

AGENDA REVISED 4:30 P.M.

CITY OF SEDONA, CITY COUNCIL MEETING

TUESDAY, APRIL 25, 2017

NOTES:

- Public Forum:
Comments are generally limited to **3 minutes**.
- Consent Items:
Items listed under Consent Items have been distributed to Council Members in advance for study and will be enacted by one motion. Any member of the Council, staff or the public may remove an item from the Consent Items for discussion. Items removed from the Consent Items may be acted upon before proceeding to the next agenda item.
- Meeting room is wheelchair accessible. American Disabilities Act (ADA) accommodations are available upon request. Please phone 928-282-3113 at least two (2) business days in advance.
- City Council Meeting Agenda Packets are available on the City's website at:

www.SedonaAZ.gov

GUIDELINES FOR PUBLIC COMMENT

PURPOSE:

- To allow the public to provide input to the City Council on a particular subject scheduled on the agenda.

This is not a question/answer session.

PROCEDURES:






- Fill out a "Comment Card" and deliver it to the City Clerk.
- When recognized, use the podium/microphone.
- State your:
 1. Name and
 2. City of Residence
- Limit comments to **3 MINUTES**.
- Submit written comments to the City Clerk.

1. CALL TO ORDER/PLEDGE OF ALLEGIANCE/MOMENT OF SILENCE/ROLL CALL

2. CITY'S VISION

3. CONSENT ITEMS - APPROVE

LINK TO DOCUMENT = 

- a. Minutes - April 11, 2017 City Council Special Meeting. 
- b. Minutes - April 11, 2017 City Council Regular Meeting. 
- c. Minutes - April 12, 2017 City Council Special Meeting. 
- d. AB 2224 Approval of award of a contract to American Ramp Company in the approximate amount of \$115,407.71 for construction of the Posse Grounds Bike Skills Park Phase II Project subject to legal review. 
- e. AB 2231 Approval of a Settlement Agreement between the City of Sedona, Sun Edison Government Solutions, LLC, Sun Edison Originations3, LLC, SUNE D14 MISC-A Holdings, LLC, and SE DLL Solar Trust in the matter of Sedona vs. Sun Edison, et al., Yavapai County Case No. V1300-CV201680361. 

4. APPOINTMENTS - None.





5. SUMMARY OF CURRENT EVENTS BY MAYOR/COUNCILORS/CITY MANAGER

6. PUBLIC FORUM

(This is the time for the public to comment on matters not listed on the agenda. The City Council may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to A.R.S. § 38-431.01(H), action taken as a result of public comment will be limited to directing staff to study the matter, responding to any criticism, or scheduling the matter for further consideration and decision at a later date.)

7. PROCLAMATIONS, RECOGNITIONS & AWARDS - None.

8. REGULAR BUSINESS

- a. AB 2223 Discussion with Northern Arizona Council of Governments (NACOG) representatives Jason Kelly on transportation matters and Teri Drew on economic development matters. 
- b. AB 2227 Discussion regarding the renewal of service contracts between the City and the Sedona Community Center, Sedona Humane Society, Sedona Public Library, Sedona Recycles, and Verde Valley Caregivers. 
- c. AB 2228 Discussion/possible direction on the process for selection of a Magistrate Judge. 
- d. AB 2207 Discussion/possible action regarding proposed State legislation and its potential impact on the City of Sedona. 
- e. Reports/discussion on Council assignments.
- f. Discussion/possible action on future meeting/agenda items.

CITY COUNCIL CHAMBERS
102 ROADRUNNER DRIVE, SEDONA, AZ

The mission of the City of Sedona government is to provide exemplary municipal services that are consistent with our values, history, culture and unique beauty.

AGENDA REVISED 4:30 P.M.

CITY OF SEDONA, CITY COUNCIL MEETING

TUESDAY, APRIL 25, 2017

Page 2, City Council Meeting Agenda Continued

9. EXECUTIVE SESSION

If an Executive Session is necessary, it will be held in the Vultee Conference Room at 106 Roadrunner Drive. Upon a public majority vote of the members constituting a quorum, the Council may hold an Executive Session that is not open to the public for the following purposes:

- a. To consult with legal counsel for advice on matters listed on this agenda per A.R.S. § 38-431.03(A)(3).
- b. Return to open session. Discussion/possible action on executive session items.

10. ADJOURNMENT

Posted: _____

By: _____

Susan L. Irvine, CMC
City Clerk

Note: Pursuant to A.R.S. § 38-431.02(B) notice is hereby given to the members of the City Council and to the general public that the Council will hold the above open meeting. Members of the City Council will attend either in person or by telephone, video, or internet communications. The Council may vote to go into executive session on any agenda item, pursuant to A.R.S. § 38-431.03(A)(3) and (4) for discussion and consultation for legal advice with the City Attorney. Because various other commissions, committees and/or boards may speak at Council meetings, notice is also given that four or more members of these other City commissions, boards, or committees may be in attendance.

A copy of the packet with material relating to the agenda items is typically available for review by the public in the Clerk's office after 1:00 p.m. the Thursday prior to the Council meeting and on the City's website at www.SedonaAZ.gov. The Council Chambers is accessible to people with disabilities, in compliance with the Federal 504 and ADA laws. Those with needs for special typeface print, may request these at the Clerk's Office. All requests should be made **forty-eight hours** prior to the meeting.

CITY COUNCIL CHAMBERS
102 ROADRUNNER DRIVE, SEDONA, AZ

The mission of the City of Sedona government is to provide exemplary municipal services that are consistent with our values, history, culture and unique beauty.

**Action Minutes
Special City Council Meeting
Executive Session
Vultee Conference Room, Sedona City Hall,
106 Roadrunner Drive, Sedona, Arizona
Tuesday, April 11, 2017, 3:30 p.m.**

1. Call to Order

Mayor Moriarty called the meeting to order at 3:30 p.m.

2. Roll Call

Roll Call: Mayor Sandy Moriarty, Vice Mayor John Martinez, Councilor John Currivan, Councilor Scott Jablow, Councilor Tom Lamkin, Councilor Jon Thompson, Councilor Joe Vernier.

Staff in attendance: City Manager Justin Clifton, Assistant City Manager Karen Osburn, City Attorney Robert Pickels, Jr., City Clerk Susan Irvine.

3. Executive Session

Motion: Councilor Thompson moved to enter into Executive Session at 3:30 p.m. Seconded by Councilor Currivan. Vote: Motion carried unanimously with seven (7) in favor and zero (0) opposed.

Upon a public majority vote of the members constituting a quorum, the Council may hold an Executive Session that is not open to the public for the following purposes:

- a. **Discussion and consultation with legal counsel to consider the City's position and instruct its attorneys regarding ongoing litigation against Sun Edison. This matter is brought in executive session pursuant to A.R.S. 38-431.03(A)(3)&(4).**
- b. **Return to open session. Discussion/possible action on executive session items.**

4. Adjournment

Mayor Moriarty adjourned the meeting at 4:14 p.m.

I certify that the above are the true and correct actions of the Special City Council Meeting held on March 14, 2017.

Susan L. Irvine, CMC, City Clerk

Date

THIS PAGE INTENTIONALLY LEFT BLANK.

Action Minutes
Regular City Council Meeting
City Council Chambers, Sedona City Hall,
102 Roadrunner Drive, Sedona, Arizona
Tuesday, April 11, 2017, 4:30 p.m.

1. Call to Order/Pledge of Allegiance/Moment of Silence/Roll Call

Mayor Moriarty called the meeting to order at 4:30 p.m.

