

SCOTTSDALE CITY COUNCIL MEETING



*** AMENDED *** REGULAR MEETING & SPECIAL MEETING AND POSSIBLE EXECUTIVE SESSION NOTICE AND AGENDA [ADDED SPECIAL MEETING AND POSSIBLE EXECUTIVE SESSION]

COUNCIL

David D. Ortega, Mayor
Tammy Caputi
Tom Durham
Barry Graham

Betty Janik
Kathleen S. Littlefield
Solange Whitehead

Tuesday, May 2, 2023

City Council meetings are also televised on Cox Cable Channel 11 and streamed online at ScottsdaleAZ.gov (search "live stream"). Unless an exception is made, or unless otherwise noted, the Council will not begin discussion on any new items after 10:00 p.m. Items that are not heard will be continued to the next scheduled Council meeting (May 16, 2023).

In-person spoken public comment is being accepted on Items 1 through 11. To sign up to speak on these items, please click [here](#).

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

Requests for in-person public comment may be submitted online or at the City Council meeting. Registration for in-person public comment is available online by completing a Request to Speak form. In-Person Public Comment Request to Speak forms for Consent, Regular, and Non-Agendized items must be submitted online no later than 90 minutes before the start of the meeting. Additionally, in-person meeting attendees may submit a Request to Speak form utilizing the kiosk located in the foyer area of City Hall for each agenda item they wish to address. Forms must be submitted and received before the Mayor announces the agenda item.

Written public comment may be submitted in-person by completing a yellow written public comment card or electronically by completing a Written Public Comment form. Written public comment received during the meeting will be shared with the Council. Written comments that are submitted electronically at least 90 minutes before the meeting will be emailed to the Council and posted online prior to the meeting. A written public comment may be submitted electronically by clicking [here](#).

5:00 P.M.

Marked Agenda

REGULAR CITY COUNCIL MEETING

City Hall Kiva Forum, 3939 N. Drinkwater Boulevard



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

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

Tuesday, May 2, 2023

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Call to Order – 5:01 P.M.

Roll Call – All present

One or more members of the Council may be attending the Council Meeting by telephone, video, or Internet conferencing, pursuant to A.R.S. §38-431(4).

Pledge of Allegiance – Councilwoman Whitehead

Mayor's Report

Mayor Ortega asked for a moment of silent reflection for the people of Ukraine as they continue their fight for freedom and democracy.

Mayor Ortega read a proclamation declaring May 2023 as Affordable Housing Month in Scottsdale. He encouraged residents to support and participate in creative solutions for affordable housing.

Mayor Ortega invited everyone to attend Bash on the Wash on Saturday, May 6th from 6:00 p.m. to 8:30 p.m. at El Dorado Park. Please bring a chair or blanket, enjoy live music, lawn games, inflatable slides, food trucks, and a foam party. There will be additional events at the Indian Bend Wash throughout the month of May.

City Manager's Report – City Manager Jim Thompson introduced a "Fast Five" video produced by the City Communication's Office which provided updates on several City events and offerings.

- **Fast Five Video Update**

Note: The Council may make comments or ask questions to the presenter(s); however, no Council action will be taken.

Presentations/Information Updates – Citizen Liaison Christy Hill gave a PowerPoint presentation. 2023 Scottsdale 101 Citizen Academy Graduates Michael Pomarico, Nancy Powers, and Jan Dubauskas thanked the City for the program and spoke on their experiences.

- **Recognition of the 2023 Scottsdale 101 Citizen Academy Graduates**

Presenter(s): Christy Hill, Citizen Liaison

Note: The Council may make comments or ask questions to the presenter(s); however, no Council action will be taken.

Possible Executive Session

Notice is hereby given that, at any time during tonight's meeting, the Council may make a motion to recess into Executive Session to discuss and consult with the attorneys and representatives of the public body to obtain legal advice on any applicable item on tonight's agenda. If authorized by a majority vote of the Council, the Executive Session will be held immediately after the vote and will not be open to the public. A.R.S. §38-431.03(A)(3). The public meeting will resume following the Executive Session.

