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CALL TO ORDER

[Time: 00:00:21]

Mayor Lane: Good afternoon, everyone. I'd like to call to order our October 3, 2019 City Council Special Meeting with a possible Executive Session.

ROLL CALL

[Time: 00:00:22]

Mayor Lane: We will start with a roll call, please.

City Clerk Carolyn Jagger: Mayor Jim Lane.

Mayor Lane: Present.

Carolyn Jagger: Vice Mayor Kathy Littlefield.

Vice Mayor Littlefield: Present.

Carolyn Jagger: Councilmembers Suzanne Klapp.

Councilwoman Klapp: Here.

Carolyn Jagger: Virginia Korte.

Councilmember Korte: Here.

Carolyn Jagger: Linda Milhaven.

Councilwoman Milhaven: Here.

Carolyn Jagger: Guy Phillips.

Councilman Phillips: Here.

Carolyn Jagger: And Solange Whitehead.

Councilwoman Whitehead: Here.

Carolyn Jagger: City Manager Jim Thompson.

Jim Thompson: Here.

Carolyn Jagger: Acting City Attorney Joe Padilla.

Joe Padilla: Here.

Carolyn Jagger: City Treasurer Jeff Nichols.

Jeff Nichols: Here.

Carolyn Jagger: City Auditor Sharron Walker

Sharron Walker: Here.

Carolyn Jagger: And the Clerk is present.

ITEM 1 – CITY ATTORNEY PRESENTATIONS AND APPOINTMENT

[Time: 00:00:49]

Mayor Lane: Thank you. As I mentioned there is a possibility in this special session for an Executive Session. Tonight's Special Meeting is to introduce the three finalists for City Attorney to the public and to those here in the audience. It's important to note that the Council has had the benefit of interviewing each of the candidates individually. Tonight's meeting is one of the final steps in the selection process, which has been ongoing for a number of months. I would like to thank our City Manager Jim Thompson and Dr. Edward Williams from the recruiting firm of Baker Tilly Virchow Krause for all of the work they have done for putting this together. Thank you, gentlemen, both. We will now

hear from each of the candidates, who will tell us about their backgrounds and qualifications for the position of City Attorney, as well as why they want to work for the City of Scottsdale. I ask that each candidate limit their presentation to between 10 and 15 minutes. I hope that we can follow that rule. We'll go ahead and start, I would like to ask Ms. Colleen Connor, would you please step to the podium for the presentation.

[Time: 00:02:11]

Colleen Connor: Good afternoon, Mayor and members of the City Council. I was wondering if the clock is going to count down our time, or shall I? I will keep track of it.

Mayor Lane: We are trying to be a little bit lax.

Colleen Connor: Okay. My name is Colleen Connor and thank you for this opportunity to address you as a candidate for the Scottsdale City Attorney position. I fell in love with Scottsdale 25 years ago and I've been a resident ever since. Scottsdale is a world-class community. It's an incredible place to live. I've witnessed the amazing growth of this beautiful city and the outstanding recreational opportunities. The City Council's sustained commitment to responsible growth and quality of life for the residents speaks volumes about the dedicated leadership. And to that end, I want to be a part of this exceptional leadership team and be the next City Attorney.

I'll start with a brief background about myself and then outline my work experience. I was born and raised in Maryland in a suburb of Washington DC. For college I went to Fordham University in the Bronx, New York and graduated with a BA in English. While at Fordham I had an opportunity to work at the Manhattan DA's office in an internship for the Victim Services Division. It was a very tremendous experience, I learned such a great deal about the law in general and that really drove me to want to go to the law school. After graduating, I went to the University of Baltimore. While in law school I was on a law review and published two law review articles and that's where I honed my legal research and writing skills. I also met my husband in my last semester of law school, and we got married and moved to Scottsdale.

