
This document was created from the closed caption transcript of the September 12, 2025 City Council Special Meeting has not been checked for completeness or accuracy of content.

A copy of the agenda for this meeting, including a summary of the action taken on each agenda item, can be accessed through the City Clerk Archived Documents Search at:

<https://eservices.scottsdaleaz.gov/cityclerk/DocumentSearch>

An unedited digital video recording of the meeting, which can be used in conjunction with the transcript, is available online at:

<https://ww2.scottsdaleaz.gov/scottsdale-video-network/Council-video-archives/2025-archives>

For ease of reference, included throughout the transcript are bracketed "time stamps" [Time: 00:00:00] that correspond to digital video recording time.

For more information about this transcript, please contact the City Clerk's Office at 480-312-2411.

CALL TO ORDER

[Time: 00:00:03]

Mayor Borowsky: All right. Thank you for being here. I'd like to now call the September 12, 2025 Special Meeting of the Scottsdale City Council to order. City Clerk Ben Lane, may we have a roll call.

ROLL CALL

[Time: 00:00:15]

City Clerk Ben Lane: Thank you, Mayor. Mayor Lisa Borowsky.

Mayor Borowsky: Present.

Ben Lane: Vice Mayor Jan Dubauskas.

Vice Mayor Dubauskas: Here.

Ben Lane: Councilmembers Barry Graham.

**CITY OF SCOTTSDALE
SEPTEMBER 12, 2025 SPECIAL MEETING MINUTES
CLOSED CAPTION TRANSCRIPT**

PAGE 2 OF 19

Councilman Graham: Here.

Ben Lane: Adam Kwasman.

Councilman Kwasman: Here.

Ben Lane: Kathy Littlefield.

Councilwoman Littlefield: Here.

Ben Lane: Maryann McAllen.

Councilwoman McAllen: Present.

Ben Lane: And Solange Whitehead.

Councilwoman Whitehead: Here.

Ben Lane: City Manager Greg Caton.

City Manager Greg Caton: Here.

Ben Lane: Interim City Attorney Luis Santaella.

Interim City Attorney Luis Santaella: Here.

Ben Lane: Acting City Treasurer Anna Henthorn.

Acting City Treasurer Anna Henthorn: Here.

Ben Lane: Acting City Auditor Lai Cluff.

Acting City Auditor Lai Cluff: Here.

Ben Lane: And the Clerk is Present. Thank you, Mayor.

[Time: 00:00:43]

Mayor Borowsky: Thank you. This evening we have numerous numbers of members from the police department. I'm going to name them off because we really appreciate them and thank them for being here. We also have a K-9, who I don't see, that I would like to see. I don't have the K-9's name. Starting with Officer Ray Wilburn, Officer Robert St. Pierre, Officer Joshua Bayfield and Officer Darren Hyman, Officer Alejandro Barren, K-9 Officer Brent Patterson and his K-9. And Josh Bayfield and Ray Wilburn.

Thank you all for being here this evening. We really appreciate it. In addition, we have firefighters Todd Johnson, Jack Shannon and Mike Orrin. If anyone requires any assistance from these, these security, public safety members, please let a member of our staff know.

PLEDGE OF ALLEGIANCE

[Time: 00:01:44]

I will ask Councilman Kwasman to please lead us in the Pledge of Allegiance.

Councilman Kwasman: I pledge allegiance to the flag of the United States of America, and to the Republic for which it stands: One nation under God, indivisible, with liberty and justice for all.

Mayor Borowsky: Thank you, Councilman Kwasman. So, we can't help but start this meeting with a serious moment of silence for the tragedy that occurred. I don't know if I'll be able to get through it. The city of Scottsdale lost such an amazing individual. Our city, our state, our country, lost an amazing individual this week, and as hard as it is to talk about it, I'd like to get through it. I'd like to use this moment of silence to pray for Charlie Kirk, his beautiful wife Erica and their amazing little children, and all of his Turning Point family, his family, and all of the people that knew him to be a great man, including many of us up here. Please join me in a moment of silence for Charlie and his family.

Thank you. So, I called this Special Meeting, and I think this is worthy of explanation, because for various reasons, there's been a lot of misunderstandings in the community and in the press. And for the purpose of clarity, I would like to share with the public that we had an Executive Session on September 9th, and we and the purpose of that Executive Session was to obtain oops, I didn't do the Executive Session notice but I will do this first and then move to that.

SPECIAL AGENDA – ITEM 1

[Time: 00:04:49]

The purpose of our Executive Session, as agendized was to receive, discuss, and give possible direction on the legal advice from our outside counsel and our City Attorney's office as to the next steps on SB-1543. We did that, and we provided direction as is customary in Executive Session. We are not allowed to vote in Executive Session, but we are allowed to give direction, and we did that, and there was an understanding at the end of the meeting by what our direction or preferences were by the end of the meeting. We had we had scheduled to come out and have a regular agenda item to vote on that discussion and direction, but in the interest of not disclosing legal strategy and attorney-client privilege anything, having to do with a legal strategy, we I made the motion to vacate the agenda item.