Public Comment – None

Public Comment time is reserved for Scottsdale citizens, business owners, and/or property owners to comment on non-agendized items that are within the Council's jurisdiction. No official Council action can be taken on these items. Advocacy for or against a candidate or ballot measure during a Council meeting is not allowed pursuant to State law and is therefore not deemed to be within the Council's jurisdiction.

Public Comment time is also the designated time for presenting a citizen petition. There is no limit on the number of petitions a citizen may present; however, each citizen is limited to a total time of three minutes to present and speak to the petition(s). A Request to Speak [form](#) must be submitted together with the petition(s) before the Mayor announces the second Public Comment period.

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

CONSENT AGENDA ITEMS 1-10

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

– Councilmember Graham made a motion to approve Consent Agenda Items 1 through 10. Councilwoman Whitehead seconded the motion, which carried 7/0, with Mayor Ortega; Vice Mayor Littlefield; and Councilmembers Caputi, Durham, Graham, Janik, and Whitehead voting in the affirmative.

1. **Sonder Liquor License (17-LL-2023) – Approved on Consent.**
Request: Consider forwarding a recommendation of approval to the Arizona Department of Liquor Licenses and Control for a Series 11 (hotel/motel) State liquor license for an existing location with a new owner.
Location: 4000 N. Drinkwater Boulevard
Staff Contact(s): Tim Curtis, Current Planning Director, 480-312-4210, tcurtis@scottsdaleaz.gov
2. **Mama Por Dios Liquor License (18-LL-2023) – Approved on Consent.**
Request: Consider forwarding a recommendation of approval to the Arizona Department of Liquor Licenses and Control for a location/owner transfer of a Series 6 (bar) State liquor license for an existing location and owner.
Location: 7301 E. Butherus Drive
Staff Contact(s): Tim Curtis, Current Planning Director, 480-312-4210, tcurtis@scottsdaleaz.gov
3. **Amelia’s By Eat Liquor License (19-LL-2023) – Approved on Consent.**
Request: Consider forwarding a recommendation of approval to the Arizona Department of Liquor Licenses and Control for a Series 12 (restaurant) State liquor license for a new location and owner.
Location: 8240 N. Hayden Road, Suite 106
Staff Contact(s): Tim Curtis, Current Planning Director, 480-312-4210, tcurtis@scottsdaleaz.gov
4. **Moxies Liquor License (22-LL-2023) – Approved on Consent.**
Request: Consider forwarding a recommendation of approval to the Arizona Department of Liquor Licenses and Control for a Series 12 (restaurant) State liquor license for an existing location with a new owner.
Location: 7014 E. Camelback Road, Suite B120
Staff Contact(s): Tim Curtis, Current Planning Director, 480-312-4210, tcurtis@scottsdaleaz.gov
5. **CBOT Building, LLC, doing business as Cold Beer and Cheeseburgers, Outdoor Dining Patio Revocable License Agreement Amendment – Approved on Consent.**
Request: Adopt **Resolution No. 12798** authorizing Outdoor Dining Patio Revocable License Agreement No. 2013-050-COS-A2, a five-year extension to the agreement with CBOT Building, LLC, for an outdoor dining patio use on City property.
Location: 4222 N. Scottsdale Road
Staff Contact(s): Dan Worth, Public Works Director, 480-312-5555, daworth@scottsdaleaz.gov
6. **On-Call Mechanical Engineering Services Contract Extensions – Approved on Consent.**
Request: Adopt **Resolution No. 12799** authorizing the following one-year on-call engineering services contract extensions, in an amount not to exceed \$750,000 per contract, for on-call mechanical engineering services:
 1. Contract No. 2021-047-COS-A1 with Energy Systems Design, Inc.
 2. Contract No. 2021-048-COS-A1 with LSW Engineers Arizona, Inc.
 3. Contract No. 2021-049-COS-A1 with Pearson Engineering Associates, Inc.**Staff Contact(s):** Dan Worth, Public Works Director, 480-312-5555, daworth@scottsdaleaz.gov