Roll Call: Mayor Sandy Moriarty, Vice Mayor John Martinez, Councilor John Currivan, Councilor Scott Jablow, Councilor Tom Lamkin, Councilor Jon Thompson, Councilor Joe Vernier.

Staff Present: City Manager Justin Clifton, Assistant City Manager Karen Osburn, City Attorney Robert Pickels, Jr., Chief of Police David McGill, Director of Community Development Audree Juhlin, Assistant Director of Community Development Warren Campbell, Senior Planner Mike Raber, Senior Planner Cynthia Lovely, Arts & Culture Coordinator Nancy Lattanzi, City Clerk Susan Irvine.

2. City's Vision/Moment of Art

A video of the City's vision was played.

Nancy Lattanzi introduced Juliana Brutsche who is the Executive Director of the newly forming Verde Valley Arts Council, which will serve artists throughout the region. Ms. Brutsche provided information on the Verde Valley Arts Council and the Old Town Arts Festival which is scheduled to take place on Saturday, April 22nd, from 10:00 a.m. to 9:00 p.m. at the Old Town Center for the Arts in Cottonwood.

3. Consent Items

- a. **Minutes - March 28, 2017 City Council Regular Meeting.**
- b. **Minutes - March 29, 2017 City Council Special Meeting.**
- c. **AB 2221 Approval of recommendation regarding an interim and new Series 11 Hotel/Motel Liquor License for Orchards Inn located at 254 N. Highway 89A, Sedona, AZ (License #11033059).**
- d. **AB 2222 Approval of recommendation regarding an interim and new Series 11 Hotel/Motel Liquor License for L'Auberge De Sedona located at 301 L'Auberge Lane, Sedona, AZ (License #11033060).**

Motion: Vice Mayor Martinez moved to approve consent items 3a, 3b, 3c, and 3d. Seconded by Councilor Lamkin. Vote: Motion carried unanimously with seven (7) in favor and zero (0) opposed.

4. Appointments – None.

5. Summary of Current Events by Mayor/Councilors/City Manager

Vice Mayor Martinez stated that Walking Free Day took place last Saturday to raise awareness on the issue of human trafficking. That evening a fundraiser for Special Olympics was held at the Sedona Elks Lodge. He thanked the Sedona Police Department, Chief McGill, and Officer McQuaid for their work on this event. Saturday, April 15th, will be the Easter Celebration of Spring, from 9:00 a.m. to noon and the Celebration of Tween from 3:00 to 6:00 p.m. Both events are at Posse Grounds Park,

and more information is available on the City website. Councilor Thompson advised that the Keep Sedona Beautiful (KSB) speaker series continues tomorrow from 5:30 to 7:00 p.m. with a presentation entitled "Global Warming a Philosophical Approach" at the KSB building at 360 Brewer Road.

6. Public Forum

Betsy Klein, Sedona, advised that April 20th through the 23rd is Sedona Wolf Week which will involve many events including speakers from all over country, movies, a champagne brunch with a wolf sitting at the table, and the band America playing an acoustic event on Sunday evening. More information can be obtained at www.planb.foundation.

7. Proclamations, Recognitions, and Awards – None.

8. Regular Business

a. AB 2186 Public hearing/discussion/possible action regarding approval of a resolution adopting the Schnebly Community Focus Area (CFA) Plan.

Presentation by Cynthia Lovely and Audree Juhlin.

Questions from Council.

Opened the public hearing at 5:33 p.m.

The following spoke on this issue: Max Licher, Sedona, and Rick Schneider, Cottonwood.

Closed the public hearing and brought back to Council at 5:37 p.m.

Comments from Council.

Motion: Councilor Thompson moved to approve Resolution 2017-09, adopting the Schnebly Community Focus Area Plan and authorizing staff to make final non-substantive format changes. Seconded by Councilor Jablow. Vote: Motion carried unanimously with seven (7) in favor and zero (0) opposed.

b. AB 2209 Discussion/possible action regarding approval of a resolution establishing an Entertainment District within the City of Sedona.

Presentation by Mike Raber and Audree Juhlin.

Questions from Council.

Opened to the public at 6:10 p.m.

The following spoke on this issue: Al Spector, Sedona, Carolee Hayler, Village of Oak Creek, Colleen Fisher, Cottonwood, Brigid McLoughlin, Clarkdale, and Jennifer Wesselhoff, Sedona.

Brought back to Council at 6:21 p.m.

Comments from Council.

Motion: Councilor Lamkin moved to approve Resolution 2017-10 designating an entertainment district within the City of Sedona. Seconded by Councilor Jablow. Vote: Motion carried unanimously with seven (7) in favor and zero (0) opposed.

Break at 6:29 p.m. Reconvened at 6:47 p.m.

- c. **AB 2220 Discussion/possible action regarding the approval of a new agreement between the City and the Sedona Chamber of Commerce and Tourism Bureau for tourism promotion and visitor services subject to final review and approval by the City Attorney.**

Presentation by Karen Osburn, Justin Clifton, and Jennifer Wesselhoff, President and CEO of the Sedona Chamber of Commerce and Tourism Bureau.

Questions from Council.

Opened to the public at 7:34 p.m.

The following spoke on this issue: Brian Alcorn, Sedona, Susan Pitcairn, Sedona, and Steve Segner, Sedona.

Brought back to Council at 7:39 p.m.

Comments from Council.

Motion: Councilor Thompson moved to approve the tourism promotion and visitor services agreement between the Sedona Chamber of Commerce & Tourism Bureau and the City of Sedona subject to review and final approval by the City Attorney subject to the adjustments identified by a majority of Council tonight. Seconded by Councilor Jablow. Vote: Motion carried unanimously with seven (7) in favor and zero (0) opposed.

- d. **AB 2131 Discussion/possible action regarding Dockets E-01345A-16-0036 and E-01345A-16-0123, the rate case filed with the Arizona Corporation Commission by Arizona Public Service on June 1, 2016.**

Presentation by Robert Pickels, Jr. and Justin Clifton.

Questions from Council.

Opened to the public at 8:25 p.m.

The following spoke on this issue: Stan Kingman, Sedona, Susan Pitcairn, Sedona, Richard Pitcairn, Sedona, Gary Sprunk, Sedona, Warren Woodward, Sedona, and Paul Harding, Sedona.

Brought back to Council at 8:39 p.m.

Comments from Council.

Motion: Councilor Thompson moved that the last paragraph in Section II of the letter to the Arizona Corporation Commission, which begins “A previous action of the Commission,” be removed and replaced by the following paragraph: “Entering the recent settlement discussions, APS initially requested a \$15/month opt-out fee, even though the Commission had previously ruled that only a \$5 opt-out fee was justified, in Decision #74871. Leading up to that decision, the City had argued that no opt-out fee was justified. Given the evidence presented to the Commission about AMI meters prior to that decision and a comparison of the costs associated with maintaining and replacing both AMI and non-AMI meters, it remains the City’s current position that, while a \$5 opt-out fee is less of a burden on APS customers and more desirable than a \$15 opt-out fee, no opt-out fee should be charged.” Seconded by Councilor Lamkin. Vote: Motion carried with

five (5) in favor and two (2) opposed. Mayor Moriarty and Vice Mayor Martinez opposed.

Motion: Councilor Thompson moved to authorize the Mayor to sign a letter of direct testimony, as amended, to be filed in the Docket. **Seconded by Vice Mayor Martinez. Vote:** Motion carried unanimously with seven (7) in favor and zero (0) opposed.

- e. **AB 2207 Discussion/possible action regarding proposed State legislation and its potential impact on the City of Sedona.**

Presentation by Robert Pickels, Jr.

Questions and comments from Council.

Presentation and discussion only. No action taken.