[Time: 00:04:20]

After passing the Arizona Bar and a short stint in private practice, I had a job at the Attorney General's Office. I started there in February 1997. My primary client was the Arizona Secretary of State. That's where I started doing election work, also advising on their business services and a whole array of issues that come up whenever you represent an elected official. It was at that point, I started to learn that the duties and authority of an elected official are set forth either directly or indirectly within the Arizona constitution or the enabling statutes. In the 1998 election, there was an initiative passed called the Clean Elections Act. The Clean Election Act, as you know, provides public funding for statewide and legislative candidates and for providing that public funding, the candidates have to agree to certain expenditure limits.

In 1999, the Citizens Clean Elections Commission was appointed, and their first order of business was to hire an Executive Director. I was hired as the first Executive Director of the Clean Elections Commission, a 5-member commission. The law had gone into effect so we had to be up and running for the 2000

election primary in general. My first order of business was to find office space, hire staff, draft administrative rules, implement procedures to administer the Clean Elections Act. For the first election, we were up and running with a skeletal staff, but we made it through that whirlwind election. I met with the commission approximately every two weeks. I was used to working with a multimember board and they would give me direction, I would make recommendations, and we would frequently go into Executive Session for various reasons, so I became very familiar with working with multi-member boards and open meeting laws. I stayed with the Clean Election Commission through the 2002 and 2004 elections. In 2005, having successfully implemented the Clean Elections Act, I decided to pass the torch, and return to the practice of law. In August of 2005, I started with the County attorney's office and my primary clients at the time were the County school superintendent, the County recorder, and the elections department.

In April of 2011, after Bill Montgomery was elected, I was promoted to be one of the practice group leaders in the civil division. The practice group was called Government Advice and recently changed to County Elected Officials Practice Group. So, we provide advice to the county elected officials, one of whom is the County Attorney. On three occasions, I have had the opportunity to represent the County Attorney arguing cases before the court of appeals. Those cases dealt with the authority of the County attorney to enforce campaign finance laws, as well as enforcing open meeting laws. The supervisors at the County Attorney's office also carry a case load. I know in some positions, that's not the case, but in the civil division, we have to also practice law.

[Time: 00:08:24]

I have filed numerous briefs in the Arizona Supreme Court on an expedited basis because I do a great deal of election work. Some of the examples of the types of cases that I have handled, I will talk about the most recent election, the 2018 election. There was an initiative that was going to be on the ballot in July of 2018 regarding the clean energy initiative. The plaintiffs in that case filed a lawsuit challenging hundreds of thousands of petition signatures. They were seeking a court order, they named all 15 county recorders and seeking a court order to compel the County recorders to check every single signature. For Maricopa County alone, that would have been hundreds of thousands of signatures. On behalf of the 15 County recorders, I filed a motion to dismiss based on the fact that the County recorder didn't have the authority or duty to check the signatures. The trial court upheld, they granted the motion to dismiss of the County recorders. The case was appealed, and the Arizona Supreme Court affirmed that decision. The fifteen County recorders were dismissed.

There was also a post-general election challenge that made the news. It was filed the Wednesday after the general election. That case had to do with the mismatch of signatures on early ballot envelopes. So, where early ballots are returned and by 7:00 p.m. on election day, if the signature on the envelope didn't match the signature on file with the county recorder, the early ballot would not have been counted. That was challenged by four of the County Republican Parties and the statewide Republican Party. We were able to negotiate a settlement with the plaintiffs. On behalf of the 15 county recorders, I worked with the plaintiffs, and we reached a settlement before our hearing scheduled for that Friday after the election. So, the cases moved very quickly.

