETING



***** AMENDED *** MEETING NOTICE AND AGENDA**

[ADDED ITEM No. 9A; REWORDED ITEM No. 12]

COUNCIL

David D. Ortega, Mayor

Tammy Caputi

Tom Durham

Betty Janik

Kathleen S. Littlefield

Linda Milhaven

Solange Whitehead

Wednesday, December 8, 2021

The City Hall Kiva Forum (Kiva) is open to the public during City Council meetings at a reduced capacity. Seating in the Kiva will be available on a first come, first served basis. Once capacity has been reached, individuals will be directed to a nearby location to view the televised meeting. The Mayor will announce the names of speakers in advance to give those attending the meeting from the nearby location sufficient time to enter the Kiva and make their comments in person. As seating in the Kiva becomes available, individuals waiting in the nearby location will be asked to come to City Hall.

City Council meetings are also televised on Cox Cable Channel 11 and streamed online at ScottsdaleAZ.gov (search "live stream") to allow the public to virtually attend, participate telephonically, and listen/view the meeting in progress. Unless an exception is made, or unless otherwise noted, the Council will not begin discussion on any new items after 10:00 p.m. Items that are not heard will be continued to the next scheduled Council meeting (January 11, 2022).

In-person or telephonic comment is being accepted on Items 1 through 12. To sign up to speak on these items, please click [here](#).

Scottsdale citizens may also speak on items that are within the Council's jurisdiction but are not on the agenda, with a total of 15 minutes at the beginning and 15 minutes at the end of the meeting dedicated to comment on non-agendized items. To sign up to speak in person or telephonically on a non-agendized item that is within the Council's jurisdiction, please click [here](#).

Online Request to Speak forms for Consent, Regular, and Non-Agendized items must be submitted no later than 90 minutes before the start of the meeting and you must indicate whether you will be addressing the Council in person or telephonically.

Written comments on any of the items on tonight's agenda that are submitted electronically at least 90 minutes before the meeting will be emailed to the Council and posted online prior to the meeting. A written public comment may be submitted electronically by clicking [here](#).

5:00 P.M.

Marked Agenda

REGULAR CITY COUNCIL MEETING

City Hall Kiva Forum, 3939 N. Drinkwater Boulevard



PERSONS WITH A DISABILITY MAY REQUEST A REASONABLE ACCOMMODATION BY CONTACTING THE CITY CLERK'S OFFICE AT (480-312-2412). REQUESTS SHOULD BE MADE 24 HOURS IN ADVANCE, OR AS EARLY AS POSSIBLE TO ALLOW TIME TO ARRANGE ACCOMMODATION. FOR TTY USERS, THE ARIZONA RELAY SERVICE (1-800-367-8939) MAY CONTACT THE CITY CLERK'S OFFICE (480-312-2412).

FOR ADDITIONAL INFORMATION VISIT: WWW.SCOTTSDALEAZ.GOV/COUNCIL/MEETING-INFORMATION

Call to Order – 5:00 P.M.

Roll Call – All present

One or more members of the Council may be unable to attend the Council meeting in person and may participate telephonically, pursuant to A.R.S. §38-431(4).

Pledge of Allegiance – Virginia G. Piper Branch of the Boys & Girls Clubs of Greater Scottsdale

Mayor's Report – Mayor Ortega announced this was the final Council meeting of 2021. He wished everyone a wonderful holiday season spent with family and friends.

– Mayor Ortega asked everyone to check out the Scottsdazzle Program. The activities and events take place at various venues and destinations around Old Town, and he encouraged visiting these businesses. Scottsdazzle will continue until December 31st. For more information search “Scottsdazzle” using any web browser.

Public Comment – Daniel Ishac spoke about decorum at City Council meetings.

Public Comment time is reserved for Scottsdale citizens to comment on non-agendized items that are within the Council's jurisdiction. No official Council action can be taken on these items. Public Comment time is also the designated time for presenting a citizen petition. There is no limit on the number of petitions a citizen may present; however, each citizen is limited to a total time of three minutes to present and speak to the petition(s). A Request to Speak [form](#) must be submitted together with the petition(s) before the Mayor announces the second Public Comment period.