- f. **Reports/discussion on Council assignments – None.**
- g. **Discussion/possible action on future meeting/agenda items**

Councilor Jablow asked for an agenda item on the impacts of short term rentals, and Vice Mayor Martinez supported this request. Mayor Moriarty asked for a presentation and discussion on audits with Cherie Wright, and Councilor Lamkin supported this request.

9. Executive Session

Upon a public majority vote of the members constituting a quorum, the Council may hold an Executive Session that is not open to the public for the following purposes:

- a. **To consult with legal counsel for advice on matters listed on this agenda per A.R.S. § 38-431.03(A)(3).**
- b. **Return to open session. Discussion/possible action on executive session items.**

No Executive Session was held.

10. Adjournment

Mayor Moriarty adjourned the meeting at 8:59 p.m. without objection.

I certify that the above are the true and correct actions of the Regular City Council Meeting held on April 11, 2017.

Susan L. Irvine, CMC, City Clerk

Date

**Action Minutes
Special City Council Meeting
City Council Chambers, Sedona City Hall,
102 Roadrunner Drive, Sedona, Arizona
Wednesday, April 12, 2017, 3:00 p.m.**

1. Call to Order/Pledge of Allegiance/Moment of Silence

Mayor Moriarty called the meeting to order at 3:00 p.m.

2. Roll Call

Roll Call: Mayor Sandy Moriarty, Vice Mayor Martinez, Councilor John Currivan, Councilor Scott Jablow, Councilor Tom Lamkin, Councilor Jon Thompson, Councilor Joe Vernier.

Staff Present: City Manager Justin Clifton, Assistant City Manager Karen Osburn, City Attorney Robert Pickels Jr., Engineering Supervisor Stephen Craver, Deputy City Clerk JoAnne Cook.

3. Special Business

a. AB 2147 Discussion/possible direction regarding the next steps toward development of possible alternatives, strategies, and recommended improvements as part of the Transportation Master Plan Project.

Introduction by Justin Clifton. Presentation by Justin Clifton, Karen Osburn, and Stephen Craver.

Questions and comments from Council.

Opened to the public at 4:50 p.m.

Dan Marrelli, Sedona, spoke on this item.

Brought back to Council at 4:52 p.m.

Questions and comments from Council.

By consensus, Council directed staff to continue moving forward with the study.

b. Discussion/possible action on future meeting/agenda items - None.

4. Executive Session

Upon a public majority vote of the members constituting a quorum, the Council may hold an Executive Session that is not open to the public for the following purposes:

a. To consult with legal counsel for advice on matters listed on this agenda per A.R.S. § 38-431.03(A)(3).

b. Return to open session. Discussion/possible action on executive session items.

No Executive Session was held.

5. Adjournment

Mayor Moriarty adjourned the meeting at 4:52 p.m. without objection.

I certify that the above are the true and correct actions of the Special City Council Meeting held on April 12, 2017.

JoAnne Cook, Deputy City Clerk

Date



**CITY COUNCIL
AGENDA BILL**

**AB 2224
April 25, 2017
Consent Items**

Agenda Item: 3d

Proposed Action & Subject: Approval of award of a contract to American Ramp Company in the approximate amount of \$115,407.71 for construction of the Posse Grounds Bike Skills Park Phase II Project subject to legal review.

Department	Public Works
Time to Present	N/A
Total Time for Item	
Other Council Meetings	June 25, 2013, October 8, 2013, February 9, 2016
Exhibits	A. Contract B. Project Map

City Attorney Approval	Reviewed 4/17/17 RLP	Expenditure Required	
		\$ 115,407.71	
City Manager's Recommendation	Approve an award of contract to American Ramp Company for construction of the Bike Skills Park Phase II.	Amount Budgeted	
		\$ 104,000.00	
		\$ 15,600.00	
		Account No. (Description)	36-5242-89-6857 (Bike Skills Park)
		Account No. (Description)	22-5242-89-6857 (Bike Skills Park)
		Finance Approval	<input checked="" type="checkbox"/>

SUMMARY STATEMENT

Staff is requesting approval of a contract with American Ramp Company (ARC) doing business as Progressive Bike Ramps (PBR), in the approximate amount of \$115,407.71, for construction of Posse Grounds Bike Skills Park Phase II. This project will be the second phase of the Bike Skills Park and will include construction of the most desired feature, the Dual Slalom Trail.



Information Kiosk at Main Entrance



<http://www.sedonaaz.gov/your-government/departments/parks-recreation/city-parks/bike-skills-park>

Background: At the June 25, 2013 meeting, Council agreed by majority consensus that the concept of a Bike Skills Park at Posse Grounds had merit and should be investigated further. Council also requested that the concept be brought back to a future meeting with a more concrete plan.

At the October 8, 2013 meeting City staff provided information requested by Council from the previous meeting. Council directed staff to work with the bike community/user groups on the design of the bike skills park with the cost to be covered by the bike community/bike park users.

After the design funds were raised by the bike community, Stantec, in conjunction with the International Mountain Bicycling Association, began design of the park, and completed this design in September 2015.



Construction of the first phase of the Posse Grounds Bike Skills Park, including the Pump Park (above left), Wildcat Flow Trail, and Vortex Tech Flow Trail (above right), was approved by Council at the February 9, 2016 meeting and was completed in April 2016. The user feedback for the park has been very positive. The bicycle community has developed an active core group of volunteers that have taken the lead on track maintenance along with the local bicycle community and bicycle shops.

American Ramp Company has completed a number of bike park projects throughout the country, and they are currently working on two projects in Arizona. ARC has the appropriate contractor's license in Arizona for this type of work. ARC is highly recommended by folks within the bicycle community and their past clients.

This contract with ARC was acquired through the National Joint Powers Alliance (NJPA), cooperative contract program, of which the City of Sedona is a member. ARC was awarded a competitively bid contract through NJPA. City staff acquired other bids for this work and find PBR's bid and their experience to be a better fit for this project. Other bids were higher and the other contractors did not have the level of experience ARC has with this type of work.

This project will be the second phase of the Bike Skills Park and will include construction of the desired feature, the Dual Slalom Trail. The Tot Loop is another highly desired feature. It is not included in the proposed contract amount, but can be included as additional alternate #1 at a cost of \$11,400. The project is anticipated to start in early May and be complete by mid-June.

Community Plan Consistent: Yes - No - Not Applicable

Chapter 2 Vision:

- Sedona is a community that nurtures connections between people, *encourages healthy and active lifestyles*, and supports a diverse and prosperous economy, with priority given to the *protection of the environment*.

Chapter 5 Environment:

- Promote environmentally responsible building and design.

Chapter 6 Parks, Recreation & Open Space:

- Ensure the protection of the environment while providing for responsible outdoor recreation.
- Provide activities and amenities that allow for community interactions and encourage active and healthy lifestyles.

Board/Commission Recommendation: Applicable - Not Applicable

Alternative(s):

- 1) Advertise the project through a public bid process and risk awarding to an unqualified contractor.
- 2) Award the Additional Alternate #1, the Tot Loop in the amount of \$11,400. This will exceed the current budget for the Phase II construction by \$7,200.

MOTION

I move to: approve award of a contract to American Ramp Company in the amount of \$115,407.71 for construction of the Posse Grounds Park Bike Skills Park Phase II Project subject to legal review.

THIS PAGE INTENTIONALLY LEFT BLANK.

CONTRACT

THIS CONTRACT, made and entered into this _____ day of _____, **2017** by and between the City of Sedona, Arizona, hereinafter called the "Owner", and **American Ramp Company dba. Progressive Bike Ramps** Herein after called the "Contractor".

