

SCOTTSDALE CITY COUNCIL
REGULAR MEETING MINUTES
TUESDAY, MAY 9, 2017



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, May 9, 2017, in the City Hall Kiva.

ROLL CALL

Present: Mayor W.J. "Jim" Lane; Vice Mayor Suzanne Klapp; and Councilmembers Virginia Korte, Kathleen Littlefield, Linda Milhaven, Guy Phillips, and David N. Smith

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 – Daughters of the American Revolution, Grand Canyon Chapter

INVOCATION – Azra Hussain, President and Co-Founder of the Islamic Speakers Bureau of Arizona

MAYOR'S REPORT

Mayor Lane presented a proclamation in honor of "Gathering of Heroes Week" to Kathleen Winn of the Marine Corps Scholarship Foundation and John Bennett of the Marine Corps Law Enforcement Foundation.

PRESENTATIONS

- **Gathering of Heroes Week**
Presenter(s): Mike Phillips, Public Affairs Manager

Presentations from Kathleen Winn of the Marine Corps Scholarship Foundation and John Bennett of the Marine Corp Law Enforcement Foundation.

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.

PUBLIC COMMENT

- Jason Alexander expressed concern about Desert Discovery Center Scottsdale's fundraising efforts.
- Mark Stuart spoke about Save Our Preserve's legal actions (attached).

CONSENT AGENDA

- 1. Cielo Stellato Abandonment (13-AB-2016)**
Request: Adopt **Resolution No. 10748** authorizing the abandonment of a 20-foot-wide roadway easement along the southern boundary of Parcel No. 219-11-344 with Single-Family Residential, Environmentally Sensitive Lands (R1-43 ESL) zoning.
Location: 36755 N. Lone Mountain Parkway
Staff Contact(s): Randy Grant, Planning and Development Services Director, 480-312-2664, rgrant@scottsdaleaz.gov
- 2. Cielo Stellato Final Plat (3-PP-2016)**
Request: Approve the final plat for a 14-lot residential subdivision with Single-Family Residential, Environmentally Sensitive Lands (R1-43, ESL) zoning on 18.50± acres.
Location: 36755 N. Lone Mountain Parkway
Staff Contact(s): Randy Grant, Planning and Development Services Director, 480-312-2664, rgrant@scottsdaleaz.gov
- 3. Scottsdale Stadium Underground Electrical Easement**
Request: Adopt **Resolution No. 10751** to authorize:
 1. Granting an underground electrical easement on City property to Arizona Public Service (APS) with a credit from APS to the City at the appraised value of \$13,500 for the easement.
 2. A FY 2016/17 budget appropriation transfer in the amount of \$66,000 from the Scottsdale Stadium Safety Repairs and Maintenance CIP Project (PD02) General Fund funding source to a newly created CIP project titled Scottsdale Stadium Osborn Road APS Improvements.
 3. A FY 2016/17 General Fund Capital Contingency budget appropriation transfer in the amount of \$4,000 to a newly created CIP project titled Scottsdale Stadium Osborn Road APS Improvements to be funded by a contribution from APS.**Staff Contact(s):** Daniel Worth, Public Works Director, 480-312-5555, dworth@scottsdaleaz.gov
- 4. Drainage and Flood Control Easements**
Request: Adopt **Resolution No. 10794** authorizing the acceptance of drainage and flood control easements.
Location: 42707 N. Old Corral Road and 9369 E. Grapevine Pass
Staff Contact(s): Daniel Worth, Public Works Director, 480-312-5555, dworth@scottsdaleaz.gov
- 5. Granite Reef Watershed Drainage Improvements Intergovernmental Agreement**
Request: Adopt **Resolution No. 10787** authorizing Agreement No. 2017-066-COS with the Flood Control District of Maricopa County in the amount of \$6,600,000, of which the City's anticipated share is approximately \$3,300,000, for construction of Phase 1 of the Granite Reef Watershed Drainage Improvements Project.
Staff Contact(s): Daniel Worth, Public Works Director, 480-312-5555, dworth@scottsdaleaz.gov

- 6. Fiscal Year 2016/17 4th Quarter Capital Improvement Plan Budget Adjustments**
Request: Adopt **Resolution No. 10643** authorizing FY 2016/17 Capital Improvement Plan budget adjustments.
Staff Contact(s): Daniel Worth, Public Works Director, 480-312-5555, dworth@scottsdaleaz.gov
- 7. Merci Train Boxcar and Artifacts Intergovernmental Agreement**
Request: Adopt **Resolution No. 10792** to:

 1. Repeal Resolution No. 10634, which authorized the execution of Agreement No. 2016-180-COS with the Arizona State Library, Archives and Public Records Division.
 2. Authorize Loan Agreement No. 2017-069-COS with the Arizona Capitol Museum, a branch of the Arizona State Library, Archives and Public Records Division, for the continued loan of the Merci Train Boxcar to the McCormick-Stillman Railroad Park.
 3. Authorize the Parks and Recreation Director to execute, on behalf of the City, artifact loan agreements for future short-term loans of artifacts to be displayed at McCormick-Stillman Railroad Park.

Staff Contact(s): Bill Murphy, Community Services Director, 480-312-7954, bmurphy@scottsdaleaz.gov
- 8. Independent Medical Examinations Professional Services Contracts**
Request: Adopt **Resolution No. 10768** authorizing the following professional services contracts for independent medical examinations:

 1. Contract 2017-055-COS with Managed Medical Review Organization, Inc.
 2. Contract 2017-056-COS with Medical Consultants Network, LLC
 3. Contract 2017-057-COS with Integrated Medical Evaluations, Inc.

Staff Contact(s): Donna Brown, Human Resources Director, 480-312-2615, dbrown@scottsdaleaz.gov
- 9. Ambulance Staffing and Transportation Agreement**
Request: Adopt **Resolution No. 10761** authorizing Agreement No. 2017-052-COS with Professional Medical Transport, Inc., dba PMT Ambulance, dba Life Line Ambulance and American Medical Response Company, for emergency ambulance services from February 17, 2017, to February 16, 2018.
Staff Contact(s): Thomas Shannon, Fire Chief, 480-312-1821, tshannon@scottsdaleaz.gov

MOTION AND VOTE – CONSENT AGENDA

Councilmember Korte made a motion to approve Consent Agenda Items 1 through 9.
Councilwoman Littlefield seconded the motion, which carried 7/0.

REGULAR AGENDA

- 10. Tax Equity and Fiscal Responsibility Act of 1982 Public Hearing**
Request: Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982 hearing to solicit public comments regarding the issuance of tax-exempt Municipal Property Corporation bonds to finance the acquisition and construction of certain improvements at the City's airport.
Staff Contact(s): Jeff Nichols, City Treasurer, 480-312-2364, jenichols@scottsdaleaz.gov

Mayor Lane opened public testimony.

Mark Stuart reported on his Internal Revenue Service whistleblower claims.

Mayor Lane closed public testimony.

11. Public Hearing on the Community Development Block Grant Program Fiscal Year 2017/18 Annual Action Plan

Requests:

1. Solicit public testimony regarding the FY 2017/18 Annual Action Plan for the use of Community Development Block Grant (CDBG) funds in the amount of \$1,190,867 and HOME Investment Partnership Program (HOME) funds in the amount of \$254,217; and
2. Adopt **Resolution No. 10750** to:
 - a. Approve the FY 2017/18 Annual Action Plan (Plan) for the City CDBG Program and authorize the City Manager to execute, on behalf of the City, appropriate certifications and submit the Plan to the U.S. Department of Housing and Urban Development (HUD).
 - b. Authorize the City Manager to execute, on behalf of the City, a contract with HUD for FY 2017/18 CDBG funding.
 - c. Approve the manner in which the FY 2017/18 HOME funds shall be allocated.
 - d. Approve the reprogramming of remaining CDBG and HOME funds under prior year's funding.
 - e. Approve the return of program income from the Housing Rehabilitation Program deferred loan repayments to the City's CDBG Line of Credit or Revolving Loan Fund to be expended on eligible rehabilitation activities.
 - f. Approve the return of all other program income from CDBG funded activities to the City's CDBG Line of Credit to be expended on other eligible CDBG activities.
 - g. Approve allocations for CDBG and HOME funds, as recommended by the Human Services Commission and described in Exhibits A and B of the resolution, contingent upon HUD's allocation and the City's receipt of such funds and each sub-recipient's successful performance of its obligations under the CDBG and HOME contracts with the City.
 - h. Authorize increasing the maximum loan limit for the Green Housing Rehabilitation Program from \$50,000 to \$65,000.
 - i. Authorize the Mayor to execute, on behalf of the City, contracts with agencies to be funded with CDBG and HOME funds for FY 2017/18, contingent upon HUD's allocation and the City's receipt of such funds, and subject to and contingent upon the execution of the HUD grant contracts for FY 2017/18 funding and final negotiation of scopes of work and contract terms with sub-recipients.
 - j. Authorize the Community Assistance Manager to execute all documents related to the City's Housing Rehabilitation Program; adjust the allocations of CDBG and HOME funds as necessary based upon final federal funding allocations to the City and program income received; and to execute any other documents and take such other actions as are necessary to carry out the intent of this resolution.

Presenter(s): Michelle Albanese, Community Assistance Manager

Staff Contact(s): Bill Murphy, Community Services Director, 480-312-7954,
bmurphy@scottsdaleaz.gov

Community Assistance Manager Michelle Albanese gave a PowerPoint presentation (attached) on the FY 2017/18 Annual Action Plan for the use of Community Development Block Grant (CDBG) funds and HOME Investment Partnership Program (HOME) funds.

MOTION AND VOTE – ITEM 11

Councilman Phillips made a motion to adopt Resolution No. 10750. Vice Mayor Klapp seconded the motion, which carried 7/0.

12. Monthly Financial Update

Request: Receive, discuss, and provide possible direction on the City Treasurer's monthly financial presentation as of March 2017.

Presenter(s): Jeff Nichols, City Treasurer

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

City Treasurer Jeff Nichols gave a PowerPoint presentation (attached) on the City's financial status as of March 2017.

PUBLIC COMMENT – None

CITIZEN PETITIONS

13. 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

14. Boards, Commissions, and Task Force Nominations (Note: Interviews and appointments scheduled for May 23, 2017)

Citizens' Bond Oversight Committee (two *vacancies*) – Councilwoman Littlefield nominated Andrew Armstrong and Brion Neeley.

Industrial Development Authority (*one vacancy*) – Councilwoman Milhaven nominated John Bradley and Vice Mayor Klapp nominated Eric Sloan.

Library Board (*one vacancy*) – Vice Mayor Klapp nominated Allegra Fullerton.

Loss Trust Fund Board (*one vacancy*) – No nominations were made.

Neighborhood Advisory Commission (*one vacancy*) – No nominations were made.