Contrary to what you've read, from many different sources, including, unfortunately an email blast that went out to an entire huge list of people, from Councilwoman Dubauskas, we did not, in fact, vote no to a lawsuit defending your constitutional rights. That never happened. So, I only use that because

Councilwoman Dubauskas was not the only person that commuted this erroneous information on this very important subject. It was widespread, resulting in much confusion and unfortunately mostly impacted by that confusion was the stress level that that it put on our residents.

So I you know, in fact, I had Jay Graybar is in the audience, he had the misfortune of completely misstating a headline, as a result, which he was kind enough to revise, as a result of misinformation and I guess that's kind of the chances we take, but I think you know, I for one it's important to let the public know exactly what's going on. You know, politics aside, I hope we can, we can, you know, just cure this in the future. We won't make this mistake again. The Interim City Attorney is doing an amazing job, but how we get to today is our Interim City Attorney said, you know, I want to make sure we protect the open meeting law and formalize direction with a public vote. So that's what we're doing here today.

We are here to formalize the direction that was provided to our legal staff, external and internal. We're not here to do a do over. We're not here to do a reconsideration, we are not here to discuss legal strategy, but we are here to simply formalize a vote of direction that was discussed in Executive Session. So, I'm going to read the now, I will go back to the notice of possible Executive Session.

EXECUTIVE SESSION

[Time: 00:08:40]

As always is the case, note that City Council during today's meeting 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 and any applicable item on tonight's agenda. If authorized by a majority of vote of the Council, the Executive Session will be held immediately after the vote and will not be open to the public.

So, the only item on this Special Meeting today is I also should point this out. We had two items on the agenda but by a majority, and the second was to move up the election. I don't want there to be any confusion. Before this meeting, 24 hours in advance, four, a majority of the Councilmembers, were polled and the agenda item as you know, because I put it out and I think there were plenty of publications about this, was to move the referendum election up to March 12th, to direct our City Clerk. That item has been removed as is the policy of the City Council because four members of the Council opposed having that agenda item on the agenda tonight. So, we won't be discussing that today.

So, leaving item one, the only item on the agenda, is consider authorization of our Interim City Attorney and his designees to proceed as instructed in the Executive Session held on September 9th.

PUBLIC COMMENT

Before we proceed with any discussion or a motion, we've received I think there were five people starting with Steve Sutton, then I don't know if we RL Witmer, Andrew Wollmann, Ethan Knowlden, and Yvonne Cahill. I will hear from Steve Sutton. There you are, Steve.

[Time: 00:11:00]

Steve Sutton: I'm going to need the overhead projector turned on. Maybe this will work. Maybe not. Some technical details here, because this is so small. Is there any way to flip this around the other way?

Mayor Borowsky: I'm not qualified to be the tech person here. So, we will have to ask somebody else. Ben will come help you out there.

Ben Lane: Just change the orientation of this.

Steve Sutton, address on record. Good afternoon, honorable Lisa Borowsky, Mayor of Scottsdale and other Councilmembers. Verschlimmbesserung, is probably a word you are not familiar with. It's a German word, there's no English equivalent. It's a wonderful German word that referred to a situation. And that situation is to repair or intend to make something better and yet make it worse. There's been a lot of that in the last nine months.

The Axon situation, I think is a perfect example of that, in that we're now preparing to go to war with a governmental entity that is enormously more powerful than we are. Now, when verschlimmbesserung happens, it often resulted in FUBAR, well, the bolder version would be fouled up beyond all recognition. And I think that's where we are at on Axon compared to where we were in January. And now the normal situation in Scottsdale is snafu, situation normal, all fouled up on a lot of things.

Now, there's a lot of political animosity in this town right now, and the opponents of many of the people who are sitting on the Council, they are absolutely enjoying schadenfreude, which is the enjoyment of someone else's discomfort. I'm sure the counsel doesn't really care about that, but they should be concerned that in the last few months, I have spoken to so many of their supporters that actually campaigned for them, and what I'm hearing is profound disappointment with you.

How do you fix this? Well, it requires another German word, zivilcourage, there's no English equivalent, it means moral courage. Moral courage means doing the right thing, even when it has consequences for you. And the right thing to do is to stop using ideological decision-making paradigms and start using pragmatic decision live making paradigms, and then best pragmatic decision-making paradigm is not to govern from the far extreme of politics but from the center, which was a principle as I was growing up that you ran up at the extremes but you governed from the center and it's time that this Council find a way to do that. It's time that we have a situation like Ronald Reagan and Tip O'Neill, two master politicians in the '80s who didn't agree on a lot but could sill down and work things out in a civil manner.

Mayor Borowsky: Thank you, Steve. I rarely comment on speakers, but I completely agree with your points. Thank you. Andrew Wollmann.

[Time: 00:16:11]

Andrew Wollmann: Mayor, Vice Mayor, Councilmembers. My first time speaking here. I'm a long-time

resident, 40 years plus a few months, but this issue that we're going through right now is important. I've lived in the Foothills for a long time, and it's changing.