Speakers may address the Council once under Public Comment at the beginning or the end of the meeting, but not both. Public Comment is limited to a total of 15 minutes at the beginning and 15 minutes at the end of the meeting. **Speakers are limited to three minutes to address the Council during “Public Comment.”**

CONSENT AGENDA ITEMS 1-9A

How the Consent Agenda Works: The Council may take one vote to act on all of the items on the Consent Agenda or may remove items for further discussion. Items not removed from the Consent Agenda will be considered in one motion. Items removed for clarification or discussion by the Council will be acted on as appropriate.

– City Attorney Sherry Scott left the Kiva Forum during consideration of the Consent agenda. Deputy City Attorney Lori Davis served as Acting City Attorney during this portion of the agenda.

– Councilwoman Whitehead made a motion to approve Consent Agenda Items 1 through 9A, except for Item 9, which was considered separately. Councilwoman Janik seconded the motion, which carried 7/0, with Mayor Ortega; Vice Mayor Caputi; and Councilmembers Durham, Janik, Littlefield, Milhaven, and Whitehead voting in the affirmative.

1. **[Dove Valley Water Line: 56th to 64th Street Pre-Construction Phase Services Contract](#) – **Approved on Consent.****

Request: Adopt **Resolution No. 12312** authorizing Construction Manager at Risk Contract No. 2021-174-COS with Achen Gardner Construction, LLC, in the amount of \$224,226.80 for pre-construction phase services for the Dove Valley Water Line: 56th to 64th Street project.

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

2. **[Temporary Right-of-Entry from the State of Arizona for Aquifer Storage and Recovery Well No. 159](#) – **Approved on Consent.****

Request: Adopt **Resolution No. 12338** to authorize:

1. Temporary Right-of-Entry Agreement No. 2021-185-COS with the Arizona State Land Department to grant a temporary right-of-entry to install a discharge pipeline across State land related to the City's Aquifer Storage and Recovery Well No. 159.

2. The City Manager, or designee, to execute any such documents and take such actions reasonably necessary to carry out the purpose of Contract No. 2021-185-COS and this Resolution.

Location: East of 7402 E. Legacy Boulevard

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

3. **Noriega Livery Stable Building Lease Agreement – Approved on Consent.**

Request: Adopt **Resolution No. 12317** authorizing Lease Agreement No. 2021-176-COS with Parada del Sol, Inc., for the use of the Noriega Livery Stable building as a rodeo and western-themed museum.

Location: 3806 N. Brown Avenue

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

4. **Workforce Development Services Intergovernmental Agreement – Approved on Consent.**

Request: Adopt **Resolution No. 12337** authorizing Intergovernmental Agreement No. 2020-111-COS-A1, the first amendment and one-year extension to the agreement with Maricopa County to share costs for workforce development services at the Vista del Camino Community Center.

Staff Contact(s): Greg Bestgen, Human Services Department Director, 480-312-0104, gbestgen@scottsdaleaz.gov

5. **Trolley Services Grant – Approved on Consent.**

Request: Adopt **Resolution No. 12285** to authorize:

1. Intergovernmental Agreement No. 2021-175-COS with the City of Phoenix for the acceptance of the following two Federal Transit Administration grants for trolley services:
 - a. AZ-2021-028 in the amount of \$2,475,517 funded by the American Rescue Plan Act
 - b. AZ-2021-026 in the amount of \$1,014,938 funded by the Coronavirus Response and Relief Supplemental Appropriations Act
2. A Fiscal Year 2021/22 budget appropriation transfer in the amount of \$1,700,000 from the Transportation Operating Budget to newly created cost centers in the grant funds to record the related grant activity.
3. The City Manager, or designee, to execute any other documents and take such other actions as necessary to carry out the intent of Contract No. 2021-175-COS and this Resolution.