One of my highest profile cases was litigated over a period of 7 years. This is a case called Gonzalez vs. State and this pertained to Proposition 200, which was passed in the 2004 election. Proposition 200

required identification at the polls as well as proof of citizenship for voter registration. This case made it to the U.S. Supreme Court on two different occasions. The first one was in 2006, a lawsuit was filed in June and handled on an expedited basis and the Ninth Circuit Court of Appeals issued a stay of implementing an I.D. at the polls. This stay was ordered the first week of October prior to the November general election. So, we sought an emergency petition in the U.S. Supreme Court to reverse the Ninth Circuit's decision. The U.S. Supreme Court agreed with the county recorder's position and lifted the stay, so the I.D. at the polls requirement went into effect for the 2006 general election. The second time it went up to the U.S. Supreme Court was in 2013 and at this point, the only issue remaining was whether registrants who submit a federal voter registration form had to prove citizenship. In that case, because of the National Voter Registration Act and the language used by Congress, the Supreme Court in a 7-2 decision agreed with the plaintiffs and deemed those people who use a federal voter registration form, they did not need to prove citizenship, but would only allowed to vote for federal offices.

So, Arizona has a bifurcated voter registration system, one for those who use a federal form, can only vote for federal offices, and registrants who can be full ballot voters. In my 22 years of being a public lawyer, I have successfully advised multimember boards, commissions and elected officials from all political parties with various backgrounds. I've successfully built consensus among people with divergent viewpoints and agendas. I've hired, supervised and led teams of attorneys and paralegals for 15 years now. I have a record of building strong, professional relationships based on mutual trust and respect. I also strive to provide excellent customer service and be available 24/7. I also have a strong commitment to providing decisive and prompt legal advice in doing the public's business. Being a career public lawyer has been both very rewarding and given me an excellent foundation to be your City Attorney should you so choose. I'm honored to have been selected as one of the finalists and would embrace the opportunity to serve as the next City Attorney. Thank you.

Mayor Lane: Thank you, Ms. Connor. Next, I would ask that Mr. Deryck Lavelle to step up to the podium for his presentation.

[Time: 00:14:45]

Deryck Lavelle: Good afternoon, Mr. Mayor, Vice Mayor, members of the City Council, City Staff, members of the public. My name is Deryck Lavelle. I'm an attorney with over 16 years practicing law in Arizona, almost a decade of which has been in public service to local and city government. I serve as a Senior Assistant City Attorney for Phoenix in their law department and I'm the chief legal officer and general counsel to the Phoenix Community and Development Corporation, which is a 501 C-3 non-profit, dedicated to attracting private capital investment in low-income, under-served communities by leveraging financing under the Federal the new market tax credit program. I'm honored to be considered alongside my two other colleagues today and I'm excited about the prospect of becoming the City of Scottsdale's next City Attorney.

Today, I'm going to tell you a little bit about who I am and why I'm interested in becoming Scottsdale's next City Attorney, and why I believe I'm the best candidate. I emigrated to the states 33 years ago and completed high school in New Jersey before attending university. I hold an undergraduate degree in government from the Georgetown, a graduate degree in law and politics from the Graduate School of Law and Politics at the University of Hull in Hull, England, and I hold my law degree from California

Western School of Law in San Diego, California. Prior to attending law school, I worked for one of the world's largest, international leading law firms as their office manager and legal administrator in their satellite office in Sydney, Australia. In that role, I supervised the daily operations of the entire Sydney office. I supervised and managed approximately 20 to 25 full-time employees and alongside the Managing Partner, worked with the annual operating budget of approximately \$20 million. A budget that is comparable in size for the City of Scottsdale's City Attorney's office.

I also worked locally as a paralegal for the Phoenix law firm that is now Lewis Roca Rothgerber and Christie. Following law school, I returned to Arizona and practiced for several years as a Civil Deputy Maricopa County attorney. I provided legal advice to the Board of Supervisors and the County Manager on a full range of legal issues. I represented the Maricopa County Assessor in defending commercial property valuation cases and served as lead counsel in over two hundred cases filed in the Arizona tax court and the Arizona Court of Appeals. I also served as chief legal advisor to the County's Facilities Management department on the lease and purchase of all real property and the management of County facilities. I also have private practice experience as a sole practitioner and working for one of Arizona's largest, most prestigious law firms handling business litigation and state and local tax controversies.