72 hours ago, the Council vacated an agenda item that would allow public comment period and vote on whether to change the state law. That decisions avoided a clear yes or no vote and avoided accountability to the people of Scottsdale. I suspect that tonight's discussion will be not an attempt to do anything, but to substitute a notice of claim for real action. A notice of claim does not protect this city. It does not stop Axon from moving forward. It does not send a clear message that Scottsdale is willing to fight. Almost 27,000 voters signed a referendum petition on this issue. It's not noise. It's a clear guidance from your constituents. It's your duty to honor their wishes and my wishes.

You work for us. And if the petition signatures weren't enough, the inboxes that you have been looking at should be sending you the same message, both before and after Tuesday's meeting. I don't see what's so funny, but both before and today's meeting.

Scottsdale does not want Axon apartments. Meanwhile, Axon repeatedly filled this chamber with its own employee, busting at company expense to take up seats that had been that should have been occupied by Scottsdale citizens, at the very same time, Axon complains that union money helps citizens gain signatures. Think about Axon spends million dollars on P.R. busting pressure campaigns to force feed this project to our city and to our state government, but then objects to ordinary residents getting a fraction of that support to make their voices heard. This is hypocrisy.

Worse, if the city delays while Axon builds, Scottsdale could expose itself to greater liability. That risks us being used later as an excuse not to act. I think that's what's happening here. The only meaningful step is to vote tonight to instruct the city attorney to fight a lawful to file a lawful suit against the state of Arizona and seek an injunction to halt development until the courts decide whether the citizens really have a voice in this matter. No more postponements, no more avoidance, put the motion on the table tonight, yes or no, let the people of Scottsdale know exactly where you stand. Any money spent protecting our referendum rights and our right to self-governance is well spent. We didn't start this fight and our referendum rights have worked for us in the past on several times and a lame duck Council should not decide what the future of Scottsdale is. Thank you. Thank you for your time.

Mayor Borowsky: Thank you, Andrew. Ethan Knowlden.

[Time: 00:19:35]

Ethan Knowlden: Madam Mayor, members of City Council thank you so much for your time. So, it's deja vu all over again. We are here from Tuesday and now on Friday. Just doesn't really feel like the way to run a city, you know? I'm trying to decide if this is an accident or incompetence or, you know, intentional deceit. But whatever it is, it's just not a good look.

So, what I would really encourage the Council to do tonight is to be straight with us. You know, if it's really about SB-1543 and local control, then why are the other cities that are impacted by this law not

joining you? Tell us. You know, why is the League of Cities and Towns not leading the charge? Tell us. Why is Goldwater Institute not leading this? It feels like you guys made no friends on the playground this year. So why don't you tell us a little bit about what your outside counsel told you in Executive Session earlier this week? Tell us, you know, how long this is going to take, how much money it's gonna cost, and what are your odds?

You know, I have been a lawyer for 35 years. I have given then kind of advice. So, if you are not going to tell us and I suspect you might not, let me offer folks here my view. It's gonna take one to two years because you are fighting not Axon, you are fighting the state of Arizona and they have a vested interest in defending their right to enforce their laws. You are going to the Arizona Supreme Court. Your \$800 an hour lawyer is probably going to wind up charging you \$8 to \$10 million to get there. He might have told you what the odds are of actually winning. I've given this advice a lot of times, 60/40 is the best I've gotten. So the city can decide if that's a good bet or not.

Now, if it's just about Axon and you are all hoping, you know, for an injunction to prevent things from going forward that this will give you leverage, I'll tell you what I have always told my clients, which is you don't file a lawsuit unless you are prepared to take it all the way, because the other side is gonna call your bluff. And I have a feeling that Axon is just sitting here waiting for you guys to find out how how big of a hole you are gonna dig and at the end of the day, if you keep pushing this, what you're probably going to do is push Axon out of Scottsdale. It's 2 miles to the west in Phoenix, and they'll be very happy to have this corporate headquarters and all the housing that comes with it. You know, what you need to do is tell us how you're gonna make up for this lost tax revenue, how you will make up for the jobs that are lost. How are you going to rebuild the city's reputation? Because, in fact, right now, that reputation is pretty bad. Business knows they are not wanted here, and you are gonna have to try to figure out how to turn that around.

So, look, everything you spend, everything you damage, the residents have to pay for. Now, if you don't want to be straight with us, I get it. It's hard. Just remember, we're entering an election year. So, all that stuff you don't want to say, well, other people are gonna be saying it for you. Thank you for your time.

Mayor Borowsky: Thank you, Ethan. Last we have Yvonne Cahill. I do note one of the speakers was not present, in case we had someone that couldn't get on the list.

[Time: 00:23:07]

Yvonne Cahill: Hello, Mayor, Vice Mayor, and Council. Oops. I just lost my thing here. My name is Yvonne Cahill, and my address is on record. I just wanted to talk to you about why I'm against Senate Bill 1543. This Bill is nothing more than a corporate handout designed to benefit one company, Axon. Senate Bill 1534 would require Scottsdale to rezone light industrial land for hotel and multifamily development, all without public hearing and community input. This is a clear case of state legislation being tailored to serve a single corporation expansion plans at the expense of transparency and the democratic process. And there's actually state law that that addresses this.