WITNESSETH:

WHEREAS, the City has caused Contract Documents to be prepared for the construction of the **Posse Grounds Bike Skills Park Phase II Project**, City of Sedona, Arizona, as described therein; and

WHEREAS, the Contractor has offered to perform the proposed work in accordance with the terms of the Contract; and

WHEREAS, the Contractor, as will appear by reference to the minutes of the proceedings of the City Council was duly awarded the work.

NOW, THEREFORE, the parties hereto hereby stipulate, covenant and agree as follows:

1. The Contractor promises and agrees to and with the City that it shall perform everything required to be performed and shall provide and furnish all the labor, materials, necessary tools, expendable equipment, and all utility and transportation services required to perform and complete in a workmanlike manner all of the work required in connection with construction of **Posse Grounds Bike Skills Park Phase II Project** all in strict accordance with the Specifications and Drawings, including any and all Addenda, and in strict compliance with the Contractor's Proposal and all other Contract Documents, which are a part of the Contract; and the Contractor shall do everything required by this Contract and the other documents constituting a part thereof.
2. The Contractor agrees to perform all of the work described above in accordance with the Contract Documents and comply with the terms therein for the initial estimated Contract price of **\$115,407.71**, subject to increase or decrease in accordance with the Contract Documents, and the Bid Schedule set forth therein; and the City agrees to pay the Contract Prices in accordance with the Bid Schedule for the performance of the work described herein in accordance with the Contract Documents.
3. The Contractor and the City agree that the terms, conditions, and covenants of the Contract are set forth in the Contract Documents including all specifications, and the Drawings Sheets 1 through 37, all defined as the Contract Documents, and by this reference made a part hereof as if fully set forth herein.
4. The Contractor and the City agree that each will be bound by all terms and conditions of all of the Plans and Technical Specifications, and Contract Documents, as if the same were fully set forth herein, and hereby incorporate all of the foregoing into this Agreement.

5. The Contractor shall abide by all the laws of the United States of America, State of Arizona, Coconino/Yavapai Counties, and the City of Sedona.
6. The Contractor shall carry Workmen's Compensation Insurance and require all Subcontractors to carry Workmen's Compensation Insurance as required by the Law of the State of Arizona, and all other insurance as set forth in the General Conditions.
7. Work under this Contract shall commence on the date specified in the written Notice to Proceed from the City to the Contractor. Upon receipt of said Notice, the Contractor shall diligently and continuously prosecute and complete all work under this Contract within the time specified in the Advertisement for Bids and as said Advertisement may have been amended by issued addendum.
8. The Contract Document consist of the following component parts, all of which are a part of this Contract whether herein set out verbatim, or attached hereto:

Information for and Instructions to Bidders
Bid Proposal and Bid Guaranty Bond
Contract (this document)
Change Orders
Addenda
Performance Bond, Labor and Material Payment Bond
Special Conditions
General Conditions
Technical Specifications
Notice of Award
Notice to Proceed
Plans and Drawings
Design Reports (including Geotech Report)
Standard Specifications
Insurance Certificates

The above named documents are essential parts of the Contract, and a requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for a complete work. In case of discrepancy, the order of precedence is as follows:

1. Change Orders
2. Contract (this document), including addenda
3. Payment and Performance Bonds
4. Information for and Instructions to Bidders
5. Notice of Award
6. Notice to Proceed
7. Special Conditions
8. Bid Proposal
9. Technical Specifications
10. Plans and Drawings

11. General Conditions
12. Bid Guaranty Bond
13. Standard Specifications
14. NJPA Contract

In the event there is a conflict between any of the above listed documents, the provision of the document with the lower numerical value shall govern those documents with a higher numerical value. Within a category, the last in time is first in precedence.

The Contractor shall not take advantage of any apparent error or omission in the Plans or Specifications. In the event the Contractor discovers such an error or omission, he shall immediately notify the Owner. The City will then make such corrections and interpretations as may be deemed necessary for fulfilling the intent of the Plans and Specifications.

9. As part of the inducement for City to enter into this Agreement, Contractor makes the following representations:
 - A. Contractor has familiarized himself with the nature and extent of the Contract Documents, work, locality, and with all local conditions and federal, state and local laws, ordinances, rules and regulations that in any manner may affect cost, progress, or performance of the work.
 - B. Contractor has studied carefully all reports of investigations and tests of subsurface and latent physical conditions at the site or those reports that otherwise may affect cost, progress or performance of the work, which were utilized by Design Engineer in the preparation of the Drawings and Specifications and which have been identified in the Contract Documents.
 - C. Contractor has made or caused to be made examinations, investigations and tests, and studies of such reports and related data as he deems necessary for the performance of the work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports or similar data are or will be required by Contractor for such purposes.
 - D. Contractor has correlated the results of all such observations, examinations, investigations, tests, reports and data with the terms and conditions of the Contract Documents.
 - E. **Contractor has given the City Engineer written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents** and the written resolution thereof by City Engineer is acceptable to Contractor.
 - F. Contractor has attended mandatory pre-bid meetings and walk-throughs.
10. A. No assignment by a party hereto of any rights under or interest in the Contract Documents will be binding on another party hereto without the written consent

of the party sought to be bound; and specifically but without limitation, monies that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

- B. City and Contractor each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, and its partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.
 - C. Pursuant to Arizona Revised Statutes Section 38-511, the provisions of which are incorporated by reference as if fully set forth herein, all parties are hereby given notice that this Agreement is subject to cancellation by the City if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract or Contract Documents on behalf of the City is, at any time while the Contract or Contract Document or any extension thereof is in effect, an employee or agent of any other party to the Contract or Contract Documents in any capacity or a consultant to any other party to the Contract or Contract Documents with respect to the subject matter of the Contract or Contract Documents.
11. During the performance of this Agreement, Contractor may also be under contract with the City for performance of work on other projects. A breach in the performance of any of Contractor's obligations under this Agreement shall constitute a breach of Contractor's obligations under any other agreement with the City and the breach by Contractor under other agreement with the City shall also constitute a breach of Contractor's obligations under this Agreement. The City may offset any amounts owed by Contractor under any such other agreement from any amounts owed to Contractor under this Agreement.
12. The Contract Documents constitute the entire Agreement between the parties.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in triplicate (3) each of which shall be deemed an original on the date first above written.

CITY: City of Sedona, Arizona

BY: _____

NAME: _____

(please print)

TITLE: _____

(SEAL)

ATTEST:

BY: _____

NAME: _____

(please print)

CONTRACTOR: American Ramp Company, Inc. (ARC) doing business as Progressive Bike Ramps (PBR)

BY: _____

NAME: _____

(please print)

TITLE: _____

(SEAL)

ATTEST:

BY: _____

NAME: _____

(please print)

APPROVED AS TO LEGAL FORM:

BY: _____

(City Attorney)