Parks and Recreation Commission (*one vacancy*) – Mayor Lane nominated Sherry Woodley.

Transportation Commission – Paths and Trails Subcommittee (*two vacancies*) – Councilmember Korte nominated Michael Kuzel and Jenna Warner and Councilman Smith nominated Scott Angell and William Levie.

ADJOURNMENT

The Regular City Council Meeting adjourned at 6:04 P.M.

SUBMITTED BY:



Carolyn Jagger
City Clerk

Officially approved by the City Council on

June 13, 2017

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 9th day of May 2017.

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

DATED this 13th day of June 2017.



Carolyn Jagger, City Clerk

Item 11

**Community Development Block Grant (CDBG)
HOME Investment Partnership Programs**

**Solicit public testimony on the
FY 2017/2018 Annual Action Plan
Adopt Resolution No. 10750**

Community Development Block Grant (CDBG)

- Administered by U.S. Department of Housing and Urban Development (HUD)
- Non-competitive grants to cities over 50,000
- Eligible expenditures include:
 - public services (max. 15%), housing activities, public facilities, economic development, program administration (max. 20%)
- Minimum of 70% of the funds must benefit low- and moderate-income households
- Expenditures must be consistent with 5-Year Consolidated Plan

HOME Investment Partnership Program (HOME)

- **Scottsdale's participation in the Maricopa HOME Consortium**
- **The intent of the HOME program:**
 - **to provide decent affordable housing to lower-income households**
 - **expand the capacity of non-profit housing providers**
 - **strengthen the ability of state and local governments to provide housing**
 - **leverage private sector participation**
- **Requires local match funds of no less than 25%**

HUD Requirements

- **5-Year Consolidated Plan**
- **Annual Action Plan on the proposed use of all allocated funds**
- **Public participation and public hearings prior to adoption of Plan**
- **Annual Action Plan due to HUD by May 15, 2017**
- **July 1, 2017 starts FY 2017/18 funding**

**ANNUAL ACTION PLAN
FY 2017/18**

FY 17/18 Annual Action Plan Public Process

- | | |
|-----------------------|---|
| Sept. 2, 2016 | Notice of Request for Proposals
Published |
| Sept. 28, 2016 | Applicant Orientation – overview of
application process to non-profits |
| Nov. 11, 2016 | Proposal submission deadline |
| Feb. 17, 2017 | Human Services Commission
Agency presentations |

FY 16/17 Annual Action Plan Public Process

March 23, 2017 Human Services Commission – Funding discussion & informal funding recommendations

March 30, 2017 Human Services Commission - Formal funding recommendations

April 25, 2017 City Council - Public Hearing CDBG/HOME

May 15, 2017 Annual Action Plan due to HUD

PROCESS IMPROVEMENTS

- **Proposal Submittal Requirements**
 - Limit one proposal per agency per funding source
 - Funding request caps
 - Scottsdale Cares – max 15% of available funding
 - General Funds – max of 20% of available funding
- **Leveraging additional resources - SRPMIC**
 - Salt River Pima Maricopa Indian Community funds
 - Fund 6 additional proposals (\$248,000)
 - Ability to fund all Agencies requesting General Funds

CDBG Funding History

FY	Allocation	Annual Reduction
14/15	\$ 895,072	
15/16	\$ 927,479	\$ 32,407 Increase
16/17	\$ 941,577	\$ 14,098 Increase
17/18	\$ 941,577*	Level Funding

*Anticipated funding pending HUD allocations
Net increase of \$46,505 from FY 14/15 to FY 17/18

HOME Funding History

FY	Allocation	Annual Reduction
14/15	\$223,446	
15/16	\$219,321	\$ <4,125> Decrease
16/17	\$220,167	\$ 846 Increase
17/18	\$219,957*	\$ <210> Increase

*Anticipated funding pending HUD allocations
Net \$ <3,489> decrease from FY 14/15 to FY 17/18

Alternative Funding - SRPMIC

Salt River Pima Maricopa Indian Community

• Tempe Community Action Agency (TCAA)	
Home Delivered Meals	\$ 85,482
Congregate Meals	\$ 60,939
• Foothills Caring Corps	\$ 14,518
• Concerned Citizens for Community Health (CCCH)	\$ 20,700
• Chrysalis Shelter for Victims of Domestic Violence	\$ 28,000
• A New Leaf, Inc.	\$ 38,361
TOTAL SRPMIC	\$248,000

Funding Allocations FY 17/18

Community Development Block Grant (CDBG)

Available Funding

\$ 941,577 *FY 17/18 Allocation*
\$ 249,290 *Reprogrammed funds & Program Income*
\$ 1,190,867 *Total Funds Available*

Award Recommendations

\$ 895,655 *Programs & Services*
\$ 188,315 *Planning & Admin*
\$ 1,083,970 *Total Funds Recommended for Award*

**\$106,897 will be reprogrammed in FY 2018/19*

Funding Allocations FY 17/18

HOME Investment Partnerships Program

Available Funding

\$ 219,957 *FY 17/18 Allocation*
\$ 34,260 *Program Income Received*
\$254,217 *Total Funds Available*

Award Recommendations

\$ 240,470 *Awarded for Programs*
\$ 13,747 *Planning & Admin*
\$ 254,217 *Total Funds Recommended for Award*

Funding Proposals Summary FY 17/18

Fiscal Year 2016/17	Proposals Presented	Funds Available-Programs	Funds Requested	Proposals Recommended for Funding	Amount Awarded
CDBG	18	\$1,002,552	\$ 1,103,744	12	\$ 895,655*
HOME	1	\$240,470	\$206,210	1	\$ 240,470
Total	19	\$ 1,243,022	\$1,309,954	15	\$1,136,125

Amount does not include Admin of \$188,315

Recommendations for CDBG FY 17/18

Public Services	\$146,458
Youth, Domestic Violence Victims, Seniors, Disabled and Homeless	
Non-Public Services - Housing	\$ 420,000
Housing Rehabilitation, Emergency and Roof Repair Programs	
Non-Public Services- Facilities/Improvements	\$329,197
Improvements to transitional shelter A/C Replacement	
Program Administration	<u>\$ 188,315</u>
Total Funds Awarded	\$1,083,970

Recommendation for HOME FY 17/18

Housing Acquisition	\$240,470
Program Administration	<u>\$ 13,747</u>
Total Funds Awarded	\$ 254,217

Adoption of Resolution No. 10750

- **Approves FY 2017/18 Annual Action Plan**
- **Approves the use, award and allocation of CDBG & HOME funds**
- **Authorizes the reprogramming of remaining CDBG/HOME funds**
- **Approves the return of program income**
- **Authorizes Mayor to execute CDBG contracts with agencies**

Adoption of Resolution No. 10750

- **Authorizes City Manager to execute contract with HUD**
- **Authorizes Community Assistance Manager to**
 - **execute documents related to the City's Housing Rehabilitation Program**
 - **adjust the allocation of CDBG and HOME funds based upon federal funding allocations**
 - **Take other actions necessary to carry out the intent of this Resolution**

Item 12

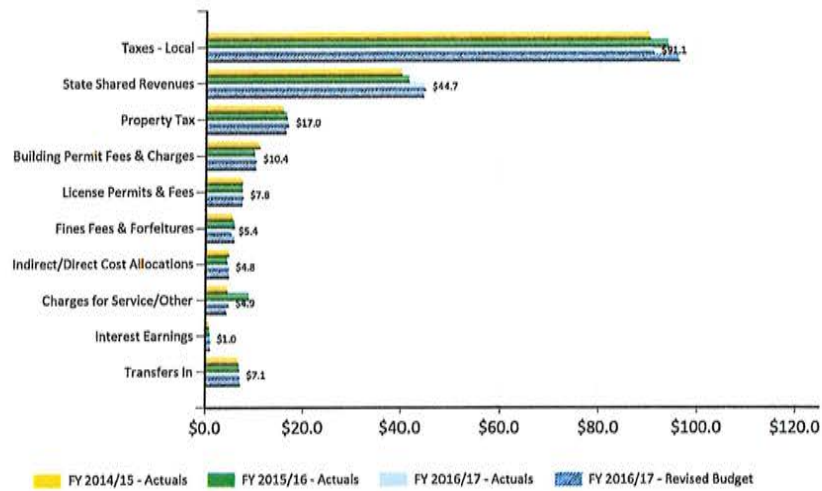
Monthly Financial Update As of March 31, 2017

City Council
May 9, 2017



General Fund Operating Sources March 2017: Fiscal Year to Date

(In millions: rounding differences may occur)



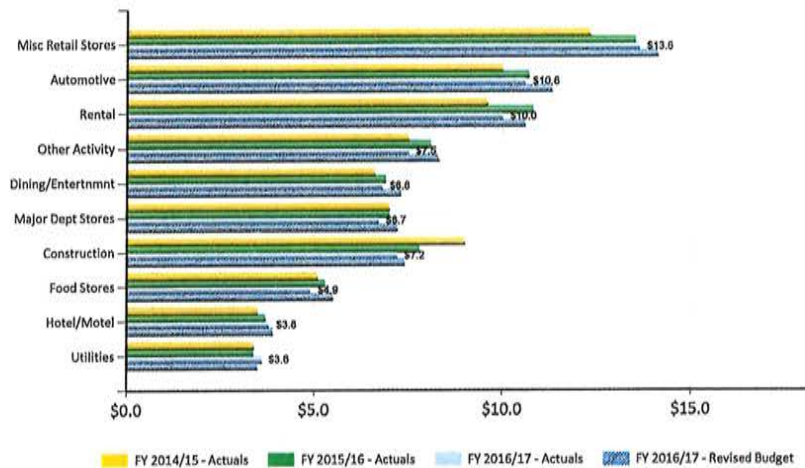
General Fund Operating Sources March 2017 : Fiscal Year to Date

(in millions: rounding differences may occur)

	FY 2014/15 Actuals	FY 2015/16 Actuals	FY 2016/17 Actuals	FY 2016/17 Revised Budget	Actual vs. Budget Favorable / (Unfavorable) Amount	Percent
Taxes - Local	\$90.3	\$93.9	\$91.1	\$96.1	(\$5.0)	(5%)
State Shared Revenues	40.0	41.5	44.7	44.4	0.2	1%
Property Tax	15.9	16.6	17.0	16.4	0.5	3%
Building Permit Fees & Charges	11.1	10.0	10.4	10.3	0.1	1%
License Permits & Fees	7.6	7.6	7.8	7.6	0.2	2%
Fines Fees & Forfeitures	5.5	5.9	5.4	5.9	(0.6)	(9%)
Indirect/Direct Cost Allocations	4.8	4.5	4.8	4.8	-	-
Charges for Service/Other	4.6	9.0	4.9	4.3	0.6	13%
Interest Earnings	0.8	1.0	1.0	1.0	-	-
Transfers In	6.7	7.1	7.1	7.2	(0.1)	(1%)
Total Sources	\$187.4	\$196.9	\$194.1	\$198.1	(\$4.0)	(2%)