The people of Scottsdale quickly worked to stop the proposed headquarters with nearly 27,000 residents signed the possession calling on to place the original referendum on the ballot and I'm very upset to learn today that four Councilmembers would not let that go forward to an early election. The the Senate Bill 1543, in my opinion, is unconstitutional under Article 4, Part 2, Section 19 of the Arizona constitution, which prohibits special laws granting privileges to individual corporations. In conclusion, this Bill undermines the value of transparency, accountability and the fundamental right of every Arizonan to have a voice in the local governance.

I would also like to address irresponsible behavior of two Councilmembers Barry Graham and Jan Dubauskas who sent out misinformation after the last Council meeting, whipping people into a frenzy. I cannot tell you how many calls and emails and text messages I got regarding this. I think it's irresponsible. It's not necessary. And in this day of political violence, I just hope that you will stop being so irresponsible. Just report the truth. That's all your representatives want is truth. They can make up their own minds. Thank you.

Mayor Borowsky: Thank you, Yvonne. There's no additional speakers for this evening and we only have one agenda item. In the interest of not disclosing anything from Executive Session, I don't know if you want to comment on that Luis, but before we get started.

[Time: 00:26:13]

Interim City Attorney Luis Santaella: Honorable Mayor, members of the City Council, under state law, contrary to what one speaker said, we are not allowed -in fact, it would be a crime for us to reveal that which was discussed in Executive Session. If Council has any further questions regarding Executive Session rules, I would be happy to answer them.

Mayor Borowsky: Thank you. I see pardon me. Okay. So, I've already explained in detail what this meeting is for and what this agenda item is about. So, with that, I move to authorize our Interim City Attorney and/or designees to proceed with legal action against the state of Arizona challenging the constitutionality of SB-1543 as instructed as instructed or discussed or direction provided in the Executive Session held on September 9, 2025. Do I have a second?

Councilwoman Whitehead: Mayor? I would like to call an Executive Session.

Mayor Borowsky: I think you need a second for that.

Councilwoman McAllen: Second.

Mayor Borowsky: Vote on this, right? This is a first for me. Okay. All those in favor, indicate your vote. Councilman Kwasman.

Councilman Kwasman: Madam Mayor, I'm not speaking I'm not asking to speak to my vote, because I know that's against the rules, but can I ask the reasoning for the second I'm sorry, for the request? I think I don't think the request is innately unnecessary is an innately unnecessary, but I want to know what your reasoning is.

Councilwoman Whitehead: Yeah, so I'm concerned that the motion does not match my understanding of the Executive Session. So, I just want some clarification before I vote.

[Time: 00:28:28]

Mayor Borowsky: And I would like to speak to excuse me. I'd like to speak to that. I think can you please let's get advice from our city attorney. Does that accurately cover without giving away legal strategy the direction that you received in Executive Session?

Luis Santaella: Mayor and members of the City Council, I would prefer to answer that question in Executive Session.

Mayor Borowsky: Then I have a second question before we finish the vote. Can Councilwoman Whitehead caucus with you individually unless anybody else has the same question?

Luis Santaella: I don't believe so.

Councilman Graham: Mayor?

Mayor Borowsky: Councilman Graham.

Councilman Graham: Just a point of order. Can so Councilwoman Whitehead asked for an Executive Session. I think she's asking for clarity on the motion on the floor and is it possible just to provide clarity on the floor to avoid retreat into an Executive Session.

Councilwoman Whitehead: No. Because I, no. I think we need an Executive Session.

Mayor Borowsky: Okay. Let's vote on that. It's already we've already we're halfway there. So, Vice Mayor Dubauskas, please cast your vote.

Mayor Borowsky: So, the motion to move into Executive Session fails. So, with that, I'd like to put my motion back on the table and I will repeat it and that was to authorize our Interim City Attorney and/or designees to proceed with legal action against the state of Arizona challenging...

Councilman Kwasman: Point of order. Having voted Madam Mayor, having voted in the affirmative on the on the correct, winning side of the same vote, I would like to call that question back up for a second for another vote.

Mayor Borowsky: Okay. So, we're voting on Executive Session again? Okay. Councilman Kwasman has made a motion to reconsider the vote denying moving to Executive Session. So, I will Councilwoman Whitehead, would you like to restate your motion?

EXECUTIVE SESSION

[Time: 00:31:13]

Councilwoman Whitehead: Yes, I motion to move into Executive Session.

Councilwoman McAllen: Second.

Mayor Borowsky: All those in favor? That motion passes, and we are now adjourned, recessed, excuse me, into Executive Session. Thank you.

Mayor Borowsky: All right, City Attorney, I'm going to need a little we're back in general session here, Special Meeting. I'm going to need a little input. We left off with a motion to reconsider the Executive Session. We did not take a vote on my motion. Is that what you recall?

Luis Santaella: Yes, I believe that's the case. Would you concur? Yes.