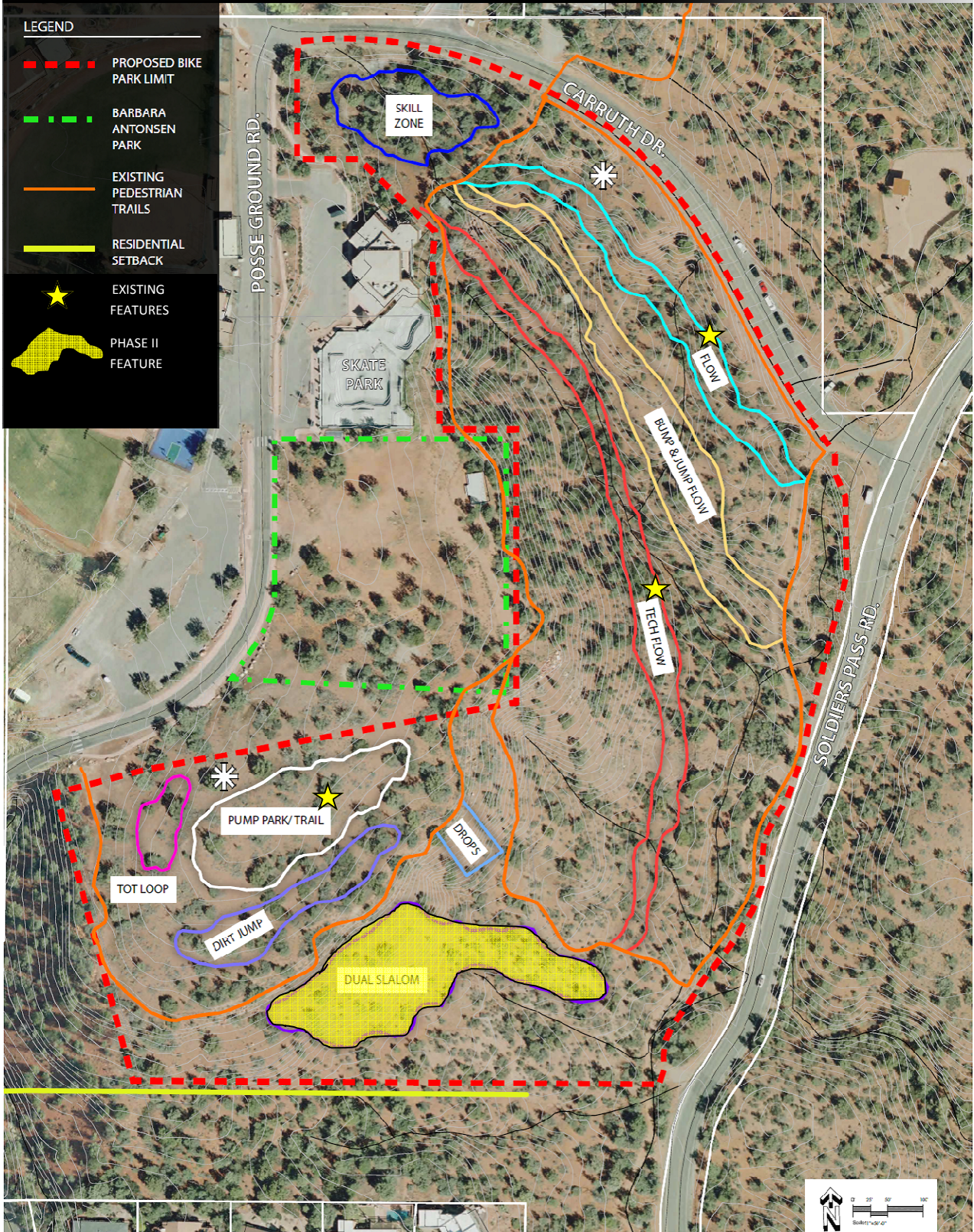
DATE: _____

POSSE GROUNDS PARK BIKE PARK

CITY OF SEDONA, AZ

LEGEND

- - - PROPOSED BIKE PARK LIMIT
- - - BARBARA ANTONSEN PARK
- EXISTING PEDESTRIAN TRAILS
- RESIDENTIAL SETBACK
- ★ EXISTING FEATURES
- PHASE II FEATURE



BIKE PARK CONCEPT B



3001 Bee Caves Rd, Suite 300 Austin, TX 78746
 (Phone) 512.867.6000 (Fax) 512.867.6001
 Stantec.com

THIS PAGE INTENTIONALLY LEFT BLANK.



**CITY COUNCIL
AGENDA BILL**

**AB 2231
April 25, 2017
Consent Items**

Agenda Item: 3e

Proposed Action & Subject: Approval of a Settlement Agreement between the City of Sedona, Sun Edison Government Solutions, LLC, Sun Edison Originations3, LLC, SUNE D14 MISC-A Holdings, LLC and SE DLL Solar Trust in the matter of Sedona vs. Sun Edison, et al., Yavapai County Case No. V1300-CV201680361.

Department	Legal
Time to Present	N/A
Total Time for Item	N/A
Other Council Meetings	N/A
Exhibits	A. Settlement Agreement

City Attorney Approval	Reviewed 4/20/17 RLP	Expenditure Required
		\$ 0
City Manager's Recommendation	Approve the Settlement Agreement.	Amount Budgeted
		\$ 0
		Account No. N/A (Description)
		Finance Approval <input checked="" type="checkbox"/>

SUMMARY STATEMENT

Background:

In 2011, the City of Sedona solicited proposals for the construction/installation of a solar photovoltaic electric generating system ("system") and power purchase agreement. Sun Edison was the successful bidder and was awarded a contract pursuant to the Request for Proposals (RFP).

Although it was represented by Sun Edison that the City would realize significant savings as a result of the construction and deployment of the system, the City actually experienced higher electricity costs that it otherwise would have under a traditional service through Arizona Public Service.

Failed attempts to recover the difference in cost between what the City expected and what it ultimately realized lead to the filing of a lawsuit by the City against the various Sun Edison entities involved in preparation of the RFP. Settlement negotiations have been ongoing since

the filing of the lawsuit. The resulting Settlement Agreement is now before the Council for approval.

Community Plan Consistent: Yes - No - Not Applicable

Board/Commission Recommendation: Applicable - Not Applicable

Alternative(s):

MOTION

I move to: approve the Settlement Agreement between the City of Sedona, Sun Edison Government Solutions, LLC, Sun Edison Originations3, LLC, SUNE D14 MISC-A Holdings, LLC and SE DLL Solar Trust in the matter of Sedona vs. Sun Edison, et al., Yavapai County Case No. V1300-CV201680361.



**CITY COUNCIL
AGENDA BILL**

**AB 2223
April 25, 2017
Regular Business**

Agenda Item: 8a
Proposed Action & Subject: Discussion with Northern Arizona Council of Governments (NACOG) representatives Jason Kelly on transportation matters and Teri Drew on economic development matters.

Department	City Council
Time to Present	20 minutes
Total Time for Item	45 minutes
Other Council Meetings	N/A
Exhibits	None

City Attorney Approval	Reviewed 4/17/17 RLP	Expenditure Required	\$ 0
City Manager's Recommendation	For presentation and discussion only.	Amount Budgeted	\$ 0
		Account No. (Description)	N/A
		Finance Approval	<input checked="" type="checkbox"/>

Background: The City partners with NACOG on issues with community and economic development, transportation, and grant funding. The Council requested a presentation and update from NACOG. Jason Kelly will present on transportation matters and Teri Drew will present on economic development matters.

Community Plan Compliant: Yes - No - Not Applicable

Board/Commission Recommendation: Applicable - Not Applicable

Alternative(s): None.

MOTION

I move to: presentation and discussion only. No action required.

THIS PAGE INTENTIONALLY LEFT BLANK.



**CITY COUNCIL
AGENDA BILL**

**AB 2227
April 25, 2017
Regular Business**

Agenda Item: 8b

Proposed Action & Subject: Discussion regarding the renewal of service contracts between the City and the Sedona Community Center, Sedona Humane Society, Sedona Public Library, Sedona Recycles, and Verde Valley Caregivers.