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

6. **Edward Byrne Memorial Justice Assistance Grant – Approved on Consent.**

Request: Adopt **Resolution No. 12293** to authorize:

1. Intergovernmental Agreement (IGA) No. 2021-160-COS with the City of Phoenix to accept the City's portion of the 2021 Edward Byrne Memorial Justice Assistance Grant in the amount of \$29,890 to continue to partially fund a full-time property and evidence technician position.
2. The Mayor to execute IGA No. 2021-160-COS for the purpose of receiving grant funds from the Department of Justice, Edward Byrne Memorial Justice Assistance Grant Program.
3. A budget transfer in the amount of \$29,890 from the Fiscal Year 2021/22 Future Grants Budget and/or Grant Contingency Budget to a newly created cost center to record the related grant activity.

Staff Contact(s): Jeff Walther, Chief of Police, 480-312-1900, jwalther@scottsdaleaz.gov

7. **Proposition 202 Grant Funds Acceptance – Approved on Consent.**

Request: Adopt **Resolution No. 12331** to authorize:

1. Agreement No. 2021-183-COS with the Ak-Chin Indian Community and the Leukemia & Lymphoma Society for the acceptance of Proposition 202 Tribal Gaming Funds in the amount of \$15,000.
2. A budget transfer in the amount of \$5,000 from the adopted Fiscal Year 2021/22 Future Grants and/or Grant Contingency budget to newly created cost centers to record the grant activity.

Staff Contact(s): Shane Stone, Management Associate to the City Manager, 480-312-7826, shstone@scottsdaleaz.gov

8. **[Audit Committee Recommendation for the Environmental Advisory Commission Sunset Review – Approved on Consent.](#)**

Request: Accept the Audit Committee’s recommendation and authorize the continuation of the Environmental Advisory Commission.

Staff Contact(s): Sharron Walker, City Auditor, 480-312-7867, swalker@scottsdaleaz.gov

9. **[Vacation Rental and Nuisance Party Code Amendments](#)**

– Assistant City Manager Brent Stockwell gave a PowerPoint presentation.

– Councilmember Milhaven made a motion to adopt Ordinance No. 4527 amending Scottsdale Revised Code, Chapter 18, Public Nuisance and Property Maintenance, Article I, Section 18-2 and Article IX, Section 18-150 relating to vacation rentals and Ordinance No. 4528 amending Scottsdale Revised Code, Chapter 18, Public Nuisance and Property Maintenance, Article VIII, concerning nuisance parties and unlawful gatherings. Councilwoman Whitehead seconded the motion, which carried 7/0, with Mayor Ortega; Vice Mayor Caputi; and Councilmembers Durham, Janik, Littlefield, Milhaven, and Whitehead.

Requests:

1. Adopt **Ordinance No. 4527** amending Scottsdale Revised Code, Chapter 18, Public Nuisance and Property Maintenance, Article I, Section 18-2 and Article IX, Section 18-150 relating to vacation rentals.
2. Adopt **Ordinance No. 4528** amending Scottsdale Revised Code, Chapter 18, Public Nuisance and Property Maintenance, Article VIII, concerning nuisance parties and unlawful gatherings.

Staff Contact(s): Shane Stone, Management Associate to the City Manager, 480-312-7826, shstone@scottsdaleaz.gov

*****9A. [Indemnification of prior Mayor, current City Manager and City Attorney, past City Attorney and their respective spouses in Mark E. Stuart and Virginia G. Stuart v. City of Scottsdale, et. al. – Approved on Consent.](#)**

Request: Adopt **Resolution No. 12346** authorizing the City to defend and indemnify the prior City Mayor, W. J. “Jim” Lane, the current City Manager and City Attorney, the past City Attorney, Bruce Washburn, and their respective spouses, who were named as individual defendants in their official and personal capacities in a case recently filed by Mark E. and Virginia G. Stuart against the City of Scottsdale, et. al., in *Stuart v. City of Scottsdale*. This case is currently pending in United States District Court, District of Arizona, as Court Case No. CV-21-01917-PHX-DMF.