Mayor Borowsky: So, I'm going to withdraw my motion and give the floor to Councilwoman Whitehead.

[Time: 00:32:49]

Councilwoman Whitehead: Thank you, Mayor. I motion to direct and authorize the Interim City Attorney to file a notice of claim and I want to speak to that, especially to the gentleman who spoke earlier. Our job up here is to deliver results in the most efficient, cost effective and manner that we deliver, protect your public prosperity and your public dollars. So, litigation is a failure of negotiation. We're not done negotiating, in my mind. There's a lot we can still do. We want to keep every single option open. This is our city. We want to make sure to keep pressure on all parties involved, and that's what we're doing tonight.

Mayor Borowsky: The city attorney has indicated his request.

Luis Santaella: Honorable Mayor and members of Council, Councilwoman Whitehead, if I could suggest that in terms of your motion that you direct the Interim City Attorney and his designees to file a notice of claim consistent with the direction provided on September 9, 2025 during Executive Session.

Councilwoman Whitehead: Okay. I will amend my motion as you as directed. Would you like me to repeat that? I motion, so I move I move to direct or to authorize the Interim City Attorney to file a motion of claim okay. Folks, no more. I'm going to start over. I did say it right. Can you remind me the date? Was it February was it September 9th?

Luis Santaella: Honorable Mayor and members of Council, if you could specifically authorize the Interim City Attorney and his designees.

Councilwoman Whitehead: Okay. So, we're authorizing the Interim City Attorney and his designee to file the notice of claim as directed in the Executive Session of September 9th. Does that satisfy our Interim City Attorney?

Luis Santaella: Yes, it, does thank you.

Councilwoman Whitehead: Thank you.

Councilwoman McAllen: I second that motion.

[Time: 00:35:19]

Mayor Borowsky: I'd like to speak to this before we vote. I will be supporting this motion, however, with the caveat that there are critical there is critical information that I personally am waiting to see from our external legal counsel before we take the next step, which is which would be ideally soon, regarding filing a complaint. So, with that but I'm in favor of filing the legal action which is what my motion was, and that's the precursor to filing a litigation or a lawsuit and that is a notice of constitutional challenge as Councilwoman Whitehead has referred to it as notice of claim. But I will be supporting this, and I see Councilman Graham has indicated his request to speak.

Councilman Graham: Thank you, Mayor. Thank you, everyone, for being here. I will just make an alternate motion to the motion that's on the floor. And my alternate motion will be to direct, to authorize the interim city attorney and his respective staff and designees to file a notice of claim and to file a complaint for declaratory judgment against the state of Arizona to challenge the legality and the constitutionality of Senate Bill 1543. Thank you.

Vice Mayor Dubauskas: Second.

Mayor Borowsky: Councilman Kwasman.

Councilman Kwasman: Thank you, Madam Mayor. I think everybody knows it looks like everybody staked out their position prior to today and it's really no different from what happened on Tuesday. And I just want t I want to be very clear with with with anybody who is paying attention here in this room, and everybody listening online, and that right now I could I could confirm that we are smack dab in the middle of high stakes negotiation with a massive employer in order to guarantee a serious reduction of apartments for Scottsdale residents.

And when you're in the middle of a high-stakes negotiation, that does not mean you that does not mean you preclude any chance of litigation, and therefore, when you're moving forward, you act appropriately, you keep doing what you need to do for your statutory requirements. Notice of claim is

something that I do in my personal firm. This is something that is very, very normal as a means to a litigatory end and I want to make sure that everybody knows that by voting to authorize the instructions from 9/9 through the notice of claim, you absolutely reserve the right in fact, that is what reserves the right to subsequently litigate the constitutionality of SB-1543 in case these negotiations are unsuccessful.

But what we're trying to do here is trying to guarantee a great outcome for everybody, and I want to be just very clear, again, the vote does not this vote does not preclude the right to sue at a later date at all. This is not kicking the can indeterminately down the road. This is the correct steps in the process while negotiation, whether it's a formal mediation or informal negotiation continues. So, with that, I will not be supporting that motion at this time.

Mayor Borowsky: Councilwoman Whitehead.

[Time: 00:39:34]

Councilwoman Whitehead: Yeah, I want to speak to the fact that often the legislature preempts our rights as a local government. In this case, the lack of the public vote, indeed there was a referendum and indeed you earned the right to vote, but, again and again, I supported your right to vote last March, November, next March, and every time your vote was denied by the very people that claim they're representing your rights. If this had gone to a vote in March, there would be no legislation. So, I really want to stress that and I agree with everything Councilman Kwasman said. We are keeping every option on the table to protect the residents that we represent. That's what we're doing tonight by my motion, if we approve it.

Mayor Borowsky: Thank you. I'm going to also speak to the two comments that have been made. We all have different reasons for where we stand. That's why you elected us, we're individuals and we have different perspectives. From my perspective, the reason to file the notice of constitutional challenge now before the deadline of October 15th, is to preserve our right to follow suit and again there were critical questions regarding strategy, my critical questions regarding strategy I'm going to expand on my questions that I need answered and those include: Should we be the plaintiff? Should we wait and be the defendant? Should we wait and be a co-defendant? I understood from Bob former Councilman Bob Littlefield's interview that TAAAZE is is going to be filing litigation if we don't. Wow! That would be great, wouldn't it? The taxpayers would not be footing the Bill of this litigation, even though we are all rowing the boat in the same direction, wanting a better result from this.