General Fund Operating Sources: Sales Tax March 2017 : Fiscal Year to Date

(in millions: rounding differences may occur)



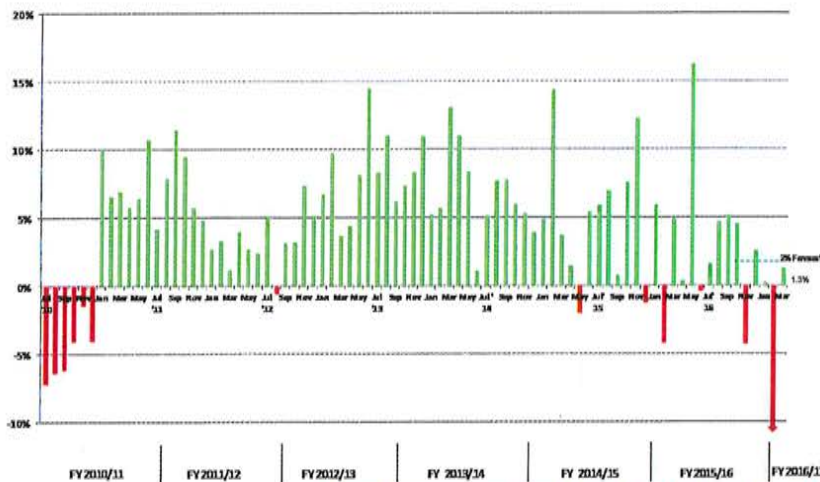
General Fund Operating Sources: 1% Sales Tax March 2017 : Fiscal Year to Date

(in millions: rounding differences may occur)

	FY 2014/15	FY 2015/16	FY 2016/17	FY 2016/17	Actual vs. Budget	
	Actuals	Actuals	Actuals	Revised Budget	Favorable / (Unfavorable) Amount	Percent
Misc Retail Stores	\$12.3	\$13.5	\$13.6	\$14.1	(\$0.5)	(4%)
Automotive	10.0	10.7	10.6	11.3	(0.8)	(7%)
Rental	9.6	10.8	10.0	10.6	(0.6)	(6%)
Other Activity	7.5	8.1	7.5	8.3	(0.8)	(10%)
Dining/Entermnt	6.6	6.9	6.8	7.3	(0.6)	(8%)
Major Dept Stores	7.0	7.0	6.7	7.2	(0.5)	(7%)
Construction	9.0	7.8	7.2	7.4	(0.2)	(3%)
Food Stores*	5.1	5.3	4.9	5.5	(0.7)	(12%)
Hotel/Motel	3.5	3.7	3.8	3.9	(0.1)	(2%)
Utilities	3.4	3.4	3.6	3.5	0.2	5%
Sales Tax Total	\$74.1	\$77.2	\$74.7	\$79.2	(\$4.6)	(6%)

*YTD CIP transfer = \$1.6 million

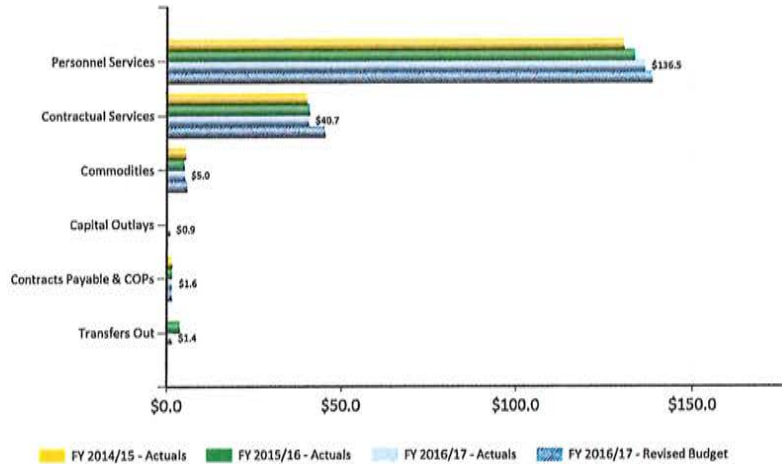
General Fund 1% Sales Tax Year over Year Change



*The -43% variance year over year change in February is a result of the Arizona Department of Revenue (ADOR) taking over administration, collection and reporting of transaction privilege sales tax as of January 1, 2017. Payments from ADOR are received weekly rather than daily. November 2016 reduced year over year sales tax collections primarily due to large overpayment for construction contractor (corrected in December).

General Fund Operating Uses: by Category March 2017 : Fiscal Year to Date

(In millions: rounding differences may occur)



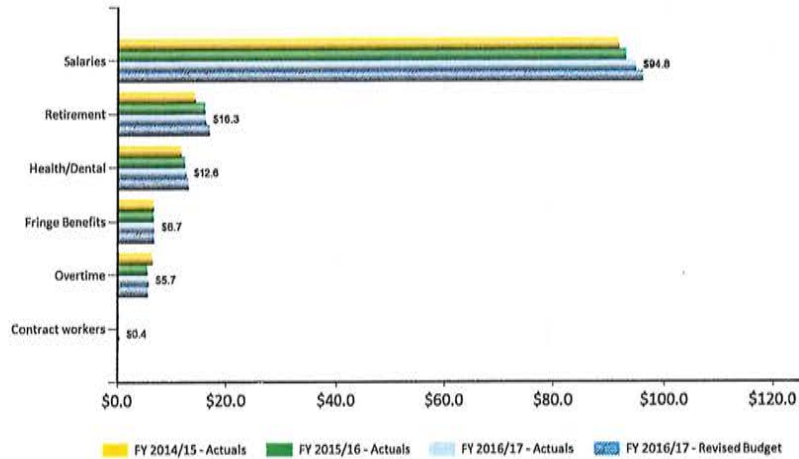
General Fund Operating Uses: by Category March 2017 : Fiscal Year to Date

(In millions: rounding differences may occur)

	FY 2014/15	FY 2015/16	FY 2016/17	FY 2016/17	Actual vs. Budget	
	Actuals	Actuals	Actuals	Revised Budget	Favorable / (Unfavorable) Amount	Percent
Personnel Services*	\$130.7	\$133.7	\$136.5	\$138.6	\$2.1	1%
Contractual Services	40.1	41.0	40.7	45.3	4.6	10%
Commodities	5.3	5.0	5.0	5.8	0.8	13%
Capital Outlays	0.2	0.2	0.9	0.3	(0.6)	nm
Contracts Payable & COPs	1.6	1.6	1.6	1.6	-	-
Transfers Out	-	3.7	1.4	-	(1.4)	n/a
Total Uses	\$177.9	\$185.2	\$186.2	\$191.7	\$5.4	3%
*Pay Periods thru March:	20	20	20			

General Fund Operating Uses: Personnel Services March 2017 : Fiscal Year to Date

(in millions: rounding differences may occur)



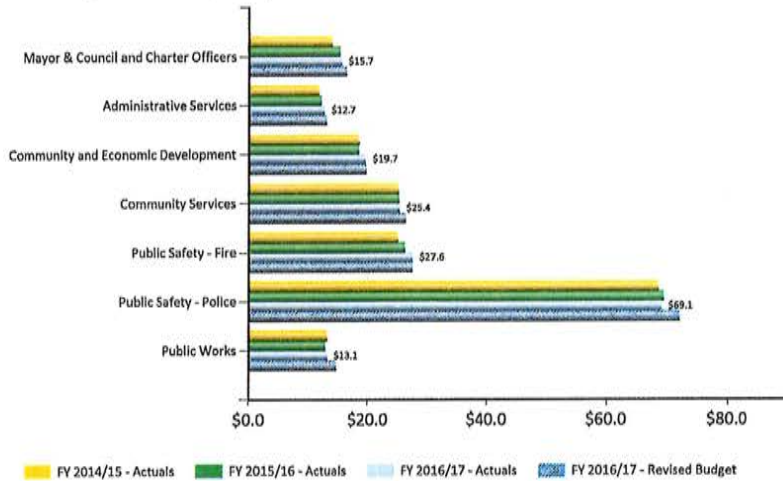
General Fund Operating Uses: Personnel Services March 2017 : Fiscal Year to Date

(in millions: rounding differences may occur)

	FY 2014/15 Actuals	FY 2015/16 Actuals	FY 2016/17 Actuals	FY 2016/17 Revised Budget	Actual vs. Budget Favorable / (Unfavorable)	
					Amount	Percent
Salaries*	\$91.8	\$93.0	\$94.8	\$96.1	\$1.3	1%
Retirement	14.2	16.2	16.3	17.0	0.7	4%
Health/Dental	11.6	12.3	12.6	13.0	0.4	3%
Fringe Benefits	6.6	6.6	6.7	6.7	0.1	1%
Overtime	6.4	5.5	5.7	5.6	(0.1)	(2%)
Contract workers	0.2	0.2	0.4	0.2	(0.3)	nm
Personnel Services Total	\$130.7	\$133.7	\$136.5	\$138.6	\$2.1	1%
*Pay Periods thru March:	20	20	20			

General Fund Operating Division Expenditures March 2017 : Fiscal Year to Date

(in millions: rounding differences may occur)



General Fund Operating Division Expenditures March 2017 : Fiscal Year to Date

(in millions: rounding differences may occur)

	FY 2014/15	FY 2015/16	FY 2016/17	FY 2016/17	Actual vs. Budget	
	Actuals	Actuals	Actuals	Revised Budget	Favorable / (Unfavorable) Amount	Percent
Mayor & Council and Charter Officers	\$13.9	\$15.3	\$15.7	\$16.4	\$0.8	5%
Administrative Services	11.6	12.1	12.7	13.0	0.3	3%
Community and Economic Development	18.6	18.6	19.7	19.8	0.1	0%
Community Services	25.2	25.3	25.4	26.4	1.1	4%
Public Safety - Fire	25.1	26.3	27.6	27.6	-	-
Public Safety - Police	68.6	69.5	69.1	72.1	3.0	4%
Public Works	13.2	12.8	13.1	14.7	1.6	11%
Total	\$176.3	\$179.8	\$183.2	\$190.1	\$6.9	4%

General Fund Results: Summary March 2017 : Fiscal Year to Date

(in millions: rounding differences may occur)

	FY 14/15 Actual	FY 15/16 Actual	FY 16/17 Actual	FY 16/17 Budget	Actual vs. Budget	
					Fav/(Unf)	%
Sources	\$187.4	\$196.9	\$194.1	\$198.1	(\$4.0)	(2%)
Uses	177.9	185.2	186.2	191.7	\$5.4	3%
Change in Fund Balance	\$9.5	\$11.7	\$7.9	\$6.4	\$1.4	

SAVE OUR PRESERVE, INC.

