

**SCOTTSDALE CITY COUNCIL
SPECIAL MEETING #1 MINUTES
TUESDAY, AUGUST 20, 2024**



**CITY HALL KIVA
3939 N. DRINKWATER BOULEVARD
SCOTTSDALE, AZ 85251**

CALL TO ORDER

Mayor David D. Ortega called to order a Special Meeting of the Scottsdale City Council at 2:00 P.M. on Tuesday, August 20, 2024 in the City Hall Kiva Forum.

ROLL CALL

Present: Mayor David D. Ortega; Vice Mayor Barry Graham; and Councilmembers Tammy Caputi, Tom Durham, Betty Janik, Kathy Littlefield, and Solange Whitehead

Also Present: City Manager Jim Thompson, City Attorney Sherry Scott, City Treasurer Sonia Andrews, and City Clerk Ben Lane

2. Lane, Et. Al. v. City of Scottsdale

Request: Discuss, consider, and take possible actions related to the defense of the case entitled *Lane, et al. v. City of Scottsdale, et al.*, Court of Appeals Division One Case No. 1 CA-CV 24-0545 EL, Maricopa County Superior Court Case No. CV2024-015767, which challenges the ballot language the City approved in Resolution No. 13092, related to the City's tax rates, including but not limited to, the potential amendment of Resolution No. 13092.

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

NOTE: Mayor Ortega requested Item 2 [*Lane, Et. Al. v. City of Scottsdale*] be considered before Item 1 [Request for Executive Session].

City Attorney Sherry Scott gave a PowerPoint presentation (attached) on *Lane, Et. Al. v. City of Scottsdale*. She noted the City will make the necessary adjustments to the publicity pamphlet and will allow those who previously submitted Proposition 490 ballot measure arguments the opportunity to make revisions in light of the amended ballot language.

Mayor Ortega opened public comment on this item.

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.

James Haxby, Scottsdale resident, requested the City Council take no action on the proposed revisions to the ballot language, expressing concerns about not being able to file new ballot measure arguments, funding sources, and a possible budget shortfall.

Adam Kwasman, Scottsdale resident and former Arizona State legislator, expressed concerns about the proposed ballot language revisions, the process for considering those revisions, and the precedent this process was setting.

Mark Sonnenklar, Scottsdale resident, expressed concerns about the City's publicity pamphlet, the 90-day period for filing ballot measure arguments, and what would be done with arguments that had already been filed.

Bob Pejman, Scottsdale resident, expressed concerns about the Special Meeting start time, the 90-day period for filing ballot measure arguments, and what would be done with arguments that had already been filed.

Carla, Scottsdale resident, expressed support for revising the ballot language and allowing residents the right to vote on the ballot measure, noting she believed that most of the filed arguments only needed minor or no revisions.

Mary Manross, Scottsdale resident and former Scottsdale Mayor, expressed support for allowing residents the right to vote on the ballot measure, noting there was a multi-year effort to bring this measure to the ballot involving residents throughout the City.

Mayor Ortega closed public comment on this item.

MOTION NO. 1 – ITEM 2

Councilwoman Janik moved to approve Resolution No. 13092, with amendments to the ballot measure language as reflected in today's meeting materials and presentation, and that the City direct staff to submit the revised ballot measure to Maricopa County for inclusion on the November 2024 Ballot. Councilwoman Whitehead seconded the motion.

ALTERNATE MOTION AND VOTE – ITEM 2

Vice Mayor Graham made an alternate motion to remove all references to expiring 0.20% tax and replace that language with a date certain. Councilwoman Littlefield seconded the motion, which failed 2/5, with Vice Mayor Graham and Councilwoman Littlefield voting in the affirmative and Mayor Ortega and Councilmembers Caputi, Durham, Janik, and Whitehead dissenting.

MOTION AND VOTE – CALL THE QUESTION – ITEM 2

Councilmember Durham made a motion to call the question, which failed 3/4, with Mayor Ortega and Councilmembers Durham and Janik voting in the affirmative and Vice Mayor Graham and Councilmembers Caputi, Littlefield, and Whitehead dissenting.

MOTION AND VOTE – CALL THE QUESTION – ITEM 2

Mayor Ortega made a motion to call the question, which carried 6/1, with Mayor Ortega; Vice Mayor Graham; and Councilmembers Caputi, Durham, Janik, and Littlefield voting in the affirmative and Councilwoman Whitehead dissenting.

VOTE ON MOTION NO. 1 – ITEM 2

The Council then voted on the Councilwoman Janik's original motion to approve Resolution No. 13092, as amended, which carried 4/3, with Mayor Ortega and Councilmembers Durham, Janik, and Whitehead voting in the affirmative and Vice Mayor Graham and Councilmembers Caputi and Littlefield dissenting.

1. Request for Executive Session to:

- A. Discuss and consult with the City's attorneys for legal advice; discuss and consult with the City's designated representatives to consider its position and to instruct its representatives regarding *Lane, et al. v. City of Scottsdale, et al.*, Court of Appeals Division One Case No. 1 CA-CV 24-0545 EL, Maricopa County Superior Court Case No. CV2024-015767. A.R.S. § 38-431.03(A)(3) and (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.

Mayor Ortega noted there was no motion made for an Executive Session.