7. **[Gainey Village Casitas Water Line Replacement Construction Phase Services Contract](#) – **Approved on Consent.**
Request: Adopt **Resolution No. 12806** authorizing Construction Manager at Risk Contract No. 2022-197-COS-A1 with Achen-Gardner Construction, LLC, in an amount not to exceed \$4,781,689.46, for Guaranteed Maximum Price Phase Two Construction Manager at Risk Services, for a revised total contract price not to exceed \$5,458,365.28, for construction phase services for the Gainey Village Casitas Water Line Replacement project.
Location: Eastwood Lane and 73rd Way
Staff Contact(s): Dan Worth, Public Works Director, 480-312-5555, daworth@scottsdaleaz.gov**

8. **[Heat Relief and Supportive Services Intergovernmental Agreement](#) – **Approved on Consent.**
Request: Adopt **Resolution No. 12803** to authorize:
 1. Agreement No. 2023-055-COS with Maricopa County to accept American Rescue Plan Act Coronavirus State and Local Fiscal Recovery Funds, in the amount of \$682,207, to expand case management and provide hotel, shelter, and transportation services to heat relief centers for individuals experiencing homelessness.
 2. The City Manager, or designee, to execute any other documents and take such other actions as necessary to carry out the intent of this Resolution and Intergovernmental Agreement.
 3. A Budget Transfer, in the amount up to \$282,207, from the Fiscal Year 2022/23 Future Grants Budget and/or Grant Contingency Budget to a newly created cost center to record the related grant activity.**Staff Contact(s):** Greg Bestgen, Human Services Director, 480-312-0104, gbestgen@scottsdaleaz.gov**

9. **[Pac-12 Venue Agreement Amendment](#) – **Approved on Consent.**
Request: Adopt **Resolution No. 12814** to authorize:
 1. Venue Agreement No. 2021-134-COS-A1, the first amendment with Pac-12 Conference to accommodate the change in format of upcoming tournaments; to address Ticket Vendor sales commission fees; and to update the miscellaneous provisions due to a change in Arizona law.
 2. The Scottsdale Stadium Coordinator or designee, to make any approvals authorized by the First Amendment to the Venue Agreement and execute any other documents and take further actions to carry out the intent of this Resolution.**Staff Contact(s):** William B. Murphy, Assistant City Manager, 480-312-7954, bmurphy@scottsdaleaz.gov**

10. **[Fountain v. City of Scottsdale Settlement Agreement](#) – **Approved on Consent.**
Request: Adopt **Resolution No. 12815** to authorize:
 1. Agreement No. 2023-059-COS with Plaintiff John W. Fountain in the amount of \$78,000 to settle all claims in Fountain v. City of Scottsdale, et al., Maricopa County Superior Court Case No. CV2021-094642.
 2. The City Manager, City Treasurer, City Attorney, and their respective staff, to execute such documents and take such other actions as necessary to carry out the purpose of this Resolution.**Staff Contact(s):** Sherry Scott, City Attorney, 480-312-2405, sscott@scottsdaleaz.gov**

REGULAR AGENDA ITEM 11

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

11. **[Public Hearing on the Community Development Block Grant \(CDBG\) Program Fiscal Year \(FY\) 2023/24 Annual Action Plan, the Allocation of CDBG funds, and the Fifth Substantial Amendment to the FY 2019/20 Annual Action Plan](#)**

Requests:

1. Solicit public testimony regarding the FY 2023/24 Annual Action Plan for the use of CDBG funds in the amount of \$1,260,231 and the Fifth Substantial Amendment to the FY 2019/20 Annual Action Plan.
2. Adopt **Resolution No. 12764** to approve the FY 2023/24 Annual Action Plan and Fifth Substantial Amendment to the FY 2019/20 Annual Action Plan and authorize the:
 - a. City Manager, or designee, to submit the Annual Action Plan and the Fifth Substantial Amendment to the U.S. Department of Housing and Urban Development (HUD).
 - b. Use, award, and allocation of federal CDBG funds for eligible programs and services and associated contracts.
 - c. Reprogramming of prior years' remaining funds and program income in the amount of \$181,102.
 - d. Execution of associated HUD certifications and contracts.
 - e. Mayor to execute amendments to associated CDBG contracts.
 - f. Community Assistance Manager to adjust recommended funding awards as necessary based upon final funding allocations.
 - g. Mayor, City Manager, and Community Assistance Manager to take certain actions furthering this Resolution.