Dedicated to the protection of civil rights through
litigation in Scottsdale.



UT POENA AD PAUCOS METUS AD OMNES PERVENIAT --

SAVE OUR PRESERVE, INCORPORATED.

(Not affiliated in any manner with the Scottsdale Ballot Initiative.)

A Non-Profit Corporation dedicated to protecting civil rights in Scottsdale through litigation.

Our corporate focus is on enforcing statutory rights here in Scottsdale, city charter conferred constitutional rights here in Scottsdale, Arizona Constitutional Rights here in Scottsdale, and U.S. Constitutional Rights here in Scottsdale.

We are proud to announce that all our registrations have been processed by the state of Arizona. We are now ready to roll.

Our first legal action seeks to enforce the following civil rights here in Scottsdale:

I. Open Meeting Laws – A.R.S. § 38.431 et seq.

II. Public Records Laws-- A.R.S. § 39-121 et seq.

III. The Scottsdale City Charter –

Art. 3, § 15 Consideration of Petitions.

IV. Arizona Constitution—

Art. II, § 5 Right of Petition and Assembly

A draft copy of the complaint is attached for review and comment.

The complaint seeks several actions from the court.

Civil fines of \$1,000 for the Mayor, the City Clerk and the City Attorney, and the removal of these persons from office for conspiring to deprive the public of information at a public meeting.

The great thing about this law, is that those persons named individually must defend themselves with their own funds. They can be personally assessed all the legal fees and costs incurred by the plaintiff. This assessment is mandatory, if the plaintiff prevails.

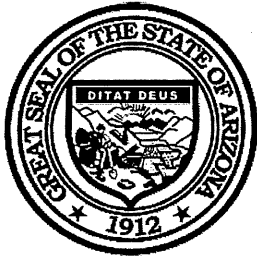
On a related note, a complaint and request for investigation of a violation of the Open Meetings Laws has been submitted to the Arizona Attorney General's Office.

A copy of this complaint is attached. If you would like to join this complaint, or separately request an investigation of these issues, you can. You need only fill in the form, sign it and fax it in to (602) 542-8308.

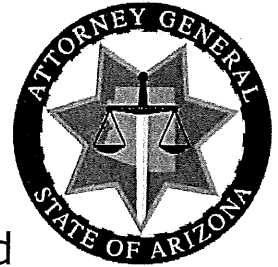
The form is available at <https://www.azag.gov/sgo>

You simply request an investigation into Mark Stuart's complaint dated May 09, 2017.

If you need assistance, you can contact me at savemsp@gmail.com or via text message at (602) 316-0999.



Office of Arizona Attorney General
Mark Brnovich



Open Meeting Law Complaint Form Continued

Name of public entity that is the subject of this complaint:

The City of Scottsdale;

Please describe the conduct that you believe violated the open meeting law: (If more space is needed, please attach additional information on a separate sheet.)

Please refer to the attached letter and complaint for allegations and supporting exhibits.

Summary : On Feb. 07, 2017, the City of Scottsdale and public officials conspired to violate Mark Stuart's rights under the open meetings laws, and actually violated the open meeting laws. These parties acted with the intent to deprive the public of information, and actually deprived the public of information.

These parties took legal action, after excluding the public from the council chambers.

These parties had Stuart removed from the meeting, arrested, and jailed.

Stuart was cited for trespassing before he could actually speak at open public comment. Stuart was deprived of the opportunity to speak on agenda item 6.

List the dates of the meetings at which you believe the violation occurred.

Feb. 07, 2017.

Please identify all members of the public body whom you believe violated the requirements of the Open Meeting Law.

Mayor Jim Lane; City Clerk Caroline Jagger; City Attorney Bruce Washburn; City Manager Jim Thompson, police officers Tom Cleary and Jason Glenn, acting under the direction and supervision of police chief Alan Rodbell.

1 Mark E. Stuart
2 Save Our Preserve, Inc.
3 8629 E. Cheryl Drive
4 Scottsdale, AZ 85258
5 Phone (480) 922-6169
6 mstuart1789@gmail.com
7

8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
9 **IN AND FOR THE COUNTY OF MARICOPA**

MARK STUART an Individual, doing
business as Save Our Preserve, Inc., and
Save Our Preserve Inc., an Arizona
Corporation on behalf of its members

Plaintiffs

Vs.

CITY OF SCOTTSDALE, a municipal
corporation; Scottsdale City Clerk Caroline
Jagger in her official capacity and in her
individual capacity; Scottsdale city Attorney
Bruce Washburn in his official capacity and in
his individual capacity; Mayor Jim Lane in his
official capacity and in his individual capacity;
Council members Guy Phillips, Kathy
Littlefield, Suzanne Klopp, Linda Mulhacen,
Virginia Korte, and David Smith in their
official capacities; and Scottsdale City manager
Jim Thompson, in his official capacity and in
his individual capacity, Officer Tom Cleary in
his individual capacity and in his official
capacity, Officer Jason Glenn in his individual
capacity and in his official capacity.

Defendants

Case No.:

**VERIFIED COMPLAINT FOR SPECIAL
ACTION, DECLARATORY AND
INJUNCTIVE RELIEF AND ORDER TO
SHOW CAUSE**

10 Plaintiff Mark Stuart, doing business as Save Our Preserve, Inc., and Save Our Preserve,
11 Inc., on behalf of its directors and members ("Plaintiffs"), brings this special action and
12

1 complaint for declaratory and injunctive relief against Defendants City of Scottsdale (“City”),
2 Scottsdale City Clerk Caroline Jagger (“ Jagger”), Scottsdale City Attorney Bruce Washburn (“
3 Washburn”), Scottsdale City Manager Jim Thompson (“ Thompson”), Mayor Jim Lane and all
4 current members of the Scottsdale City Council (“Lane” , “Council”). Plaintiffs seek this
5 court’s assistance to protect the peaceful exercise of their statutory rights and their city charter
6 created constitutional rights. Plaintiffs requires this court’s assistance to order and compel
7 defendants to comply with the Arizona Open Meetings Laws, A.R.S. § 38-431 et. seq. and the
8 Arizona Public Records Laws, A.R.S. § 39-121 et. seq. Plaintiffs requires this court’s
9 assistance to order and compel defendants to perform a duty required by law to which they have
10 no discretion; the actions mandated by the Scottsdale City Charter Article II, Section 15 (“Art.
11 II, Sect. 15”) Plaintiff requires this court’s assistance to order and compel defendants to refrain
12 from exercising authority they do not legally possess. Therefore, for its Verified Complaint for
13 Special Action, Declaratory and Injunctive Relief, plaintiffs state as follows:

14 INTRODUCTION

15
16 1. The Scottsdale City Charter contains Article II, Section 15. Consideration of Petitions.
17 (“Art. II, Sect. 15”, “Charter”)

18 2. Art. II, Sect. 15 is reproduced in its entirety below:

19 Any citizen of the city may appear before the council at any regular meeting and
20 present a written petition; **such petition shall be acted upon** by the council, in the
21 regular course of business, **within thirty (30) days**. (emphasis added)
22

23 3. A true and accurate copy of the most current Charter is attached to this complaint as
24 Attachment 1.

25 4. Art. II, Sect. 15 is page 14 of the most recently amended Charter, as amended by the voters
26 in 2016.

27 5. Since 1961, Consideration of Petitions has always been in the Charter.

28 6. In 2010, Scottsdale voters rejected a city charter amendment, Proposition 413, that would
29 have removed the thirty-day requirement to act on petitions, and allowed the council to take no
30 action on a petition. (Attachment 2)

1 7. Despite the voters' clear rejection of the Council's ability to "take no action" in response to
2 a citizen petition, every official council agenda item that contains the caption Citizen Petitions
3 indicates that the Council has the power to "(3) take no action," in response to a citizen petition.

4 8. Scottsdale voters have never granted the council the authority to take no action on a written
5 citizen petition.

6 9. Article I, Section 3—Powers of the City -- of the Charter states in part,

7 Except as prohibited by the United States constitution, the Arizona
8 constitution, the laws of this state preempting the charter, **or as restricted by**
9 **this charter**, the city shall and may exercise all municipal powers, functions,
10 rights, privileges and immunities of every name and nature whatsoever.
11 (emphasis added) See Charter, page 8.

12
13 10. Article II, Section 3 – Powers of the Council-- -- of the Scottsdale city charter states in
14 part,

15 All powers of the city, not in conflict with the constitution and **subject to the**
16 **limitations of this charter**, shall be vested in the council, (emphasis added)
17

18 11. A.R.S. § 38-431.09. Declaration of Public Policy, part (A), states in part,

19 It is the public policy of this state that meetings of public bodies be conducted
20 openly, Toward this end, any person or entity charged with the interpretations of
21 this article **shall construe this article in favor of open and public meetings. (emphasis**
22 **added)**
23

24 PARTIES

25
26 12. Plaintiff Stuart is a citizen of Scottsdale, a resident of Scottsdale and a registered voter in
27 Scottsdale. Plaintiff Stuart has continuously been a resident and citizen of Scottsdale since July
28 2002.

29 13. Save Our Preserve, Inc. is an Arizona corporation located in Scottsdale. Several
30 directors of Save Our Preserve, Inc., as well as most of its owners and members are residents
31 and registered voters in Scottsdale.

32 14. The City is a chartered city of the State of Arizona.

1 **33.** The Arizona Constitution, Article II, Sections 1, 2, 5, 6, 32, 33 creates the following
2 mandates for all Arizona governments, including charter cities:

3 (a) Governments are established to protect and maintain individual rights, Sect. 2;

4 (b) The right of petition, and of the people peaceably to assemble for the common good,
5 shall never be abridged, Sect. 5;

6 (c) Every person may freely speak, write and publish on all subjects, ..., Sect. 6;

7 (d) The provisions of this Constitution are mandatory, unless by express words they are
8 declared to be otherwise, Sect. 32;

9 (e) The enumeration in this Constitution of certain rights shall not be construed to deny
10 others retained by the people, Sect. 33.
11

12 **34.** Plaintiffs bring this action to seek an independent judicial determination of whether
13 Scottsdale's implementation of the Scottsdale city charter, Art. II, Sect. 15, is consistent with
14 the Arizona Constitutional mandates described in paragraph 31 above.

15 **35.** Plaintiffs bring this action to seek independent judicial interpretation of the
16 Scottsdale city charter Art. II, Sect. 15, and a judicial declaration of the nature and extent of the
17 constitutional rights granted by the voters to themselves thereunder.

18 **36.** Plaintiffs bring this action to seek an independent judicial interpretation that Art. II,
19 Sect. 15 creates mandatory obligations of Jagger, Thompson, and Lane to accept and act upon
20 all written petitions of Scottsdale citizens presented during a council meeting.