MOTION AND VOTE – ADJOURNMENT

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

ADJOURNMENT

Mayor Ortega adjourned the Special Meeting at 3:20 P.M.

SUBMITTED BY:



Ben Lane
City Clerk

Officially approved by the City Council on September 17, 2024

CERTIFICATE

I hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Special Meeting of the City Council of Scottsdale, Arizona, held on the 20th day of August 2024.

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

DATED this 17th day of September 2024.



Ben Lane, City Clerk

Lane, et al. v. City of Scottsdale

City Council Special Meeting
August 20, 2024

Superior
Court:
Approved
Ballot
Language

- Court “can find no fault with the ballot description”
- The Proposition “is not confusing or misleading”
- The City’s “word choice speaks favorably to the City’s successful attempt to be transparent, and it undermines arguments that the City has engaged in a bait and switch.”

Court of Appeals Disagreed

- The Court found the word “replace” to be accurate but disagreed with the use of the word “reduce” and found that misleading because the ballot measure is proposing a new tax.
- The Court also found fault with the yes/no statements.
- The Court of Appeals ordered that the Ballot Measure not proceed “**AS CURRENTLY WORDED.**”

Upon receiving the Court’s Order:

- The City immediately contacted the County and asked if under these special circumstances the City could revise the ballot measure language pursuant to the Court’s ruling and remain on the November 2024 ballot.
- The County indicated we could, provided they get the revised ballot language quickly

The City now has a short window of opportunity to revise the ballot measure pursuant to the Court's Order and keep the measure on the 2024 General Election Ballot

Options:

Amend Resolution No. 13092 - Change the Ballot Language

File an appeal with the AZ Supreme Court (Emergency Petition for Special Action and/or Petition for Review)

Full Text

Question 1 (Proposition 490)

Proposal Referred to the Voters by the Council of the City of Scottsdale

Revised Ballot
Language

OFFICIAL TITLE: A CITY CODE AMENDMENT TO ENACT A TRANSACTION PRIVILEGE AND USE TAX RATE SOLELY TO FUND: 1) IMPROVEMENTS AND MAINTENANCE FOR CITYWIDE PARKS AND RECREATIONAL FACILITIES; 2) MAINTENANCE AND PROTECTION FOR THE MCDOWELL SONORAN PRESERVE; AND 3) INCREASED POLICE AND FIRE RESOURCES RELATED TO CITYWIDE PARKS AND THE PRESERVE.

DESCRIPTIVE TITLE: Enacts a 0.15% transaction privilege and use tax rate for 30 years solely to fund the improvement, maintenance, and protection of Citywide Parks and Recreational Facilities, and the maintenance and protection of the Preserve as determined by ordinance, effective immediately upon the expiration of the 0.20% tax rate in 2025.

A “YES” vote shall have the effect of authorizing the City to enact a transaction privilege and use tax rate of 0.15% for 30 years for the sole purpose of: 1) improvements and maintenance for Citywide Parks and Recreational Facilities; 2) maintenance and protection for the McDowell Sonoran Preserve; and 3) increased Police and Fire resources related to Citywide Parks and the Preserve, as determined by City ordinance, to take effect on July 1, 2025, immediately upon the expiration of the current 0.20% tax rate.

A “NO” vote shall have the effect of denying the City the authority to enact a new 0.15% transaction privilege and use tax rate, and the current 0.20% transaction privilege and use tax rate will **automatically** expire at the end of June 30, 2025.

Tagline Text

Question 1 (Proposition 490)

Proposal Referred to the Voters by the Council of the City of Scottsdale

SHALL SCOTTSDALE ENACT A 0.15% TRANSACTION PRIVILEGE AND USE TAX RATE, EFFECTIVE JULY 1, 2025 UPON THE EXPIRATION OF THE CURRENT 0.20% TAX RATE, SOLELY TO FUND IMPROVEMENTS, MAINTENANCE, AND INCREASED POLICE AND FIRE PROTECTION OF CITYWIDE PARKS, RECREATIONAL FACILITIES, AND THE PRESERVE AS DETERMINED BY CITY ORDINANCE?

A “YES” vote shall have the effect of authorizing the City to enact a transaction privilege and use tax rate of 0.15% for 30 years for the sole purpose of: 1) improvements and maintenance for Citywide Parks and Recreational Facilities; 2) maintenance and protection for the McDowell Sonoran Preserve; and 3) increased Police and Fire resources related to Citywide Parks and the Preserve, as determined by City ordinance, to take effect on July 1, 2025, immediately upon the expiration of the current 0.20% tax rate.

A “NO” vote shall have the effect of denying the City the authority to enact a new 0.15% transaction privilege and use tax rate, and the current 0.20% transaction privilege and use tax rate will **automatically** expire at the end of June 30, 2025.

Resolution No. 13092

- I would like to point out that Resolution 13092 also contains this provision, which was existing, but continues to apply:

“Section 2. The City Council hereby directs the City Clerk, City Manager, City Attorney, and City Treasurer to take such steps as may be necessary to include this measure on the General Election ballot.”

Possible Motions ?

- I move to amend Resolution No. 13092, including the ballot measure language as reflected in today's meeting materials and presentation, and that the City direct staff to submit the revised ballot measure to Maricopa County for inclusion on the November 2024 Ballot.
- I move that Council takes no action today and wait to consider including this ballot measure in a future general election