Department City Manager's Office

Time to Present 20 minutes

Total Time for Item 90 minutes

Other Council Meetings N/A

Exhibits
A. Individual funding requests are available by request or for review in the City Clerk's or City Manager's Offices
B. Service Contracts Evaluation Criteria

City Attorney Approval	Reviewed 4/17/17 RLP	Expenditure Required
		\$ 0
City Manager's Recommendation	Discuss service contracts for Sedona Community Center, Sedona Humane Society, Sedona Public Library, Sedona Recycles, and Verde Valley Caregivers.	Amount Budgeted
		\$ 0
		Account No. N/A (Description)
		Finance <input checked="" type="checkbox"/> Approval

SUMMARY STATEMENT

Background: For more than twenty years, various community organizations have received funding from the City through service contracts. Some of these help fund services the City does not provide but might otherwise provide in the absence of that community organization, and others are simply intended to provide additional public benefit.

In order to be considered for a service contract renewal for Fiscal Year 2018, organizations with existing contracts were required to submit a new funding request. The organizations were asked to provide information about their financial condition, program and service levels, performance data, and other justification for their request. Funding requests were due back to the City by March 27, 2017.

A Service Contract Review Committee made up of most of the same members of the City's Citizen Budget Work Group, including Vice Mayor John Martinez, and Citizen Volunteers Doris Granatowski, Lou Harper, Charlotte Hosseini, Holli Ploog, and Jessica Williamson, reviewed each application and held individual meetings with each of the service contract organizations. These one-on-one meetings provided an opportunity for Committee members

to ask questions and helped the Committee better understand the goals, challenges, and achievements of each organization, as well as their overall funding requests. The evaluation criteria used by the Committee to judge the requests is attached as Exhibit B.

The following table includes the last two years funding amounts for each organization as well as the FY18 funding request and the FY18 funding levels recommended by the Committee. These are being presented and discussed at this meeting in anticipation of City Council Budget Work Sessions on April 26th and 27th. It is hoped that this conversation will provide the context and information that the City Council will need as they deliberate over the final funding decisions during the budget work sessions. During the work sessions these requests will be considered in light of both the Committee’s recommendations and the other FY18 City budget requests.

Committee Recommendations:

Organization	FY 2016 Funding	FY 2017 Funding	FY 2018 Requested Funding	FY 2018 Committee Recommend
Sedona Community Center	\$162,080	\$164,997	\$165,000	\$165,000
Sedona Humane Society	\$48,118	\$48,678	\$57,000	\$49,895
Sedona Public Library	\$386,966	\$393,932	\$656,160	\$493,932
Sedona Recycles	\$53,183	\$72,000	\$82,875	\$82,875
Verde Valley Caregivers	\$25,000	\$25,450	\$35,000	\$35,000
<i>Totals</i>	\$675,347	\$705,057	\$996,035	\$826,702

Should the City Council concur with the Committee’s recommendations the total funding increase for all agencies from FY17 to FY18 would equal \$121,645, or a 17.3% increase.

The following provides a summary of the Committee’s recommendations and reasoning:

Sedona Community Center

The Sedona Community Center did not request a funding increase. The Committee recommended continuing funding SCC at current levels of \$165,000 and entering into a new 3-year contract.

Sedona Humane Society

Per the request of the Humane Society Executive Director, the Committee is recommending a one-year contract. This request was made due to a lack of sufficient data for service levels, including number of animals housed, and budget information such as cost figures for the various Humane Society programs and services. Without this information, it was difficult for either the Humane Society or the Review Committee to determine what would be the most appropriate level of City support.

The new Executive Director implemented a new software program on January 1, 2017 that will better track performance metrics and expenditures and revenues. One year from now the Humane Society will have one full year of data which will allow the Humane Society to make a better informed funding request. This will help the Committee, and ultimately the City Council, to better evaluate the request and determine the most appropriate funding amount.

The Committee recommends funding the Humane Society at the current FY17 level, with an inflationary escalator of 2.5% (Western States CPI for calendar year 2017), and revisiting this again in one year. That makes the FY18 funding recommendation \$49,895.

Sedona Public Library

Despite a much larger request from the Library, the Committee supported a funding increase of \$100,000 annually, and a three-year contract, to help increase library programs and service levels for the community. The Committee recognized the benefit of having a non-profit organization operate the library and the lower cost burden to the City under this model, rather than if it was a municipally owned and operated library. The group supports the Library's desire to expand programs and services but given all of the other competing City service priorities could not justify an additional \$262,000 annually or almost 66% increase in one year. They felt that a \$100,000 increase, which is about a 25 percent increase over current year funding, reflected the high level of Committee support given the many priorities of the City. This additional funding will still allow the Library to expand some programs and services. Those specific expansions would be up to the Library's discretion.

If the City funded the recommended \$100,000 annual increase for FY18, the City would be funding approximately 35% of the organization's total operations. Neighboring jurisdictions of Camp Verde, Cottonwood, and Clarkdale fund approximately 83%, 85%, and 47% of their city and town libraries annual operations respectively, as they are city and town libraries not non-profit models.

Sedona Recycles

The Committee expressed concern about Sedona Recycles' ability to sustain long-term financial viability based on their current business model. The Committee pointed to Sedona Recycles' limited reserves, lack of equipment replacement funding, and reduced work hours for full-time staff over the last few years as indicators that their current model is not financially viable or sustainable.

As a result the Committee recommended that the City renew the contract for only one-year at the requested amount of \$82,875 pending a full review and development of a strategic business plan moving forward. The development of a strategic plan was something Sedona Recycles indicated during the interview that it intended to do. In twelve months, once that strategic planning was completed, the Committee would reevaluate the contract funding and term. Further, one of the Committee members has identified a citizen volunteer, with extensive experience in strategic planning, who is willing to assist with such an effort should the Sedona Recycles Board wish to engage her.

Verde Valley Caregivers

The Committee recommended a 3-year contract funded at the full request of \$35,000. Committee members cited the small contribution relative to Verde Valley Caregivers total budget. At \$35,000, the City would be funding approximately 6% of the total annual operating budget.

Contract Terms

As was done in FY15, the Committee is recommending a three-year contract term except for the two organizations cited above. This is due to the projected stability of the City's forecasted revenues over the next three years, the long-term ongoing relationships with each

of the organizations, and the proven performance of those organizations in providing the contracted services.

As was done between FY15 and FY17, inflationary escalators would be added to the contract amount at the beginning of each fiscal year using the Bureau of Labor Statistics CPI-U for the West Region (for the previous 12-month period ending December of the prior year), capped at 5% annually to insulate the City from risk of inflation increasing significantly beyond our forecasted assumptions during that time frame.

All contracts would still have language that makes annual funding contingent on the availability of funds as provided in the City's annual budget, and the ultimate realization of budgeted revenues being received by the City. This gives the City the ability to modify annual funding amounts at any time should availability of City funds be an issue.

This item is for information and discussion only. Council will be able to provide direction on FY18 funding levels for each organization during the April 26 and 27 budget work sessions.

Community Plan Compliant: Yes - No - Not Applicable

Board/Commission Recommendation: Applicable - Not Applicable

Alternative(s): The City could provide these services, reduce or increase funding for any of the services, or elect not to fund any of the services.

MOTION

I move to: for information and discussion only.

Service Contract Evaluation Criteria

Rating Scale of 1-5, 1 = low, 5 = high

- A. Meets a public service or benefit per the General Criteria for Service Contract Funding
 - 1. Provides documented benefits to City of Sedona Residents:
 - a. Direct public benefits as opposed to an indirect or remote benefit,
 - b. Programs and services that promote public health, safety, general welfare, prosperity or contentment, and,
 - c. Equal and open access to all members of the community with no one being easily excluded.