21 **37.** Plaintiffs bring this action to seek a judicial determination that A.R.S. § 38-
22 431.01(A) prohibits Lane, or others, from ordering police to remove a citizen from a council
23 meeting when that citizen is peacefully attempting to petition the council, or peacefully
24 attempting to participate in open public comment.

25 **38.** Plaintiffs bring this action to seek a judicial determination that A.R.S. § § 38-431.01(A)
26 and 39-121.02 prohibits Lane and Jagger from refusing to create or subsequently destroying
27 audio and video recordings of a council meeting.

28 **39.** Plaintiffs bring this action to seek a judicial determination that A.R.S. § 39-121.02
29 prohibits Jagger from refusing to include written records submitted with a public comment
30 request in the official public record of a meeting.

1 **40.** In short, this is a textbook case for a declaratory judgment; plaintiffs have therefore
2 invoked the jurisdiction of this court to provide guidance regarding the respective roles of the
3 citizens of Scottsdale, and the public officials named above, under the Arizona Constitution,
4 the Scottsdale city charter and under the respective Arizona Statutes.

5 **B. Background Information Pertaining to this Action.**

6 **41.** The citizens of Scottsdale own the Scottsdale McDowell Sonoran Preserve. (“Preserve”)

7 **42.** In January 2016, the Council appropriated about \$1.8 to study and design a Desert
8 Discovery Center to be built in the Preserve. (“DDC”)

9 **43.** In September of 2016, more than 700 citizens signed a petition to the council asking the
10 council to seek voter approval of the DDC, before constructing the DDC in the Preserve or
11 appropriating any further public monies for the DDC.

12 **44.** The majority of the council voted against this citizen petition.

13 **45.** On Dec. 02, 2016, plaintiff Stuart filed an application for an initiative petition with the
14 Scottsdale city clerk.

15 **46.** On Dec. 16, 2016, plaintiff Stuart filed an amended application for initiative petition for the
16 Save Our Preserve Ballot Initiative. (“SOP”)

17 **47.** The SOP seeks to amend the Scottsdale city charter and prohibit any construction in the
18 Preserve without explicit voter approval, obtained in advance.

19 **48.** On Dec. 16, 2016 plaintiff Stuart filed a statement of organization for the Save Our
20 Preserve political committee with Clerk Jagger. (“SOP Committee”)

21 **49.** On Dec. 20, 2016, Stuart sent a letter to the Arizona Attorney General Brnovich and to the
22 County Attorney Bill Montgomery, asking them to initiate an investigation pursuant to A.R.S. § 9-
23 500.14 into the misuse of public monies to influence an election by the City. (“I-Letter”)

24 **50.** The I-letter was signed by more than 200 Scottsdale voters and residents of Maricopa
25 county.

26 **51.** The I-Letter contained detailed, factually supported allegations that the City was spending
27 public monies to attempt to convince Scottsdale voters of the desirability of building the DDC in
28 the Preserve, despite the ongoing SOP ballot initiative. Further, the I-letter alleged that the City

1 had refused to stop spending public monies and using staff time to advocate for building in the
2 Preserve, despite an explicit request to stop at a council meeting by Stuart.

3 **52.** Between Dec. 19, 2016 and Feb. 06, 2017, Stuart and others have sent letters to several
4 Arizona state legislators asking them to formally request an SB 1487 investigation into the City's
5 ballot initiative related spending activities. ("SB 1487 Letters")

6 **53.** The SB 1487 letters have been signed by more than two – hundred voters.

7 **54.** Stuart and others continue to seek an SB 1487 investigation request from state legislators
8 in Tucson and other parts of our state.

9 **C. Defendants' Conspiracy to Violate A.R.S. § 38-431—Open Meetings**

10 **55.** Since Dec. 16, 2017, Stuart has presented a bi-weekly SOP ballot initiative update during
11 the open public comment portion of the council meetings. ("SOP Updates")

12 **56.** The purpose of the SOP updates is to convince the council that it is inevitable that SOP
13 will acquire enough valid signatures to be placed on the November 2018 ballot.

14 **57.** The SOP Updates request that the council send the charter amendment to the voters early,
15 to save time, expense and unnecessary stress for Scottsdale's co-equal legislators.

16 **58.** Stuart provided a SOP update at the open public comment period of the Jan. 24, 2017
17 council meeting. ("SOP_UP_J24", "J24_Meeting")

18 **59.** Thereafter, Washburn, Lane, and Jagger constructed and implemented a conspiracy to
19 prevent Stuart from attending and speaking during future council meetings. ("Co-Conspirators")

20 **60.** On affirmation and belief, after the J24_Meeting, the Co-Conspirators held meetings and
21 discussed actions that could be taken to prevent Stuart from presenting SOP Updates at future
22 council meetings.

23 **61.** On affirmation and belief, after the J24_Meeting, the Co-Conspirators communicated the
24 plan to stop Stuart from giving SOP Updates at future council meetings via telephone and email.

25 **62.** On January 30, 2017, Washburn sent Stuart a letter warning him that the SOP updates could
26 no longer be presented during open public comment at council meetings. ("Warning")

27 **63.** On Jan. 30, 2017, Stuart responded to the Warning by email. ("Response")

1 **64.** Stuart's Response advised the Co-Conspirators that the Warning was a threat to engage in
2 an as-applied violation of his Arizona Constitution, Article II rights, and his U.S. First Amendment
3 rights.

4 **65.** The Response implored the Co-Conspirators not to violate Stuart's constitutional rights.

5 **66.** The Response encouraged the Co-conspirators to seek a Declaratory Judgment and a TRO
6 to provide judicial legitimacy to the statutory interpretation described in the Warning.

7 **67.** On Feb. 07, 2017, Stuart sent an email to Jagger and the Council asking that Consent
8 Agenda Item 6 be transferred to the regular agenda for appropriate resolution. ("I6_ Email
9 F07_01")

10 **68.** The I6_Email_F07_01, indicated that Stuart would be referencing the written presentation
11 during a petition to the council on a related, but distinctly different subject in the Feb. 07 council
12 meeting. ("F07_Meeting").

13 **69.** On Feb. 07, 2017, Stuart sent a second email to Jagger and attached a pdf file outline and
14 supporting text for the SOP update for that night's meeting. ("SOP Up_F07", "SOP
15 Up_Email_F07_01")

16 **70.** Stuart sent a copy of the SOP Up_F07 via email_07 to Lane and to Washburn.
17 ("SOP Up_Email_F07_02")

18 **71.** Washburn responded to the SOP Up_Email_F07_02, and indicated that he believed that
19 Stuart was violating A.R.S. § 9-500.14 as well as Arizona's open meeting laws by presenting the
20 SOP Update during open public comment. ("SOP Up_Email_F07_03")

21 **72.** Washburn acknowledged reviewing the legal authorities cited in the SOP Up_F07.

22 **73.** On Feb. 07, 2017, Stuart sent a third email to Jagger and requested that this email be
23 included as part of Stuart's comments on consent agenda item 6. ("I6_ Email F07_02")

24 **74.** On Feb. 07, 2017 at about 4:06 pm, Jagger responded that she did not understand Stuart's
25 request to add the email message to the public comment on consent agenda item 06. ("I6_ Email
26 F07_03")

27 **75.** On affirmation and belief, the Co-Conspirators met with police officers Tom Cleary and
28 Jason Glenn prior to the F07_Meeting and planned strategies to prevent Stuart from presenting
29 information to the public at the Feb. 07 council meeting. ("Officers")

1 **76.** On affirmation and belief, the Co-Conspirators strategies included removing Stuart from
2 the meeting, and arresting and jailing Stuart to prevent him from attending the meeting.

3 **77.** On affirmation and belief, the Co-conspirators instructed the Officers to dissuade Stuart not
4 to give the SOP Update at the F07_Meeting.

5 **78.** On affirmation and belief, the Co-Conspirators discussed and agreed upon several actions
6 that would be taken to prevent the public dissemination of an accurate record of the events that
7 would occur after the planned removal of Stuart from the meeting.

8 **79.** Prior to the beginning of the Feb. 07, 2017 council meeting, Scottsdale police officer Tom
9 Cleary indicated to Stuart that the Co-Conspirators had asked him to remove Stuart from the
10 meeting if Stuart attempted to give the SOP update. (“F07_Meeting”, “Cleary”)

11 **80.** Stuart explained to Cleary that he was not willing to waive his statutory or constitutional
12 rights, because of the Co-Conspirators threats to suppress them.

13 **81.** Stuart also explained to Cleary that the Co-Conspirators request was obviously unlawful
14 and clearly violated Stuart’s rights under the Charter, state open meetings laws and both the
15 Arizona and U.S. constitutions.

16 **82.** Stuart asked Cleary to pretend not to see any order that attempted to stop him from
17 speaking or to remove him from the meeting.

18 **83.** Cleary indicated that he could not ignore an order from the Mayor or Council, because
19 Cleary would be fired, or suffer other adverse consequences.

20 **84.** After talking with Cleary, Stuart spoke briefly with Scott Vineberg inside the Council
21 chambers.

22 **85.** Mr. Vineberg indicated that he had overheard the Co-conspirators discussing Stuart and
23 actions that would be taken against Stuart in the upcoming meeting.

24 **86.** Shortly after talking to Cleary, Stuart filled out a request to speak at open public comment
25 card. (“CardF07”).

26 **87.** Stuart attached a hard copy of the SOP update to the CardF07.

27 **88.** About 22 minutes and 33 seconds after the F07 meeting started, Stuart was called by
28 Mayor Lane to speak.

29 **89.** From 23:02 until 25:55, Mayor Lane indicated with his words and actions that he
30 intended to prevent Stuart from speaking.

1 **90.** At about 25:58 of the meeting, Mayor Lane ordered Clerk Jagger to turn off all sound
2 recording devices and asked the police to remove Mr. Stuart from the meeting.

3 **91.** Almost immediately, Clerk Jagger turned off all sound recording devices.

4 **92.** Jagger's actions prevented the creation of a public record of the conversation between
5 Stuart and the police officers prior to Stuart's removal and arrest.

6 **93.** Jagger intended to deprive the public of the information describing the conversation
7 between Stuart and the police officers.

8 **94.** Jagger destroyed about 1 minute and 16 seconds of the record of the proceedings of the
9 F07 meeting. ("Missing Recording")

10 **95.** At about 28:45, of the meeting Mayor Lane announced that Stuart had been prevented
11 from returning to the meeting.

12 **96.** Jagger omitted any mention of Stuart's attempt to participate in public comment from the
13 official meeting minutes of the Feb. 07, 2017 meeting.

14 **97.** Jagger did not include a description of Stuart's public comment on the Marked Agenda
15 that is available to the public on the City's website.