So, I am not going to be supporting the motion, the alternative motion on the table because that would be imprudent based open the legal advice that I have thus far. These are very big considerations, and I take it very seriously, and I take the potentially \$600,000 at a minimum dollars that we would be spending as Councilman Kwasman is pointing upward, it's likely to be over a million dollars. So, this is a very serious issue, and there's no reason to wait for the legal advice of our very competent counsel. So, with that, Councilman Graham.

[Time: 00:42:30]

Councilman Graham: So, I made my alternate motion, and I think I'm just going to respectfully reply to some of my colleagues up here because some comments were made and I'm going to gently reply to those and I hope after then that, we can take a vote. I made this alternate motion from my point of view to stand up for the residents, for the residents that signed a referendum, not only in Scottsdale, but to the citizens across the but to the citizens across state that are concerned about the precedent set by this legislation. I do believe this legislation is unconstitutional. There was talk about, you know, the state overrides the city. That does happen. That happens all the time and we don't like it. But the constitution overrides the legislature. And that is the argument that we are making, is that what they did, they can't do by their own rules.

There's a lot of talk up here about negotiations and those are very important. Negotiations are a lot of times they are it's not what you see, and there's back and forth and it's nebulous, but I maintain and the reason I voted on Tuesday to take legal action against the state of Arizona is because I maintain that taking legal action gives us leverage. My colleagues a majority, some of my colleagues, don't agree with that. We have a respectful difference of opinion. Councilwoman Whitehead made the comment that if this referendum had gone to the ballot, there would be no legislation. That is total speculation. She does not know that. To say that as a statement of fact is irresponsible.

The Mayor commented that TAAAZE may sue the state. I don't know what TAAAZE's strategy is. None of us talk to TAAAZE to have any idea what their strategy is. We don't know what their standing is. We don't even know if they have standing. We don't even know what complaints they are going to make. This is this is a moment when the city needs to lead, not wait for what TAAAZE might do and I don't know what TAAAZE will do. I can't and even if I did, I can't control what they will do as the city. And there's also the comment about, you know, if we pursue litigation, it would cost money. The Mayor mentioned \$600,000 and then \$600,000 and corrected herself that maybe up to, you know, a million dollars.

The cost to litigate, in my opinion, is nothing compared to the loss of referendum rights, losing your right to referendum and your constitutional rights and to the precedence this sets for corporations to impose their will on municipalities. So that is, those are some of the reasons for my alternate motion and some of my respectful responses to my colleagues when they express their disapprobation for my alternate motion. Thank you, Mayor.

Mayor Borowsky: Thank you. Vice Mayor Dubauskas.

[Time: 00:46:13]

Vice Mayor Dubauskas: Thank you, Madam Mayor. Now is not a time for excuses and, like Councilman Graham, I have a respectful disagreement with my colleagues. It's not a time for political spin. It's not a time to say not now. We have known about this for months. Voters expect us to be prepared. They voted for us so that we would do our job and be prepared. Many times what you don't see is before

meetings we ask questions. We read documents. We get prepared. You expect us to come up here and make a vote. On Tuesday we could have made a vote to continue if there were questions, which would have suggested that we were going to potentially move forward with litigation, a motion to vacate is pretty much a no vote. That takes the movement away, the litigation away. And the message that it sends to you is that we're not going to litigate.

That's not what the voters expect from us. The voters expect us to stand up for Scottsdale. The voters expect us to say, this is unconstitutional. My right to vote, my right to a referendum cannot be touched and they expect us to do what's necessary to defend them and protect the city of Scottsdale. So, again, I will repeat, I sit here ready today to fight for the residents of Scottsdale and to file litigation. I hope my colleagues will join me.

Mayor Borowsky: Thank you. Councilwoman Whitehead.

[Time: 00:47:42]

Councilwoman Whitehead: So, I will also respectfully disagree. Each and every one of us is elected to solve problems, not create them for political motivations. The state of Arizona's economy is based on three pillars. It's based on having the best quality of life, business friendly, and low taxes. Chandler would not throw out Intel because of apartments and believe me, I don't want 1,800 apartments. There will not be 1,800 apartments. These are attempts to scare voters into thinking that spending million dollars on a lawsuit we might lose is to their benefit. So, our job, again, is to solve problems.

We have an incredible employer. We have had five, ten, former police chiefs or people in law enforcement tell us that having Axon in Scottsdale, in Arizona, has made us safer. Chief Walter said he will not allow Axon to leave on his watch. He dreads the thought of having Axon leave on his watch. When you file a lawsuit, you admit that you have failed to win at the negotiating table. We will keep every single option open and that's why I support the notice of claim. But we have a great employer. We have 70 acres that are designated industrial. We could become the valley's biggest truck depot, or we could become the home of global corporate headquarters. That's the option. I agree with everybody who wrote those letters. If I had gotten the emails you received and didn't know the information I know, I would be freaking mad too. But the bottom line is I have been calling all of those people who wrote emails when they understand what the options are, that land will be developed and frankly apartments will be better than a trucking depot.