- B. City Priority/Need
 - 1. Funding request is in line with the Community Plan and City Council's Priorities

- C. Community Impact
 - 1. Breadth and depth of reach into community
 - 2. How well is target population identified
 - 3. How well is target population served

- D. Organizations' Administrative Capacity
 - 1. Capacity- Can the organization able to accomplish their goals with the staff/volunteers they have?
 - 2. Mix of employees and volunteers
 - 3. Leadership/management depth
 - 4. Board of Directors

- E. Financial Strength
 - 1. Ability and active pursuit to generate other revenue streams
 - 2. Cash reserves- reasonableness of reserves for this type of organization (too much? too low?, just right?)
 - 3. Financial sustainability
 - 4. Overall strength of financial statement

- F. Performance Indicators
 - 1. Provided specific measurements against objectives
 - 2. How appropriate and adequate are the tools used to measure performance?
 - 3. Quantitative and qualitative analysis

- G. Financial Need
 - 1. Does organization have other sources of revenue?
 - 2. Percentage of City funding for program vs. outside funding
 - 3. Adequately demonstrate need for monetary assistance
 - 4. Is City funding essential to provide the service/program?

- H. Overall recommendation
 - 1. This is a subjective rating of the reviewer's impression as to whether the City should fund the organization

THIS PAGE INTENTIONALLY LEFT BLANK.



**CITY COUNCIL
AGENDA BILL**

**AB 2228
April 25, 2017
Regular Business**

Agenda Item: 8c
Proposed Action & Subject: Discussion/possible direction on the process for selection of a Magistrate Judge.

Department	City Manager
Time to Present	10 minutes
Total Time for Item	45 minutes
Other Council Meetings	N/A
Exhibits	<ul style="list-style-type: none"> A. Magistrate Job Description B. Magistrate Job Brochure C. Draft Interview Questions D. AOC Municipal Court Governance Roles & Responsibilities E. City Code Chapters 2.45 & 2.70

City Attorney Approval	Reviewed 4/17/17 RLP	Expenditure Required
		\$ 0
City Manager's Recommendation	Provide direction to staff regarding the selection process for a Magistrate Judge.	Amount Budgeted
		\$ 0
		Account No. N/A (Description)
		Finance <input checked="" type="checkbox"/> Approval

SUMMARY STATEMENT

This agenda item is an opportunity to reach majority consensus and provide direction to staff on the upcoming Magistrate Judge appointment. The position has already been posted using a previously created job description and brochure, which are included for reference. Also included with this agenda bill is a list of draft interview questions and a Municipal Court Governance Roles & Responsibilities document issued by the Administrative Office of the Courts (AOC).

Background:

The City Council is responsible for appointing three positions: the City Manager, the City Attorney and the Magistrate Judge. The Magistrate Judge is a unique position in that it has a higher degree of independence than the two other positions. Independence is necessary to ensure the court is free from political pressure and can operate in a neutral, objective fashion. The City Council is responsible for creating a court and appointing the judge. However, the Arizona Supreme Court has established precedent that the municipal courts are also part of the state judicial department. The enclosed Municipal Court Governance

Roles & Responsibilities helps clarify the basic parameters by which the City Council oversees the court. The related sections of City code are also included for reference. The interview and selection process should be organized consistent with these parameters.

Community Plan Consistent: Yes - No - Not Applicable

Board/Commission Recommendation: Applicable - Not Applicable

Alternative(s):

MOTION

I move to: for discussion and direction only.



Range: SM-4
FLSA: Exempt
Date: April 11, 2017

MAGISTRATE JUDGE

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

To serve as presiding officer of the Magistrate Court and to perform adjudication of petitions for protective orders, violations of Arizona traffic and criminal laws, the charter and municipal ordinances of the City of Sedona, in compliance with the Constitution, Supreme Court rules of procedure, rules of evidence, administrative rules and regulations of the Arizona Supreme Court and the charter and ordinances of the City.

SUPERVISION RECEIVED AND EXERCISED

Appointed and reviewed by authorization of City Council.
Receives policy direction from the Arizona Supreme Court and supervision by the Presiding Judge of the Yavapai County Superior Court.
Exercises direct supervision over technical and clerical court staff.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS--*Essential and other important responsibilities and duties may include, but are not limited to, the following:*

Essential Functions:

1. Submit all reports required by the constitution and the laws of the state, City code, and ordinances of the City; and report the activities of the magistrate court as required by the City Council.
2. ~~Prepare and maintain court dockets and calendars.~~
3. ~~Perform court room duties; record proceedings including parties of the case, w~~itness testimony, court actions and motions made and the rulings thereon; receive and maintain exhibits entered into court as evidence; prepare and oversee distribution of minute entries and orders.
4. Swear in juries, witnesses and other proceeding participants.
5. Take custody of ~~, mark, and maintain~~ written records of all exhibits entered into evidence.
6. Compile and prepare case files, records, and supporting documents for court action; review case files and materials for completeness prior to court proceedings; file and enter docket pleadings and documents in court files.
7. Prepare a variety of legal documents including court judgments, convictions, trial notices, subpoenas, warrants, and bond releases.

~~8. Receive, record, and issue receipts for fees, bail, and fines; prepare bank deposits and fiscal reports.~~

- ~~9-8.~~ Receive and process a variety of legal documents reviewing them for completeness, timeliness, and compliance with legal mandates.
- ~~10-9.~~ Ensure smooth and efficient operation of the Court according to City of Sedona Municipal Court Procedures and City of Sedona Employee Manual.
- ~~11-10.~~ Supervise court staff in accordance with ethical requirements, policies of the Sedona Municipal Court and the City of Sedona Employee Manual.
- ~~12-11.~~ Instruct and train Municipal Court staff regarding changing laws and implementation of the Local Rules of Procedure; monitors compliance with administrative orders of the Supreme Court and Local Rules of Procedure.
- ~~13-12.~~ Review number and types of cases scheduled for upcoming arraignment and trial sessions on an ongoing basis; direct rescheduling of docket for most efficient court sessions.
- ~~14-13.~~ Respond to requests for information regarding court processes, procedures, and regulations to litigants, attorneys, the staff of other agencies, and members of the general public.
- ~~15-14.~~ Ensure necessary training and other technical support for building an environment that encourages teams and continuous improvement.
- ~~16-15.~~ Maintain or perform website content function within assigned role.
- ~~17-16.~~ Perform related duties and responsibilities as required.

QUALIFICATIONS

Knowledge of:

- Principles of practices of public law.
- Methods and techniques of legal research.
- Procedural rules and regulations of a municipal court, and federal and state agencies.
- Management skills to analyze programs, policies and operational needs.
- Office procedures, methods, and computer equipment.
- Business letter writing and basic report preparation.
- Principles and procedures of record keeping.
- Pertinent federal, state and local laws, codes and regulations.

Ability to:

- Organize, interpret and apply legal principles.
- Clearly and logically present statements of law and fact.
- Properly interpret and make decisions in accordance with laws.
- Conduct research on complex legal problems and prepare legal opinions.
- Lead and direct the court proceedings.
- Correctly interpret and apply court related policies and procedures.
- Maintain awareness of new federal and state laws.
- Analyze problems, identify alternative solutions, project consequences of proposed actions and implement recommendations in support of goals.
- Perform responsible and difficult work involving the use of independent judgment and personal initiative.
- Interpret and apply federal, state and local policies, laws and regulations.
- Communicate clearly and concisely, both orally and in writing.
- Establish and maintain effective working relationships with those contacted in the course of work.