16 **98.** Jagger did not include a copy of Stuart's written SOP Update as part of the Marked
17 Agenda that is available to the public on the City's website.

18 **99.** Jagger did not provide any indication that Stuart had sent a written presentation to the
19 council as part of the SOP Update, in the official meeting minutes.

20 **100.** Jagger actions were intended to deprive the public of the information Stuart was
21 presenting through the written SOP Up_F07.

22 **101.** A civil conspiracy occurs when "two or more people agree to accomplish an unlawful
23 purpose, or to accomplish a lawful object by unlawful means, causing damages." *Wells Fargo*
24 *Bank v. Ariz. Laborers, Teamsters & Cement Masons Local No. 395 Pension Trust Fund*, 201
25 Ariz. 474 (2002).

26 **102.** Through the actions described above, and related actions that facilitated these actions
27 prior to the Feb. 07 meeting, the Co-Conspirators accomplished their scheme to unlawfully deny
28 Stuart access to the F07 meeting.

1 **103.** Through the actions described above, and actions that occurred after the Feb.
2 07_Meeting, the Co-Conspirators accomplished their unlawful scheme to deprive the public of
3 information that Stuart attempted to present to the public and the Council in the F07_meeting.

4 **D. Defendants' Violations of Stuart's Rights Under A.R.S. § 38-431.01**

5 **104.** A.R.S. § 38-431.01(A) states in part,

6 A. All meetings of any public body shall be public meetings and all persons so desiring
7 shall be permitted to attend and listen to the deliberations and proceedings.

8
9 **105.** The Co-Conspirators knew that Stuart desired to speak on consent Agenda Item 6,
10 because Stuart had sent them the I6_Emails prior to the meeting.

11 **106.** In the meeting video, Lane acknowledged that Stuart desired to speak on consent
12 Agenda Item 6 and that Stuart had been prevented from reentering the council meeting.

13 **107.** Jagger included Stuart's two email comments to the council on Item 6 in the Marked
14 Agenda that is available on the City's website.

15 **108.** In the F07_meeting, Stuart also intended to present a citizen petition to the council as
16 part of agenda Item 12 during the latter part of the council meeting.

17 **109.** Defendants actions prevented Stuart from attending, observing, listening, speaking and
18 petitioning the council in the F07 meeting.

19 **110.** Defendants' actions thus violated A.R.S. § 38-431.01(A), and Stuart's rights thereunder.

20 **E. Defendants' Violations of A.R.S. § 39-121.**

21
22 **111.** The public controversy and ongoing discussion over the future of the preserve has
23 been described by Mayor Lane as the "most divisive and controversial issue in the community"
24 on more than one occasion in city council meetings since January 2016.

25 **112.** On Feb. 09, 2017, Cindy Gross sent an email to Jagger and requested "Mark Stuart's
26 presentation to the city council, during public comment on Feb. 07, 2017." ("ATT03:)

27 **113.** Jagger responded via email, "Mr. Stuart did not make a presentation to the Council on
28 February 7." ("ATT03")

29 **114.** A.R.S. § 38-431.01(B)(4) requires that the,

30 The minutes shall also include the names of the persons, as given, making statements
31 or **presenting material to the public body** and a reference to the legal action about which
32 **they made statements or presented material.** (emphasis added)

1 **115.** Stuart’s written SOP Update of Feb. 07 must be included in the minutes to provide an
2 accurate description of the actions proposed by Stuart.

3 **116.** Stuart’s written SOP Update from Feb. 07 is necessary to maintain an accurate and
4 complete record of Stuart’s intended remarks to the city council on Feb. 07. See A.R.S. § 39-
5 121.01(B). (“SOP Up_F07”).

6 **117.** The SOP Up_F07 is necessary for the public to maintain an accurate record of the work
7 of Scottsdale’s citizen legislators participating in the Save Our Preserve ballot initiative, and the
8 actions they are taking in the furtherance of their legislative efforts.

9 **118.** The SOP Up_F07 has a substantial nexus with the city council’s activities *Griffis v.*
10 *Pinal County*, 215 Ariz. 1, (2007), and are public records pursuant to A.R.S. § 39-121, et. seq.

11 **119.** The SOP Up_F07 is necessary for the public to monitor the performance of elected
12 officials in the performance of their duties.

13 **120.** The Missing Recording, about 25:58 to 27:16, documents the performance of the police
14 and the council performing their duties.

15 **121.** The Missing Recording, was intentionally not created, or was destroyed by Jagger.

16 **122.** On March 07, 2017 Stuart presented the SOP Update to the council during the first
17 public comment period of the council meeting. (“M07 Meeting”, “SOP Up_M07”)

18 **123.** Stuart submitted a verbatim copy of the SOP Up_M07 to Jagger with his request to
19 speak public comment card.

20 **124.** Jagger refused to include the written Soup_M07 in the official meeting record.

21 **125.** The marked agenda from the M07_Meeting does not indicate that Stuart had provided a
22 copy of the SOP_Up_M07 to the council as part of open public comment.

23 **126.** The SOP UP_M07 is necessary to maintain an accurate and complete record of Stuart’s
24 intended remarks to the city council on March 07. See A.R.S. § 39-121.01(B).

25 **127.** The SOP UP_M07 is a public record for the reasons described in paragraphs 115 to 120
26 above pertaining to the SOP_Up_F07 and the Missing Recording.

27 **128.** At the M07 meeting, Stuart attempted to obtain two citizen petition cards from Clerk
28 Jagger during the council meeting. (“P-Cards”)

29 **129.** Prior to the M07 Meeting, Stuart sent pdf copies of these petitions to Jagger for
30 inclusion in the official record of the meeting. (“M07_emails_01”)

1 **130.** Prior to the M07_meeting, Stuart sent copies of the citizen petitions to Lane and
2 Councilman Phillips. (“M07_emails_02”)

3 **131.** The M07_emails_02 requested that Lane agendize and vote on these petitions at the
4 March 21 meeting.

5 **132.** The Mayor’s assistant responded via email that, “Mr. Stuart, you may come to council
6 with your petitions and we will review them at the end of the meeting.”

7 **133.** In the M07_emails_01, Stuart indicated to Jagger that he intended to present both
8 petitions to the council as part of agenda Item 20, Citizen Petitions, in the later part of the M07
9 Meeting.

10 **134.** In the M07_emails_01, Jagger indicated that she would not allow Stuart to present these
11 petitions under Item 20.

12 **135.** In the M07_emails_01, Stuart explained to Jagger that she had no legal authority to
13 reject Citizen petitions, and that she was acting unlawfully by refusing to accept the petitions.

14 **136.** Stuart attempted to obtain the P-Cards prior to the start of the second public comment
15 period, as described by the plain words of agenda Item 20.

16 **137.** Stuart complied exactly with the plain words of Rule 8.1, Council Procedure.

17 **138.** Petition one asked the Council to revoke a city ordinance pertaining to ballot initiatives
18 in Scottsdale. (“PET01_M07”, ORD_2.4”) (“**Attachment 3**”)

19 **139.** Petition two asked the Council to allow the Save Our Preserve ballot initiative to place
20 signs at the Gateway Trailhead in the Preserve next to the signs announcing the Desert Discovery
21 Center. (“PET02_M07”)

22 **140.** PET01_M07 was critical of Jagger and indicated that both Jagger and the Council had
23 knowingly failed to modify ORD_2.4 to conform it to controlling legal authority and to mandatory
24 changes adopted in state election laws after 1990.

25 **141.** PET02_M07 is an attempt to counteract and neutralize efforts by city employees and
26 the Council to drown out the speech of the SOP volunteers about the ballot initiative.

27 **142.** Jagger refused to give Stuart the P-Cards, or to inform the council that Stuart had two
28 written citizen petitions requesting council review and action.

29 **143.** There is no record that Jagger denied Stuart the ability to petition the council during
30 the M07 meeting.

1 **144.** Jagger and Lane refused to create a video record of Stuart’s requests to petition the
2 council, or destroyed this video record later.

3 **145.** There is no record from the M07 meeting indicating that the council refused to accept
4 Stuart’s two citizen petitions.

5 **146.** Records of Stuart’s futile attempts to petition the council at the M07 meeting are
6 records reasonably necessary to provide knowledge of all activities the Clerk and the Council take
7 in the furtherance of their duties to accept and act upon citizen petitions during council meetings.

8 **147.** Without written records, or some type of audio or video record of the Clerk’s and
9 councils’ refusal to accept Stuart’s petitions at the M07 meeting, the public has no means to
10 monitor the performance of the Clerk and the council in the performance of their charter mandated
11 activities.

12 **148.** After Jagger’s refusal to accept Stuart’s citizen petitions, Stuart asked members of the
13 audience to present them as part of agenda Item 20.

14 **149.** Jerry Lenhart agreed to present PET02_M07 to the council, and to cede a portion of his
15 time to Stuart, as part of Agenda Item 20.

16 **150.** At the M07 meeting, Jerry Lenhart attempted to present Pet02_M07 of Stuart’s
17 petitions to the council as part of agenda Item 20.

18 **151.** Jagger refused to include the written portions of Mr. Lenhart’s petition in the official
19 meeting record.

20 **152.** Jagger and the council refused to allow Mr. Lenhart to cede a portion of his time to
21 Stuart, so that Stuart could formally present PET02_M07 to the council.

22 **153.** It is a long custom in Scottsdale city council meetings, that citizens may cede portions
23 of their time to other citizens when more than one person speaks on the same topic.

24 **154.** Both Stuart and Lenhart desired to petition the council to act on PET02_M07.

25 **155.** As of May 03, 2017, the Council has not acted on Mr. Lenhart’s petition, or Stuart’s
26 written petitions to the council from the M07 meeting.

27 **156.** On April 04, 2017, Stuart provided a SOP Update to the city council and the public.
28 (“A04_Meeting”, “SOP_Up_A04”)

29 **157.** Stuart submitted a verbatim copy of the text of the SOP_Up_A04 to Jagger when he
30 submitted a request to speak card at the A04_Meeting.

1 **158.** The SOP_Up_A04 included a written citizen petition.

2 **159.** Jagger refused to include the written SOP_Up_A04 in the official meeting record.

3 **160.** The official meeting minutes do not mention that Stuart submitted a type written
4 SOP_Up_A04, including a citizen petition, to Jagger and the Council.

5 **161.** The citizen petition included in the SOP_Up_A04 asked the council to answer, on the
6 record, two questions, that were written in the citizen petition.

7 **162.** Question 1 asked, Are you using any public resources, including staff time, to work on
8 the Desert Discovery Center?

9 **163.** Question 2 asked, Is it true that the council plans to proceed with the building of the
10 DDC sometime this summer, despite the ongoing ballot initiative drive to stop it?

11 **164.** Stuart's written SOP_Up_A04, including his citizen petition., is necessary to maintain
12 an accurate knowledge of Stuart's actual remarks to the Council on April 04, See A.R.S. § 39-
13 121.01(B).