Staff Contact(s): Sherry Scott, City Attorney, 480-312-2405, sscott@scottsdaleaz.gov

REGULAR AGENDA ITEMS 10-12

How the Regular Agenda Works: The Council takes action on each item on the Regular Agenda.

10. **[2022 State Legislative Agenda](#)**

Request: Consider approval of the City of Scottsdale’s 2022 State Legislative Agenda.

Presenter(s): Shane Stone, Management Associate to the City Manager

Staff Contact(s): Shane Stone, Management Associate to the City Manager, 480-312-7826, shstone@scottsdaleaz.gov

– Management Associate to the City Manager Shane Stone gave a PowerPoint presentation.

– Councilmember Milhaven made a motion to accept and approve the City of Scottsdale 2022 State Legislative Agenda. Councilwoman Whitehead seconded the motion, which carried 7/0, with Mayor Ortega; Vice Mayor Caputi; and Councilmembers Durham, Janik, Littlefield, Milhaven, and Whitehead voting in the affirmative.

11. [Fiscal Year \(FY\) 2020/21 Annual Financial Audit](#)

Request: Accept the FY 2020/21 annual financial audit reports submitted by the City's external auditors, Heinfeld, Meech & Co., P.C., and adopt **Resolution No. 12342** to demonstrate compliance with Arizona Revised Statutes §41-1494.

Presenter(s): Sharron Walker, City Auditor and Brittney Williams, Heinfeld, Meech & Co., P.C.

Staff Contact(s): Sharron Walker, City Auditor, 480-312-7867, swalker@scottsdaleaz.gov

– City Auditor Sharron Walker and Audit Partner Brittney Williams, with Heinfeld, Meech & Co., P.C., gave a PowerPoint presentation.

– Mayor Ortega made a motion to accept the Fiscal Year 2020/21 annual financial audit reports submitted by the City's external auditors and adopt Resolution No. 12342 to demonstrate compliance with Arizona Revised Statutes §41-1494. Councilmember Durham seconded the motion, which carried 7/0, with Mayor Ortega; Vice Mayor Caputi; and Councilmembers Durham, Janik, Littlefield, Milhaven, and Whitehead voting in the affirmative.

***12. [Fiscal Year End 2021 Financial Report](#)

Request: Receive, discuss, and provide possible direction on the Fiscal Year End 2021 Financial Report.

Presenter(s): Sonia Andrews, City Treasurer

Staff Contact(s): Judy Doyle, Budget Director, 480-312-2603, jdoyle@scottsdaleaz.gov

– City Treasurer Sonia Andrews gave a PowerPoint presentation.

Public Comment – None

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CITIZEN PETITIONS

ITEM 13

Citizen Petitions: This portion of the agenda is reserved for the submission and/or consideration of citizen petitions. There is no limit on the number of petitions a citizen may submit; however, **each citizen is limited to a total time of three minutes to speak to his/her petition(s)**. A Request to Speak [form](#) must be submitted, together with the petition(s), **before** the second Public Comment period begins.

13. **Receipt of Citizen Petitions – None**

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): Ben Lane, City Clerk, 480-312-2411, blane@scottsdaleaz.gov

Mayor and Council Items – None

Adjourn the regular portion of the Meeting and Convene the City Council Work Study Session

— The City Council recessed at 6:21 P.M.

CITY COUNCIL WORK STUDY SESSION

– The City Council reconvened at 6:32 P.M.

Work Study Sessions: Work study sessions provide a less formal setting for the Mayor and Council to discuss specific topics, at length, with each other and City staff. Work study sessions provide an opportunity for staff to receive direction from the Council and for the public to observe these discussions.