But let's talk about that state law. It is a state law. So, you want to talk about speculation, Mr. Graham? Let's talk about saying it's unconstitutional. That will be decided in the courts. And guess who is gonna pick up the tab? You and me, and every other taxpayer in this city. We don't have to go that route. This law, as terrible as it is, I don't like the precedent, has no impact on the city other than this parcel of land. And our options are some sort of industrial use, or we come up with a deal with Axon that, in fact, benefits everybody. I can tell you that the neighbors closest to this parcel support this. They have not signed that petition. So, what we're doing is not and I will tell you that I'm representing the citizens. It turns out there's 240,000 people here and not everybody agrees with me. And you better believe, not

everybody agrees with Mr. Graham or Ms. Dubauskas. We're up here to deliver the best results possible and that's why I made my motion.

And we are on track as Councilman Kwasman said to delivering that. Well, we are in negotiations and we're going to allow those negotiations. That will save you money and that is exactly what I'm trying to do. And that is exactly what I've done for my first six years. Thank you.

[Time: 00:51:39]

Mayor Borowsky: Thank you. First, I want to point out that we should all be speaking on behalf of ourselves because there's been two comments that do not include me at this time, and I just want to make sure that's clear. So, speaking on behalf of only me, and I loved Councilman's Graham statement or comment predecessor to his statements. I would like to gently respond to my fellow Councilmembers.

First, Councilman Graham, you said something along the lines of it's important or incumbent upon us as elected officials to stand up for the citizens' right to vote. And when 27,000 people go out of their way to sign a petition to challenge this project, I couldn't agree with you more. There was a citizens petition in July that came forward with a request for this Council to set an early election the election, excuse me, earlier than two almost two and a half years after signatures were gathered and that election would be taking place this November, and the citizens would have had their right to vote on it this November, and guess what, here's the kicker. It would have been at no additional cost to us because there's a county election. So, it wouldn't have cost any more money. But guess who said no. The two Vice Mayor Dubauskas, Councilman Graham opposed setting an early setting the citizens petition and considering in fact, I should call on Greg Caton because the direction was to have City Manager Greg Caton come back with I'd like you to hold your answer on that, if you don't mind. Come back with recommendations and analysis, a summary of what that would look like and what that would mean to our city.

And I'm gonna speculate, because I know the answer, that information, which for the record we have not received yet. So, there was no response to the citizens petition, as far as I recall or know. That information should have included that having the election the referendum election on this project could have happened in November at no additional cost to the citizens. So, forgive me, City Manager Caton, if you can take a note and just hold that thought because I would like to hear your answer.

And I would like to agree with something that Councilman Graham said, however. And contrary to what Councilwoman Whitehead just went on about, this vote is not about Axon and whether we keep them in our community. I've been crystal clear in my desire and my commitment to do whatever we can to keep them in our community while respecting our residents and their right to vote on the referendum, and also finally, and most importantly, to protect our community in a fashion that we were elected to do, and that is a major, if not eliminate multifamily high rises, apartments in our community. That that was our marching orders.

So all of those things aside, I do agree with Councilman Graham, moving forward with legal action, for

me which starts with the notice of constitutional challenge, is about preserving municipal zoning rights and oversight and obligations and the right to referendum in that situation. Those two things are critical to me. It has nothing to do with Axon.

[Time: 00:55:55]

So in terms of speculating about whether or not TAAAZE, who led the charge on the referendum and while we all some of us, me, would have agreed to that, would have agreed with them on that and do, because of the size and the you know, the circumstances that surrounded that vote, it's not speculation that that's what they're going to do because former Councilman Bob Littlefield was outside our front doors on Channel 12 stating he's the Chairman of TAAAZE. So, I'm hoping we can take his word for this, stating that they will file litigation. So that's not just speculation. Those were in the words those were the words of Chairman. I know and respect Bob Littlefield and I take him seriously when he makes a statement like that.

Vice Mayor Dubauskas, what you just talked about with respect to excuses, I know you know these are not excuses. I know you're aware or at least should be aware, as I have just stated in this open forum, I have serious questions that I have not received answers to. I don't believe any of us have received answers to because that information would have been disseminated to all. So, we have very sophisticated lawyers on our side. I suspect they can get that information to us real quick, as quickly as possible. So, there's no smoke screen or excuses or spin as that's been referred to going on here. You know, I think as a lawyer, practicing commercial litigation for in excess of 25 years, I am entitled and obligated to ask these serious questions and get the right answers. So, I don't need to speculate on the answers, but those are critical to me. So, I'm going to give up the floor and I would like to hear from from City Manager Greg Caton on the answer to my question about the citizens petition.