14 **165.** Stuart's type written SOP_Up_A04, is a public record for the reasons described in
15 paragraphs 113 to 117 above pertaining to the SOP_Up_F07.

16 **166.** On April 25, 2017, Stuart attended a duly noticed council meeting and provided a SOP
17 Update to the council and the public. ("A25_Meeting", "SOP_Up_A25")

18 **167.** Stuart sent a verbatim copy of the prepared text of his public comment to Jagger as an
19 email attachment.

20 **168.** There is no public record from the A25_Meeting of the written prepared text of the
21 SOP_Up_A25.

22 **169.** Item 29 of the A25_Meeting Agenda is titled Citizen Petitions.

23 **170.** Stuart desired to present four simple Citizen Petitions to the council and to the public
24 as part of Item 29, requiring simple yes or no votes by the Council. ("A25_Petitions")

25 **171.** Stuart asked Jagger to give him a Request to Speak Card prior to the beginning of the
26 second Public Comment period, so that he could present the A25_Petitions to the council and the
27 public as part of Item 29.

28 **172.** Jagger refused to accept Stuart's A25_Petitions.

29 **173.** Stuart explained to Jagger that if she did not accept the A25_Petitions, he would be
30 forced to seek judicial assistance to force her to accept the petitions.

1 **174.** Jagger then asked Office Glenn to move Stuart away from her location in the meeting.

2 **175.** Officer Glenn threatened Stuart with physical force.

3 **176.** Stuart then moved to another location in the council chambers.

4 **177.** Stuart asked Jason Alexander if he would submit these petitions to the council on
5 Stuart's behalf.

6 **178.** Mr. Alexander indicated that he was afraid of adverse consequences if he asked the
7 clerk to present the petitions to the council.

8 **179.** Later in the meeting, Stuart was called to speak on Agenda Item 27. Stuart presented
9 the A25_Petitions to the council as part of his comments on item 27.

10 **180.** Stuart requested that the council agendize the questions presented in the A25 Petitions,
11 and simply vote yes or no on each question.

12 **181.** On April 26, 2017, Stuart sent the Co-Conspirators an email with a copy of the
13 A25_Petitions attached. ("A26_email")

14 **182.** The A26_Email asked the Co-Conspirators to include the copy of the A25_Petitions in
15 the official record of the meeting.

16 **183.** The A26_Email asked the Co-Conspirators to acknowledge receipt of the
17 A25_Petitions and to schedule an up or down vote on each of the questions presented in the
18 A25_Petitions at the next council meeting.

19 **184.** Assistant City Attorney Anderson responded via email to the A26_Email for the Co-
20 Conspirators. ("Anderson")

21 **185.** Anderson indicated that the Co-Conspirators would not schedule a vote on the A_25
22 petitions, or take any action on these petitions.

23 **186.** Anderson also indicated that Stuart would not be allowed to present any citizen petitions
24 to the council, other than as part of the open public comment.

25 **187.** Stuart responded to Anderson that the Charter mandated that the Clerk and the Council
26 accept and act upon all citizen petitions within thirty days, no exceptions. ("A27_Email")

27 **188.** The A27_Email asked Anderson to cite some controlling legal authority to support the
28 Co-Conspirators' actions.

29 **189.** TheA27_Email also asked the Co-Conspirators to seek a declaratory judgment
30 confirming, or denying the claimed legal authority to reject citizen petitions.

1 **212.** A.R.S. § 39-121.01(B) states,

2 All officers and public bodies shall maintain all records, including records as defined in
3 section 41-151.18, **reasonably necessary or appropriate to maintain an accurate**
4 **knowledge of their official activities** and of any of their activities which are supported by
5 monies from this state or any political subdivision of this state. (emphasis added)
6

7 **213.** A.R.S. § 39-121.01(B), incorporates by reference the definition of records contained in
8 A.R.S. § 41-151.18 (2013).

9 **214.** A.R.S. § 41-151.18 (2013) broadly defines records as including not only “papers,” but
10 also “other documentary materials, regardless of physical form or characteristics.” *ACLU of*
11 *Arizona v. Arizona Dept. Child Services*, 377 P. 3d 339 at 344, ¶ 11 (App. 2016).

12 **215.** A video recording of a city council meeting is an electronic documentary record of
13 the meeting.

14 **216.** The video recording is automatically created by the video recording equipment in
15 the council chambers during a duly noticed council meeting.

16 **217.** “Section 39-121.01(B) creates a statutory mandate which, in effect, requires all
17 officers to make and maintain records reasonably necessary to provide knowledge of all
18 activities they undertake in the furtherance of their duties.” *Carlson v. Pima County*, 147 Ariz.
19 487 at 490 (1984)

20 **218.** The Co-Conspirators purposefully destroyed the electronic record of the Missing
21 Segment of the F07_Meeting.

22 **219.** The Co-Conspirators had no legal authority to turn-off the video recording of the
23 F07_Meeting.

24 **220.** The video record of the Missing Recording has a substantial nexus with the city
25 council’s activities during the F07_Meeting.

26 **221.** The Co-Conspirators violated the mandate to create and maintain records set forth in
27 A.R.S. §39-121.01(B) by destroying the recording of the Missing Recording of the F07_Meeting.

28 **222.** A.R.S. § 39-121.01(C) states,

29 Each public body shall be responsible for the preservation, maintenance and care of
30 that body's public records, and each officer shall be responsible for the preservation,
31 maintenance and care of that officer's public records. It shall be the duty of each such body to

1 carefully secure, protect and preserve public records from deterioration, mutilation, loss or
2 destruction, unless disposed of pursuant to sections 41-151.15 and 41-151.19.
3

4 **223.** The Co-Conspirators actions destroying portions of the video recording of the
5 F07_Meeting, violated our public records laws and their duties thereunder, by failing to carefully
6 secure, protect and preserve from loss and destruction the Missing Recording of the F07_Meeting.

7 **224.** Stuart provided Jagger and the Council verbatim copies of the SOP Updates for the
8 following council meetings: J24_Meeting, the F07_Meeting, the M07_Meeting, the
9 M21_Meeting, the April 04_Meeting and the April 25_Meeting.

10 **225.** Jagger failed to include the verbatim copies of the SOP Updates in the marked council
11 meeting agendas.

12 **226.** Jagger failed to mention or provide any reference to the verbatim copies of the SOP
13 Updates in any publicly available record of these council meetings.

14 **227.** Jagger failed to include any mention of any type to the written text of the
15 SOP_Updates in the official meeting minutes for meetings listed in para. 222.

16 **228.** Citizen legislators' efforts to have the public resolve the future of the McDowell
17 Sonoran Preserve is an issue of the utmost importance to the public in Scottsdale.

18 **229.** The written SOP_Updates have a substantial nexus with the city council's activities
19 regarding future planned construction in the McDowell Sonoran Preserve.

20 **230.** The written SOP_Updates provide the public with specific knowledge of the activities
21 of citizen legislators in Scottsdale and the activities that these citizen legislators are taking in the
22 furtherance of their legislative efforts.

23 **231.** The written SOP_Updates are necessary information for the public to monitor the
24 performance of elected officials in the performance of their duties regarding the McDowell
25 Sonoran Preserve.

26 **232.** Jagger has no legal authority to fail to include the verbatim copies of the SOP Updates
27 in the marked council agendas or to exclude referencing the written SOP_Updates from the official
28 meeting minutes.

1 **233.** Jagger violated the mandate to create and maintain records set forth in A.R.S. §39-
2 121.01(B) by failing to create any public record about the existence of the verbatim copies of the
3 SOP Updates submitted as part of Stuart’s related public comments.

4 **234.** Stuart provided Jagger and the Council verbatim typed copies of the Citizen Petitions
5 for the M07_Meeting, the A04_Meeting, and the A25_Meeting. (“Petitions”)

6 **235.** Jagger has failed to include any reference of any kind to the Council’s refusal to accept
7 and act upon Stuart’s Petitions from the aforementioned meetings in the marked council agendas
8 or in the official meeting minutes.

9 **236.** Documentation of Jagger’s and the Council’s actions in refusing to accept Stuart’s
10 Citizens’ Petitions are public records as defined in A.R.S. § 39-121.01(B) and (C).

11 **237.** Stuart’s Petitions have a substantial nexus with the Council’s activities in the
12 aforementioned meetings.

13 **238.** Documentation of the Councils’ actions related to Citizen Petitions are records
14 reasonably necessary to provide knowledge of all activities they undertake in the furtherance of
15 their Charter mandated duties.

16 **239.** Documentation of Jagger’s and the Council’s actions in refusing to accept and act upon
17 citizen petitions pursuant to the Charter mandates is an issue of public importance in Scottsdale.

18 **240.** Without accurate and complete documentation of Jagger’s and the Councils’ actions in
19 refusing to accept and act upon Stuart’s Petitions, the public has no means to learn how the
20 Council is performing their Charter mandated duties, or to monitor the performance of the Council
21 in the performance of these duties.

22 **241.** Jagger and the Council violated the mandate to create, maintain and preserve records set
23 forth in A.R.S. §39-121.01(B) and (C) with the actions described in paragraphs 233 to 238 above.

24 **242.** Jagger and the Councils’ deliberate actions in failing to create, maintain and preserve
25 records exceeded their lawful authority and violated our public records laws.

26 **243.** Plaintiffs are thus entitled to Special Action relief pursuant to Rule 3 (a) – (c) of the
27 Rules of Procedure for Special Actions.

28 **244.** Plaintiff has no equally plain, speedy, or adequate legal remedy from the actions taken
29 by the Defendants. Plaintiff will suffer irreparable harm and damage from the ongoing violation of

1 its rights and the public breaches of law, unless the relief requested is granted by means of this
2 Special Action.

3 **COUNT FIVE**

4 **For Declaratory, Special Action and Injunctive Relief: Violation of Plaintiffs**
5 **Constitutional Rights Under the Scottsdale City Charter, Article II, Section 15—Citizen**
6 **Petitions; Actions that Exceeded Legal Authority, Failure to Perform a Duty Mandated by**
7 **Law to Accept and Act Upon Citizen Petitions.**

8
9 **245.** Paragraphs 1 to 191 are realleged and incorporated herein.

10 **246.** "The charter of a city is its organic law bearing the same relation as the constitution of
11 the state bears to its statutes." *Union Transportes de Nogales v. City of Nogales*, 195 Ariz. 166 at
12 169, ¶ 10 (1999)

13 **247.** A city can exercise only such powers as are delegated to it by the Constitution and the
14 laws of the state and its charter. *Paddock v. Brisbois*, 35 Ariz. 214 at 220 (1929)

15 **248.** The legislative body of a city is impotent to change or alter by ordinance or resolution
16 the organic law of the city. *Paddock*, 35 Ariz. 214 at 221.