[Time: 00:17:59]

Why do I want to become Scottsdale's next City Attorney? Three reasons. First, the City of Scottsdale has a reputation for being one of the best run, best managed municipalities in the nation. I want to be an integral part of the team committed to being one of the nation's leading best of class organizations. Second, as a resourceful problem solver and consensus builder who thrives on challenge and the opportunity to make a difference. I'm dedicated and passionate about public service and I'm committed to fulfilling Scottsdale's vision to elevate, enhance and ensure that Scottsdale remains a desirable place for all of its citizens to live, work and for visitors to visit. And finally, my personal philosophy to the practice of law mirrors the mission and values of the City of Scottsdale. I continually strive to provide simply better service to all of my clients and I've done so in the last 16 years of my practice. If I'm fortunate to be selected to be the next Scottsdale City Attorney, the Mayor and City Council will have 24/7 access to me as their chief legal representative. I will be available, I will be accessible, I will be responsive and I will be responsible. With respect to values, integrity, personal accountability, personal service, and a deep appreciation for collaboration are the hallmarks of my legal practice.

So, what sets me apart and makes me the best candidate for this position? The diversity of my background, as well as the depth and breadth of my legal experience. Specifically, advising and representing local city government, makes me a unique City Attorney candidate, and I think would make an asset to the citizens of Scottsdale. In my current role as a Senior Assistant City Attorney for the city of Phoenix I routinely advise the Mayor, City Manager and Council and a host of other city officials and departments on a wide range of issues. For example, for the last five years, I have served as the chief legal advisor to the City Clerk on all City Clerk-related matters. I'm therefore well-versed on campaign finance and election law, regulatory and licensing law, lobbying matters, and open meeting and public records law. I routinely advise the 26 boards and commissions on open meeting laws and I also currently on the city's public records request committee. Today, I have also monitored nine city elections.

Most recently, I served as lead counsel in two important election litigation cases. One challenging the legal sufficiency of a recall petition, and the other challenging whether the initiative to terminate the light rail in the City of Phoenix qualified for placement on the August 2019 ballot. I also have direct and specific experience drafting the City of Phoenix dark money ordinance, the City's lobbying ordinance and the city's licensing ordinance for structured sober living homes. I also represent the Community and Economic Development Department and in that regard I advised the Community and Economic Development Department connection with the \$231 million redevelopment of the Central station transit center located in downtown Phoenix. I also recently obtained for the department a favorable ruling on a procurement protest before the Arizona Office of Administrative Hearings.

I provide ongoing legal advice and counsel to the applications for the Federal Foreign Trade Zones Act. Specifically, we worked with Scottsdale a couple of years ago to help activate the foreign trade zone subzone for Dylan Flight Test, which is a Scottsdale company based out of the Scottsdale Airpark. One of my other clients in the city of Phoenix is the Finance department and the Real Estate department. I serve as chief legal advisor on all real estate and transactional issues. Over the course of the last five years, I have closed over 500 real estate transactions collectively valued at over \$100 million. In addition to those three clients, I have also advised many different departments in the city of Phoenix. I have helped advise the police department and Department of Homeland Security. I have served on the city's Super Bowl committee for the 2015 Super Bowl and the Super Bowl Experience. I have represented and advised the Human Services department, and helped negotiate a commercial lease and operating agreement for the Child Advocacy Center located in downtown Phoenix. I frequently advised the intergovernmental affairs department. I've reviewed over 300 pieces of legislation in nearly every legislative session to provide feedback and protect and improve the City's position with respect to those pieces of legislation. I have represented the Fire Department, Neighborhood Services Department, Public Transportation, Streets Department, I could go on, the Film Office and Sister Cities.

It is this wealth of directly relevant legal experience advising and counseling city elected officials, city management and city department heads that will help me bring a great deal of value to the City of Scottsdale. My energy, my enthusiasm and commitment to carrying out my responsibilities as Scottsdale's next City Attorney will be constant and laser focused and providing first class legal representation and service all the while committed to sustaining Scottsdale as a desirable place to live, work, and visit. With that, I would like to conclude my remarks and close by expressing my sincere thanks and gratitude to each of you for the time and consideration of my candidacy and opportunity to serve. Thank you.

