



**CITY OF SCOTTSDALE
MCDOWELL SONORAN PRESERVE COMMISSION
SPECIAL MEETING MINUTES
Wednesday, April 15, 2021
Meeting held electronically**

PRESENT: Chairperson Cynthia Wenstrom, Vice-Chair Laurie LaPat-Polasko, Commissioners Steve Coluccio, Steve Dodd, Mark Hackbarth, Marsha Lipps, and Tawana Parker

STAFF: Kroy Ekblaw, Preserve Director; Scott Hamilton, Preserve Manager

1. CALL TO ORDER

Chair Wenstrom called the meeting to order at 5:00 p.m.

2. ROLL CALL

Members present as noted above.

3. PUBLIC COMMENT

Chair Wenstrom thanked the public for taking the time to submit comments. Mr. Ekblaw noted that comments are posted on the City's website as part of the meeting agenda.

4. APPROVAL OF MINUTES

Approval of the Regular Meeting minutes of April 1, 2021

COMMISSIONER HACKBARTH MOVED TO APPROVE THE APRIL 1, 2021 MCDOWELL SONORAN PRESERVE COMMISSION REGULAR MEETING MINUTES. VICE-CHAIR LAPAT-POLASKO SECONDED THE MOTION, WHICH CARRIED SEVEN (7) TO ZERO (0) BY ROLL CALL VOTE. CHAIR WENSTROM, VICE-CHAIR LAPAT-POLASKO, COMMISSIONERS COLUCCIO, DODD, HACKBARTH, LIPPS, AND PARKER VOTED IN THE AFFIRMATIVE. THERE WERE NO DISSIDENTING VOTES.

5. POLICY PROCESS UPDATE

This item was tabled to a future agenda at the request of the Chairperson.

5a. EXISTING ORDINANCE PROHIBITION OF MOTORIZED VEHICLES

Commissioners further discussed information presented during the March 18, 2021 overview of existing laws and ordinances related to the use of motorized vehicles in the Preserve and

options for managing ADA exceptions as required by Federal Law. Mr. Ekblaw noted that the goal in the future is to develop a proposal on how to manage an ADA exception for E-bikes in the Preserve.

Mr. Ekblaw explained that there is not a need to amend the Preserve ordinance to comply with Federal ADA requirements. An amendment could be made to the ordinance if there is a desire to clarify the restriction of motorized vehicles for general use.

Commissioners asked that City attorneys be prepared to outline how to define acceptable use and regular/necessary use and how it relates to E-bike use being covered under an ADA plan. They also requested that attorneys address whether the Preserve is required to accommodate E-bikes, since they are already permitted in other areas of Scottsdale. Mr. Ekblaw noted that the issue is that E-bikes are similar to standard bicycles, which are allowed within the Preserve boundary and Federal law requires that persons with disabilities be provided with reasonable accommodation. He said that the goal is to balance the local laws, federal laws, and risk management to define the elements so that the allowance of general E-bike use is not in question. Commissioner Hackbarth asked that the City consider if the Smart City Transportation Plan would have any impact on allowing E-bikes in the Preserve.

Chair Wenstrom noted that section 504 of ADA states that equal opportunity to participate in all programs applies as long as modification necessary for participation by a person with a disability does not fundamentally alter the program or service offered to all people. She opined that offering E-bikes to ADA individuals would be making an exception for a special group of people. She mentioned that the City has provided inclusive sidewalks, parks, and trails outside of the Preserve and that the City purposely built interpretive trails near trailheads and short loops for those people who are looking for an easier hike. Mr. Hamilton explained that in 2018, when City Council approved 1762, they did not specifically reference E-bikes in the Preserve. 1762 approves restrictions anywhere that a sign is posted prohibiting specific devices.

Commissioners requested that the Chair work with staff to prepare an outline of questions that need to be answered before a recommendation is forwarded to City Council. They also asked to be presented with any existing research regarding possible damage to the trails and danger to wildlife and whether allowing E-bikes could create a hazard that the City would be liable for.

Discussion continued regarding the types of disabilities and the possibility of setting precedent for those people requiring a different type of device; maintaining the classification of the Preserve as a preserve and not a park; and educating the stewards and the public about other locations where E-bikes are allowed. Mr. Ekblaw said that once clarity is obtained on an ADA accommodation, a flyer can be created that defines the overall program and identifies areas, such as Tonto National Forest and County Regional Park, as locations where E-bikes are allowed for all users.

Commissioners expressed concern that any changes to the ordinance could set precedent for future changes to accommodate other motorized vehicles. They stressed the importance of protecting the land, plants, and animals.

Commissioner Hackbarth requested that staff consider options for obtaining wider public input. Staff will consult with the City Attorney's office regarding Commissioners' questions and concerns and a representative from the City Attorney's office will be invited to attend a future meeting for further discussion.

6. STAFF REPORTS

Mr. Hamilton showed photographs of the newly placed fire danger signs, which are able to be changed to indicate “low”, “moderate”, and “extreme” fire danger. He noted that the fire department recently added 20 new signs.

Mr. Hamilton presented before and after photographs of the preventative clearing taking place along 136th Street at Dove Valley. Workers are being paid through a grant from Maricopa County Emergency Management Department.

Stewards participated in a Desert Tortoise telemetry project training last week. The group applied telemetry trackers out in the field for the first time earlier today.

Mr. Hamilton presented photographs of the ongoing construction at Pima Dynamite Trailhead and Area K.

7. **UPCOMING MEETING DATES, LOCATIONS AND AGENDA ITEMS**

All dates listed are tentative and subject to amendment:

May 6th –

- Motorized vehicle prohibition
- Policy process
- Review cost estimates for wildlife corridor protection
- Review cost estimates for trails and trailheads

2021 thru June:

Regular meetings

June 3rd

Special meetings

May 20th

June 17th

Tour of Pima/Dynamite Trailhead construction - Date TBD – Mr. Ekblaw said it would possibly be in June

8. **COMMISSIONER COMMENTS**

Commissioner Hackbarth commented that some of the public comments that were submitted reminded him of holistic resource management that was advocated in the 1990's. He asked staff to research whether or not it has worked.

9. **ADJOURNMENT**

COMMISSIONER COLUCCIO MOVED TO ADJOURN THE MEETING. COMMISSIONER LIPPS SECONDED THE MOTION, WHICH CARRIED SEVEN (7) TO ZERO (0) BY ROLL CALL VOTE. CHAIR WENSTROM, VICE-CHAIR LAPAT-POLASKO, COMMISSIONERS COLUCCIO, DODD, HACKBARTH, LIPPS, AND PARKER VOTED IN THE AFFIRMATIVE. THERE WERE NO DISSENTING VOTES.

With no further business to discuss, being duly moved and seconded, the meeting adjourned at 6:14 p.m.

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