Presenter(s): Mary Witkofski, Community Assistance Manager

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

– Community Assistance Manager Mary Witkofski gave a PowerPoint presentation.

– Mayor Ortega opened the public hearing and noting there were no public comments, closed the public hearing.

– Mayor Ortega made a motion to adopt Resolution No. 12764 to approve the FY 2023/24 Annual Action Plan and Fifth Substantial Amendment to the FY 2019/20 Annual Action Plan and authorize the:

- a. **City Manager, or designee, to submit the Annual Action Plan and the Fifth Substantial Amendment to the U.S. Department of Housing and Urban Development (HUD).**
- b. **Use, award, and allocation of federal CDBG funds for eligible programs and services and associated contracts.**
- c. **Reprogramming of prior years' remaining funds and program income in the amount of \$181,102.**
- d. **Execution of associated HUD certifications and contracts.**
- e. **Mayor to execute amendments to associated CDBG contracts.**
- f. **Community Assistance Manager to adjust recommended funding awards as necessary based upon final funding allocations.**
- g. **Mayor, City Manager, and Community Assistance Manager to take certain actions furthering this Resolution.**

Councilmember Durham seconded the motion, which carried 7/0, with Mayor Ortega; Vice Mayor Littlefield; and Councilmembers Caputi, Durham, Graham, Janik, and Whitehead voting in the affirmative.

Public Comment – None

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CITIZEN PETITIONS

ITEM 12

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

12. Receipt of Citizen Petitions – None

Request: Accept and acknowledge receipt of citizen petitions. Any member of the Council may make a motion, to be voted on by the Council, to: (1) Direct the City Manager to agendize the petition for further discussion; (2) direct the City Manager to investigate the matter and prepare a written response to the Council, with a copy to the petitioner; or (3) take no action.

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

Adjourn the City Council Regular Meeting and convene the City Council Special Meeting – 5:58 P.M.

***CITY COUNCIL SPECIAL MEETING AND POSSIBLE EXECUTIVE SESSION

City Hall Kiva Forum, 3939 N. Drinkwater Boulevard

(Immediately following the conclusion of the 5:00 p.m. Regular Meeting)

Notice of Possible Executive Session:

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Scottsdale City Council and to the general public that the Scottsdale City Council will hold a Special Meeting on Tuesday, May 2, 2023, immediately following the conclusion of the 5:00 p.m. Regular Meeting, in the City Hall Kiva Forum, 3939 N. Drinkwater Boulevard for the purpose of deciding whether to go into executive session. If authorized by a majority vote of the Scottsdale City Council, the executive session will be held immediately after the vote and will not be open to the public. The agenda for the meeting is as follows:

Call to Order – 5:59 P.M.

Roll Call – All present

One or more members of the Council may be attending the Special Council Meeting and/or the Executive Session by telephone, video, or Internet conferencing, pursuant to A.R.S. § 38-431(4).

1. Request for Executive Session to:

- A. Discuss, consider, and provide possible direction regarding the recruitment and hiring process of a new City Auditor; discuss and consult with the City's attorneys and representatives in order to consider the City's position and instruct the attorneys and representatives on contracts related to the recruitment and potential appointment of a City Auditor; and discuss and consult with the City's attorneys for legal advice regarding the same. A.R.S. § 38-431.03 (1), (3) & (4).

If authorized by a majority vote of the Scottsdale City Council, the executive session will be held immediately after the vote and will not be open to the public.

– Councilwoman Janik made a motion to recess/adjourn into executive session to discuss, consider, and provide possible direction regarding the recruitment and hiring process of a new City Auditor; discuss and consult with the City's attorneys and representatives in order to consider the City's position and instruct the attorneys and representatives on contracts related to the recruitment and potential appointment of a City Auditor; and discuss and consult with the City's attorneys for legal advice regarding the same. Councilmember Durham seconded the motion, which carried 7/0, with Mayor Ortega; Vice Mayor Littlefield; and Councilmembers Caputi, Durham, Graham, Janik, and Whitehead voting in the affirmative.

Adjourn to Executive Session in the Kiva Conference Room – 6:00 P.M.