Mayor Lane: Thank you very much Mr. Lavelle. Next, I would ask Ms. Sherry Scott to step to the podium for your presentation.

[Time: 00:24:00]

Sherry Scott: Thank you, Mayor, and members of the Council. I'm very proud to stand in front of you tonight as a finalist for the Scottsdale City Attorney position. I have been thinking about how to meaningfully introduce myself to the Council given that my hope is most of you kind of sort of know me already. I have decided that perhaps, what I should do is tell you something about myself that you don't already know.

In my family, as a child growing up, we were not allowed to say, I can't. It was forbidden and simply not allowed. I grew up on a very small farm in southern Missouri. We had to do a lot of difficult and challenging work at a very young age, and saying "I can't" or thinking I can't was strictly forbidden. You can imagine as a child how I felt about that. I felt it was unfair and unrealistic and sometimes, overly harsh. Over the years, as I accepted, sometimes begrudgingly, difficult challenges, and saw that I could actually complete those challenges, I began to understand the beauty of that concept and the power behind it. Behind striking "I can't" out of your vocabulary and focusing on I can. It became part of the very core of who I am today. I have taken that can-do attitude, positivity with me to every adult job I have ever had. And I would really like to bring it with me to the position of Scottsdale City Attorney if given the opportunity.

And with that overriding qualification, I would like to turn to some of my traditional credentials and walk you through those, I think those also make me uniquely qualified to be the Scottsdale City Attorney. I'll start with law school. I graduated law school in 1991 from Arizona State University and I graduated with honors. I quickly learned after coming to Arizona that I did not have to scrape the snow and ice off of my windshield here. When I figured that out, I realized I'm never going back home to Missouri. This was my home.

[Time: 00:26:44]

I accepted a job at Gallagher and Kennedy right out of law school. That's a big, private law firm in Phoenix. I wanted to go there because their lawyers got a lot of trial experience early on and they had a very excellent training program for young lawyers in their firm. That was my first introduction to municipal law. One of their big clients was the City of Phoenix. And I had the good fortune of working on several cases and defending them as outside counsel for the City of Phoenix. I had the opportunity to interface with their City Council and Executive Sessions, talking about their cases and decisions to be made. I had the opportunity to interface with their Risk Management Department and their City Attorney's office and I really, really loved it.

Unfortunately, after three years, I didn't have quite as much trial experience as I hoped. I decided to go to a very small law firm to correct that. I went to the law firm of Eli Bettini and Ulman. I had clerked for them my first year of law school and they knew me, and I knew them. I knew their practice and it was a good fit. I went to that law firm and continued my work as a trial lawyer there and I picked up the practice area of workers compensation. It was about 30% of my practice there. That by the way is a very good practice area for a City Attorney to know. I really loved working for Eli Bettini, I loved the people, I loved the clients and the work, but still something was missing. I didn't go to law school to litigate cases in a private firm. I went to law school to do something more meaningful and I thought back to my experience handling cases for the City of Phoenix and I realized I want to be a municipal lawyer.

I sought out and accepted a position with the City of Scottsdale in 2001 after 10 years of practicing law in private firms. Mayor, and members of the Council, I can tell you that was the best decision I ever made. I came to the Scottsdale City Attorney's office and I loved it. I loved the variety of the work that the City Attorney's office did. I really loved the complexity of the legal questions that we dealt with and struggled with on a daily basis. I loved watching the City government work and loved watching the City Council Meetings. I stayed for all of them. Even though I was a litigator, there was no reason for me to

be here at that time. The complex questions the Council has to figure out and sort through. I wanted to learn all of the aspects of the City of Scottsdale.