Luis Santaella: Madame Mayor and members of Council, my apologies for interjecting, I think a discussion and requiring Mr. Caton to answer the question at the time is beyond the scope of this meeting.

Mayor Borowsky: Okay. We can follow up on that, because I don't understand that decision, but nonetheless. Moving right along. Councilwoman Littlefield, please.

[Time: 00:58:51]

Councilwoman Littlefield: Thank you, Mayor. I appreciate it. First of all, I'd like to say I thank God every day I am not a lawyer. It's wonderful. And I'm not going to become one.

Councilman Graham: Never say never.

Councilwoman Littlefield: Never! The petitions of the citizens asking for a vote were proofed and submitted properly and legally, and submitted to the City Clerk, and I think there's no question but that a sufficient number of signatures were given to hold an election. This is what the citizens have asked us

for. They have the right and frankly, the obligation if we do something they don't like to let us know. And they can do that in many ways. They can come here and tell us or they can ask for a vote and ask for an election where they can go individually and let us know exactly how they feel about it. Any kind of issue. This is one of those issues.

I am going to side on the vote tonight with Councilman Graham. I believe that gives the citizens the rights that they deserve and the freedom to activate those rights. They have the right to defend the filing the petitions that they did and have a vote on what happens here. I don't believe we should take that vote away from them. And that's what I see trying to be done. Our job is to defend the citizens and their legal rights. When they do the work that was required by all those petitions, and there was a lot of work and a lot of time and a lot of people, and a lot of effort, they filed for a petition to hold an election, we should hold the election. To me, it's black and white, and that's where I'm going to vote. I'm going to vote along with Councilman Graham and Vice Mayor Dubauskas to do those kinds of things. Thank you.

Mayor Borowsky: Thank you. I said I was going to follow-up but I didn't think I would follow-up this quickly. Can you explain your legal advice why I can't from the dais ask our City Manager about an issue that has been subject to to discussion on this dais today?

[Time: 01:01:20]

Luis Santaella: Mayor, and members of the Council, as the Council knows, we're subject to the Open Meeting Law and under the Open Meeting Law, we are required to discuss what has been agendized. While there is some leeway, there has not been an agenda item talking about citizen petitions and elections. The sole item on this agenda is to decide whether to vote to provide me direction and authorization related to what was discussed on September 9th. So, in my legal opinion, such a direction is outside the scope of the agenda.

Mayor Borowsky: So, we have been discussing that at length up here, so I don't understand, it's about the Axon, it's about the legislation, it's about the referendum, that's the entire meat and potatoes of this discussion, isn't it? So, if he's not prepared to answer if, that's one thing and I'm fine, happy to move along, but I struggle to understand your legal opinion here.

Luis Santaella: Mayor, and members of the City Council, I gave you some leeway without interjecting previously. And now the back and forth with the City Manager regarding this particular item is inappropriate in my legal opinion, and why? It's not agendized. And yes, some discussion back and forth in terms of the political ramifications on when there's going to be a particular vote and stuff like that was okay, but when it gets to the point where we're talking about something totally different, which was a petition, I believe it was said in July, and now wanting specific answers on that, that's not what's agendized.

And in my opinion, the leeway, some of the leeway, the political dynamics were appropriate but when we get into this micro specific level on something that's not on the agenda, I don't think it's within the purview of the meeting and I understand you may disagree with my opinion, but I'm offering the best

opinion I can give.

Mayor Borowsky: Okay. I guess my point was that we hadn't received any direction on that. So, I will just leave it at that and not call on the City Manager for that. Thank you for your legal advice, Luis, I really appreciate it and value it. So..

Luis Santaella: Thank you, Mayor.

Mayor Borowsky: Councilwoman McAllen.

[Time: 01:03:50]

Councilwoman McAllen: Thank you, Mayor. I call for the question.

Mayor Borowsky: So just to be clear do you need to speak? No. Oh, called the question. Just to be clear, we are voting on the alternate motion, which is to embark on filing a complaint. All those in favor?

Councilman Graham: Point of order. A question was called. We are not voting on the question called but on the alternate motion. The motion caller is good with that? Okay. Then the motion caller is good with that? Okay, thank you. My motion. So, I'm going to vote yes.

Councilwoman Littlefield: This is your motion. You better.

Mayor Borowsky: All right. Having failed, we go back to the original motion, which if I can recall properly was Councilwoman Whitehead's motion, and I dare you to restate that.

Councilwoman Whitehead: I'm happy to if that's desired to, to keep us here longer.

Mayor Borowsky: Do you want to restate it for us? Yeah, I think it's important just to refresh.

Councilwoman Whitehead: That's fine. I move to direct the Interim City Attorney and his designees to file a notice or to take action to file a notice of claim pursuant of the direction you received in our September 9th meeting. Executive Session meeting.

Councilwoman McAllen: I second that motion.

Mayor Borowsky: All those in favor? Thank you. That concludes our business for this afternoon, and I will move to adjourn.

ADJOURNMENT

Councilwoman Whitehead: Thank you.

Councilwoman McAllen: So moved.

Mayor Borowsky: Thank you.

[Time: 01:05:53]