17 **249.** "Every positive [constitutional] direction contains an implication against anything
18 contrary to it, or which would frustrate or disappoint the purpose of that provision." *Id.*, at 221.

19 **250.** "If the controlling law directs the legislative body to do a particular duty in a certain
20 manner, the duty must be done in that manner." *Kimble v City of Page*, 199 Ariz. 562 at 565, ¶ 18,
21 (App. 2001)

22 **251.** Article II, Section 15 must be interpreted and applied in harmony with the Arizona
23 Constitutional provisions set forth in paragraph 33 above.

24 **252.** Article II, Section 15 must be interpreted and applied in a manner that affirmatively
25 effectuates the constitutional rights set forth in paragraph 33 above.

26 **253.** Article II, Section 15 mandates that Jagger accept all written citizen petitions and
27 allow the citizen to present the citizen petitions to the city council.

28 **254.** Jagger has no legal authority to refuse to accept a written citizen petition or to refuse to
29 allow a citizen to present written petitions to the city council at a Scottsdale city council meeting.

30 **255.** Jagger exceeded her legal authority by refusing to accept Stuart's two written citizen
31 petitions at the MO7_Meeting.

1 **256.** Thompson has no legal authority to refuse to place a written citizen petition on the city
2 council agenda for council action within thirty days.

3 **257.** Thompson was aware that Stuart had submitted two written petitions to Clerk Jagger
4 and Mayor Lane prior to the M07_Meeting.

5 **258.** Thompson exceeded his legal authority and thus violated Stuart's charter conferred
6 constitutional right to petition the city council, by refusing to place Stuart's petitions on any city
7 council agenda for action within thirty days.

8 **259.** Mayor Lane has no legal authority to refuse to accept a written citizen petition at a
9 council meeting.

10 **260.** Mayor Lane has no legal authority to refuse to require that the city council act upon all
11 written citizen petitions presented to the city council within 30 days.

12 **261.** Mayor Lane proceeded in excess of his jurisdiction and legal authority by refusing to
13 place Stuart's two written petitions on the council agenda for action within thirty days of the
14 M07_Meeting.

15 **262.** Mayor Lane violated Stuart's charter conferred constitutional right to petition the city
16 council by failing to take the actions necessary to ensure that the council would act upon Stuart's
17 petitions within thirty days.

18 **263.** The Council has no legal authority to refuse to act upon a written citizen petition
19 presented to the city council within thirty days.

20 **264.** Jagger, Thompson, Lane and the Council ("Actors"), as described in paragraphs 249 to
21 259, above took the actions alleged in paragraphs 1 to 191 above, purposely designed to frustrate
22 and disappoint the obvious purpose of Article II, Section 15 of the Scottsdale city charter.

23 **265.** The Actors have a duty required by law to accept and act upon all written Citizen
24 Petitions within thirty days.

25 **266.** As of May 09, 2017, the city council has not added Stuart's written citizen petition
26 from the A04_Meeting to any council agenda. ("A04_Petitions")

27 **267.** As of May 09, 2017, the Council has not acted upon Stuart's written citizen petition
28 from the A04_Meeting, within thirty days.

29 **268.** On April 25, 2017, Jagger exceeded her lawful authority by refusing to give Stuart
30 comment cards so that he could present the A25_Petitions to the council.

1 **III.** Issue an Order Compelling Clerk Jagger and the City of Scottsdale to accept all written
2 citizen petitions given to them before the second public comment period in any city council
3 meeting and present all such petitions to the city council in all future city council meetings, so
4 long as the Scottsdale city charter mandates action by the council on written citizen petitions;

5 **IV.** Issue a permanent injunction enjoining the City of Scottsdale and any elected or appointed
6 public official from refusing to accept a written citizen petition, and refusing to act upon that
7 petitions.

8 **V.** Issue an Order Compelling Clerk Jagger to fully comply with the mandates of A.R.S. §
9 39-121, et seq., and to perform the following duties within five business days:

10 a. Include the full text of any future written SOP Updates in the official record of the
11 marked agenda of all future city council meetings;

12 b. Specifically mention the existence of all written SOP Updates in all future official
13 meeting minutes, and explain how the public can obtain copies of these SOP Updates;

14 c. Update all past marked official agendas from January 24, 2017 through April 25,
15 2017 to include the written SOP Updates submitted with Stuart's comment cards from
16 those dates;

17 d. Update all official meeting minutes from Jan. 24, 2017 to April 25, 2017 to
18 specifically note the existence of the written SOP Updates submitted with the respective
19 public comment cards and explain how the public can obtain copies of these SOP Updates;

20 e. Permanently enjoin the City of Scottsdale and all elected and appointed public
21 officials from omitting written presentations made by Citizens at open public comment, as
22 part of a citizen petition, or any other citizen presentation made to the city council from the
23 official public records of the council meeting.

24
25 **VI.** Issue an order mandating that Clerk Jagger and Mayor Lane and the City of Scottsdale
26 must fully record every portion of all future city council meetings;

27 **VII.** Issue an order prohibiting and permanently enjoining Clerk Jagger or Mayor Lane, or
28 any Scottsdale elected official or Scottsdale city employee from destroying any portion of
29 the video recording of any future city council meeting;

30 **VIII.** Issue an order prohibiting and permanently enjoining Mayor Lane, or any other
31 elected or appointed public official in the city of Scottsdale, from ordering the removal of
32 any citizen who is peacefully attending the city council or peacefully petitioning the council
33 during the city council meeting;

1 **IX.** Issue an order prohibiting and permanently enjoining Mayor Lane, any Scottsdale
2 police officer, or any City of Scottsdale elected or appointed public official from preventing
3 any citizen from attending a duly noticed city council meeting in the future.

4 **X. Issue a declaratory judgment for plaintiffs on Count One and rule as follows:**

5 a. **Judgment for Stuart on Count One**--Mayor Lane and officers Glenn and Cleary
6 violated Stuart's rights under A.R.S. § 38-431.01(A) through their actions in removing
7 Stuart from the Feb. 07, 2017 meeting;

8 b. Impose a civil penalty of \$500 on Mayor Lane, on officer Glenn and on officer
9 Cleary, each individually, pursuant to A.R.S. § 38-431.07(A) for their actions in Count
10 One;

11 c. Issue a permanent injunction enjoining the City of Scottsdale and its Mayor, City
12 Council and Police Department from removing any citizen from the council chambers
13 during council meetings, unless the citizen is actually disrupting or impeding the meeting
14 as defined in *Norse v. City of Santa Cruz*, 629 F. 3d 966 , at 976 (9th Circ. 2010).
15

16 **XI. Issue a declaratory judgment for plaintiffs on Count Two and rule as follows:**

17 a. **Judgment for Stuart on Count Two**-- Mayor Lane and officers Glenn and Cleary
18 violated Stuart's rights under A.R.S. § 38-431.01(A) through their actions in preventing
19 Stuart from attending the meeting of Feb. 07, 2017 after 5:32 p.m.;

20 b. Impose a second civil penalty of \$500 on Mayor Lane, on officer Glenn and on
21 officer Cleary, each individually, pursuant to A.R.S. § 38-431.07(A) for their actions in
22 Count Two;

23 c. Declare that the council's legal action approving expenditures from consent Agenda
24 Item 6 is null and void
25

26 **XII. Issue a declaratory judgment for plaintiffs on Count Three and rule as follows:**

27 a. **Judgment for Stuart on Count Three**—The Co-Conspirator's Intended to
28 Deprive the Public of Information with their Actions of February 07, 2017, in Violation of
29 A.R.S. § 38-431.07;

30 b. Begin proceedings to remove Clerk Jagger from office pursuant to A.R.S. § 38-
31 431.07 (A);

32 c. Begin proceedings to remove City Attorney Washburn from office pursuant to
33 A.R.S. § 38-431.07 (A);

34 d. Begin proceedings to remove Mayor Lane from office pursuant to A.R.S. § 38-
35 431.07 (A);

36 e. Assess Mayor Lane, Attorney Washburn and Clerk Jagger personally all costs and
37 attorneys fee awarded to plaintiff in accordance with the requests below, and order
38 payment to plaintiff forthwith;
39

1 **XIII. Issue a Declaratory Judgment for plaintiffs on Count Four and rule as follows:**

2 Issue an Order Declaring that Mayor Lane and Clerk Jagger failed to comply with their
3 mandatory duty under A.R.S. § 39-121 et seq., to create, maintain and preserve public
4 records and award Stuart all costs and attorneys incurred in litigating count Four pursuant to
5 A.R.S. § 39- 121.02(B) and Rule 4(g) of the Arizona Rules of Procedure for Special
6 Actions.

7 **XIV. Issue a Declaratory Judgment for plaintiffs on Count Five and rule as follows:**

8 Issue an Order declaring that by refusing to accept Stuart's written citizen petitions, Clerk
9 Jagger violated Stuart's charter conferred constitutional rights under Article II, Section 15 of
10 the Scottsdale city charter.

11 Issue an Order declaring that by refusing to take the actions necessary to act on Stuart's
12 citizen petitions within thirty days, Mayor Land and Manager Thompson violated Stuart's
13 charter conferred constitutional rights under Article II, Section 15 of the Scottsdale city
14 charter.

15 Issue an Order declaring that the City of Scottsdale and its elected and appointed public
16 officials failed to apply Art. II, Sect. 15 of the Scottsdale city charter in a manner that
17 protected and maintained Stuart's individual rights as required by Art. II, Section 2 of the
18 Arizona Constitution.

19 **XV. Issue a Declaratory Judgment for plaintiffs on Count Six and rule as follows:**

20 Issue an Order declaring that the concerted efforts of Clerk Jagger, Attorney Washburn,
21 Mayor Lane and the Officers violated Stuart's Arizona constitutional right to petition the
22 government and to peaceably assemble for the common good, Art. II, Section 5, on
23 February 07, 2017.

24 Issue an Order declaring that the concerted efforts of Clerk Jagger, Manager Thompson
25 Mayor Lane violated Stuart's Arizona constitutional right to petition the government and to
26 peaceably assemble for the common good, Art. II, Section 5, on March 07, 2017.

1 Issue an order declaring that the concerted efforts of Clerk Jagger and Officer Glenn
2 violated Stuart's Arizona constitutional right to petition the government and to peaceably
3 assemble for the common good, Art. II, Section 5, on April 04, 2017.

4 **XVI.** Issue a Declaratory Judgment for plaintiffs and order the City of Scottsdale to pay
5 Stuart's attorneys' fees and expenses pursuant to A.R.S. § 12-2030, A.R.S. § 38-431.07(A)
6 and the Private Attorney General Doctrine.

7 **XVII.** Award any other relief that the Court deems just and appropriate.

8 **Dated:** May 09, 2017

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