I really enjoyed getting to know the community and the citizens. I realized that I finally had that sense of community here at the City of Scottsdale that I had missed after leaving Missouri. And I had found my home. It felt wonderful. And another thing about Scottsdale that really spoke to me, that really struck a chord with me were the City values. Act with accountability and integrity. Focus on quality customer service. Grow and learn continuously. Focus on teamwork. Plan and innovate for the future. Respect all individuals. Embrace diversity. And my favorite, act with caring and compassion. Those are my values. The City values and my values were perfectly aligned, and I think that's been part of my success here at the City.

[Time: 00:31:05]

I relocated to Scottsdale shortly after getting my job here. I think within 4 or 5 months. I found my home both personally and professionally and I haven't looked back. Over the years, I have been progressively promoted at the City of Scottsdale. I was promoted to Deputy City Attorney in 2006, that was 13 years ago. All that really means is that I'm a managing attorney for the office and I take that position seriously. I'm a leader for the City Attorney's office and I love that. Over the years, I have learned and grown continuously by taking on new practice areas every two or three years. It has done a couple of things for me. It has kept me humble because when you are learning something new, it is a struggle and you can't have a big head when you are doing that. It has also allowed me to master nearly every practice area that the City Attorney's office comes into contact with. And that breadth of experience is important to the City Attorney role. You have to know all of the issues in order to solve the problems. You have to know how it all works together.

So, I could rattle on about all of the different departments I have worked for and what all I have done, but that feels a little uncomfortable to me. I think that you know that I'm qualified for this job. I'd just like to say to you, that Scottsdale is a great city. And I know that that didn't happen by accident. That happened because of a lot of blood, sweat, and tears that have been spilled largely, in this Kiva Conference Room and largely because of the complicated decisions that the Council has been asked to make for this community.

I know that the Council relies on staff to bring good information forward to make those very difficult decisions. You rely on us to get it right and to give you the information that you need to make those really tough judgments for the community. And I want to be a part of that team. I want to assist the City Council as much as I can and serve the citizens and community as much as I can as Scottsdale City Attorney if given the opportunity. Thank you.

Mayor Lane: Well, thank you Ms. Scott. I appreciated that presentation. On behalf of the Council, I would like to thank the three candidates for all of the presentations. Thanks very much for being here and having an interest in being the City Attorney for the City of Scottsdale.

RECESS SPECIAL MEETING INTO EXECUTIVE SESSION

[Time: 00:34:19]

Mayor Lane: At this point, we are ready for a motion to recess into Executive Session to discuss the possible employment, compensation, and benefits of the City Attorney.

Councilmember Korte: So moved.

Mayor Lane: Motion made by Councilwoman Korte and seconded by Vice Mayor Littlefield. All those in favor, please indicate your vote by "aye." It is unanimous. We will recess into Executive Session.

RECONVENE SPECIAL MEETING

[Time: 00:36:44]

Mayor Lane: Is Guy on the line?

Councilman Phillips: I'm here.

Mayor Lane: Yeah, very good. Alright, we're going to go ahead and reconvene the meeting following our Executive Session. I would accept a motion with regard to the appointment of our City Attorney.

Councilwoman Klapp: Thank you Mayor. I'd like to make a motion to appoint Sherry Scott as City Attorney at a salary of \$218,000 effective October 4, 2019, subject to approval of a contract on October 15, 2019.

Councilmember Korte: Second.

Mayor Lane: The motion was made. We don't need to get into all of the specifics. With that, no further comment and all those ready to vote indicate by "aye" and register your vote. It is unanimous with the appointment of Sherry Scott as our new City Attorney under those terms. Thank you very much and thank you and welcome Sherry to that position.

ADJOURNMENT

[Time: 00:38:19]

Councilwoman Milhaven: Are we adjourned?

Mayor Lane: We need to take a vote.

Councilwoman Klapp: I move that we adjourn.

Mayor Lane: Motion to adjourn. And seconded. All in favor to adjourn indicate by "aye." We are adjourned.