Public Comment: To provide an opportunity for public input yet continue to maximize the amount of time available for the Council to have focused discussions, spoken comment (maximum of five speakers) is being accepted on the item(s) on tonight’s work study session agenda. To sign up to speak, please click [here](#). **Request to speak forms must be submitted no later than 90 minutes before the start of the meeting. – None**

If you have thoughts or suggestions on the work study session item(s) you would like the Council to consider, you are encouraged to submit your written comment(s) electronically by clicking [here](#). Written comments that are submitted electronically at least 90 minutes before the meeting will be emailed to the Council and posted online prior to the meeting.

1. [Amendment to Board and Commission Member Ordinance and related Council Rules of Procedure](#)

Requests:

1. Discussion and possible direction to staff regarding amending Scottsdale Revised Code, Chapter 2, Administration, Article V, Section 2-241(h), related to Board and Commission member absences, notifications, and considerations of removal.
2. Discussion and possible direction to staff regarding amending the City of Scottsdale Rules of Council Procedure by adding a rule stating that the removal of a Board or Commission member can only be placed on a City Council Meeting Agenda at the request of at least four of the Mayor and Councilmembers.

Presenter(s): Brent Stockwell, Assistant City Manager

Staff Contact(s): Brent Stockwell, Assistant City Manager, 480-312-7288, bstockwell@scottsdaleaz.gov and Sherry Scott, City Attorney, 480-312-2405, sscott@scottsdaleaz.gov

– Assistant City Manager Brent Stockwell gave a PowerPoint presentation.

– Councilmembers made the following observations and suggestions:

- **Retain the current standard for absences (missing three consecutive meetings or four meetings in a six-month period).**
- **Provide more leeway with the “four meetings in six months” standard for those boards that meet more than once a month.**
- **Adjust the standard for absences to “missing three consecutive meetings or a percentage of meetings in six months”.**
- **Board/Commission Chair, or staff representative, to contact absent member after absence(s) to review absence standard.**

- A tardy should not be equated to an absence.
- Consider a standard for a tardy, such as 30 minutes.
- Consider automatic removal of the board/commission member when the absence standard is reached.
- There is not a need for an absence standard.
- Contact all Councilmembers when a member reaches three consecutive absences or percentage of absences for determination on how to proceed.
- The current board and commission standards work and do not need adjustments.
- Review the board and commission standards every ten years.

– City Manager Jim Thompson said staff will make minor modifications to the absence standard and bring this standard back to the Council for review.

2. Code of Ethics

Request: Presentation, discussion, and possible direction to staff regarding the review and update of the City Council Code of Ethics for Mayor, Council, and board and commission members.

Presenter(s): Sherry Scott, City Attorney

Staff Contact(s): Sherry Scott, City Attorney, 480-312-2405, sscott@scottsdaleaz.gov

– City Attorney Sherry Scott gave a PowerPoint presentation.

– Councilmembers made the following observations and suggestions:

- Revise the Conflict-of-Interest form to include a description of, and explanation for, any conflict.
- Make conflict expectations clear; there is no need for additional “aspirational” definitions.
- Merge the two applicable code section on gifts into a single code section.
- Include exemption for reasonable hosting and hospitality for an event for Councilmember and companion for a public or civic purpose.
- File designated gift forms with the City Clerk within ten (10) days after the event is held.
- Increase the exception to gifting from \$25 to \$50.
- Include reference to Charter Officers in Scottsdale Revised Code § 2-54(a).
- Reduce the number of ethics officers to a panel of less than 10.
- Expand the ethics officers panel to include attorneys; however, keep the majority of officers retired judges or faculty.
- Rotate the independent ethics officer every three to five years.
- Allow for filing of response during the initial screening process.
- City Council to review and consider only reports where a violation was determined to have occurred (including boards and commissions) at public meetings.

Adjournment – 8:27 P.M.

– Councilwoman Janik made a motion to adjourn. Councilwoman Littlefield seconded the motion, which carried 7/0, with Mayor Ortega; Vice Mayor Caputi; and Councilmembers Durham, Janik, Littlefield, Milhaven, and Whitehead voting in the affirmative.