- Maintain effective audio/visual discrimination and perception to the degree necessary for the successful performance of assigned duties.
- Work in organized team efforts and assist in problem solving work related issues for continuous improvement in work efforts.
- Encourage and facilitate environment for building team efforts and problem solving of work related issues by employees.
- Ensure necessary training and other technical support for building an environment that encourages teams and continuous improvement.
- Maintain mental capacity, which allows for the capability of making sound decisions and demonstrating intellectual capability.
- Maintain physical condition appropriate to the performance of assigned duties and responsibilities.

EXPERIENCE AND TRAINING GUIDELINES

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Five years of increasingly responsible experience in the criminal justice system, including three years of administrative responsibility.

Training:

Bachelor's degree in one of the following areas: public administration, political science, criminal justice, or a related field. Law degree and previous judicial experience is preferred.

Upon appointment, if no prior Arizona judicial experience, must attend and complete the first available Orientation for Judges of the Limited Jurisdiction Program (conducted by the Arizona Supreme Court). Additionally, must attend the required annual Arizona Judicial Conference and must complete sixteen hours of legal training including not less than eight hours in ethics, and legal update classes.

WORKING CONDITIONS

Environmental Conditions:

Office and front counter environment, utilizing computer.

Physical Conditions:

Essential and other responsibilities and duties may require maintaining physical condition necessary for sitting or standing for prolonged periods of time and working closely with others; general manual dexterity.

THIS PAGE INTENTIONALLY LEFT BLANK.



invites your
interest
in the
part-time
position of

MAGISTRATE JUDGE

Closing Date: May 3, 2017

THE POSITION

The City of Sedona's Magistrate Judge serves as presiding officer of the City Court. The Judge performs adjudication of petitions for protective orders, violations of Arizona traffic and criminal laws, the charter and municipal ordinances of the City of Sedona, in compliance with the Constitution, Supreme Court rules of procedure, rules of evidence, administrative rules and regulations of the Arizona Supreme Court and the charter and ordinances of the City.

The City is seeking a strong, hands-on leader with solid legal ethics and integrity. The Judge must have the ability to focus on personnel management, teamwork, respond timely to staffing issues, and have excellent internal communication abilities.

The Judge will be approachable, positive, and capable of working in a collaborative manner with their team and other departments. Additionally, the Judge will have a personality style that is comfortable in a small municipality.

OUR MISSION

The mission of the Sedona Municipal Court is to serve the community and to protect individual rights through the administration of justice.

We pledge to serve each member of our community promptly with honesty, fairness, and integrity.

THE DEPARTMENT

The Sedona Municipal Court is the judicial branch of Sedona city government and is also a part of the State of Arizona court system.



The types of offenses that are heard in the Sedona Municipal

Court include misdemeanor criminal violations, criminal and civil traffic offenses, parking violations and City Code violations, both criminal and civil. The Court also handles Orders of Protection and Injunctions Against Harassment.

The Sedona City Court offices contain one Magistrate Judge, one Court Administrator, and two Court Clerks.

The Sedona Municipal Court does not handle small claims actions. For small claims cases, citizens must contact the Verde Valley Justice Court in Cottonwood.

THE ORGANIZATION

The City of Sedona operates under the Manager-Council form of government with six Council Members and one elected Mayor. The Council appoints the City Manager, who is responsible for carrying out policy enacted by the Council, and overseeing administration of the City.

Sedona currently has a staff of 125 full-time equivalent employees; City departments include the City Manager, City Attorney, City Clerk, Community Development, Economic Development, Public Works, Finance, Human Resources, Information Technology, Magistrate Court, Parks and Recreation, Police, and Wastewater (special districts provide fire services and water).

The City enjoys a high degree of public involvement and collaboration on its boards, commissions, and advisory groups within the City. Citizens are active and engaged in Sedona's civic life.



*The City of Sedona is the 8th
safest city in the state of Arizona.*

— FBI 2016 Crime Reports

EXPERIENCE and EDUCATION

The ideal candidate will have at least five years of increasingly responsible experience in the criminal justice system, including three years of administrative responsibility.

Candidates must have a Bachelor's degree in one of the following areas: public administration, political science, criminal justice, or a related field. Law degree and previous judicial experience is preferred.

Upon appointment, if no prior Arizona judicial experience, must attend and complete the first available Orientation for Judges of the Limited Jurisdiction Program (conducted by the Arizona Supreme Court). Additionally, must attend the required annual Arizona Judicial Conference and must complete sixteen hours of legal training including not less than eight hours in ethics, and legal update classes.

CANDIDATE PROFILE

The ideal candidate is a skilled professional with superior communication and organizational skills.

Knowledge of and experience in magistrate legal proceedings and effective office management skills are essential for this small but busy department.

Additionally, a thorough understanding of personnel management is a necessity. The ideal candidate will work well with both Court staff and City employees.

Important management strengths include the ability to make timely and informed decisions, to delegate and develop departmental staff, to remain approachable and maintain staff accountability through applicable and timely performance reviews and management systems.

The City of Sedona provides an outstanding work environment that is marked by employee excellence, and outstanding customer service. The successful candidate will bring a can-do attitude, excellent communication skills, and professionalism to the Sedona Court.

COMPENSATION and BENEFITS

The current top salary range for this part-time, 24-hour per week position is \$65,000.00. Salary placement for the top candidate will depend on experience and education.

The City of Sedona offers a competitive benefit package that includes:

- Arizona State Retirement System
- 100% City-paid health, dental and vision coverage for employee
- Substantial contributions to health, dental and vision coverage for dependents
- City provided \$50,000 group term life insurance
- Short-term disability
- Ninety-six hours of PTO time
- Pro-rate, yet generous vacation accrual
- Eleven paid holidays
- Deferred compensation – Optional IRS 457 plans
- Wellness programs
- Free on-site exercise facilities



HOW TO APPLY

To be considered for this exceptional career opportunity, submit your résumé, cover letter, a list of six work-related references (who will not be contacted without prior notice) and current salary by May 3, 2017.

Your résumé should reflect years and months of employment, beginning/ending dates as well as size of staff and budgets you have managed.

Please submit your materials electronically as one file to

HumanResources@SedonaAZ.gov

The City will select candidates to participate in an interview process in Sedona within weeks of the closing date. This recruitment is open until filled.

Deadline to Apply:

May 3, 2017

Finalist in-person interviews:

Week of May 15, 2017

All dates are approximate.

Tel: 928-203-5189 • **Fax:** 928-282-1394

E-mail: HumanResources@SedonaAZ.gov

Website: www.SedonaAZ.gov

THIS PAGE INTENTIONALLY LEFT BLANK.



Magistrate Judge INTERVIEW QUESTIONS

Date: _____

Candidate: _____ **Interviewer:** _____

1. Please tell us about yourself and your past work experience.
2. What should be the relationship between the Municipal Court, the City Manager, and the City Council? How would you deal with any potential conflicts between the three branches of government?
3. What kind of process would you use to assess the efficiency and effectiveness of court procedures?
4. What do you consider your greatest strengths? Weaknesses?
5. If you were hearing a case in which the facts as presented technically established guilt based upon the literal interpretation of a poorly worded law, but you personally felt that the law was unjust or unreasonable, how would you reconcile those factors in arriving at a ruling?
6. Municipal Court doesn't have law clerks for the judge. How would you work to understand an unfamiliar area of the law in a relatively short time?
7. What has been your greatest accomplishment in your legal career? In your personal life?
8. How would you ensure high quality customer service in Municipal Court?
9. Give us an example of a situation in which you managed or led a team and were able to create a high morale, high productivity work group. What were the keys to success?
10. What do you feel are the most important attributes required for this position?
11. What is the toughest professional challenge you have ever faced and what was the outcome?
12. Describe a situation where you had to support a legal position that conflicted with your personal beliefs? Please tell us how you handled it.
13. What is your vision for the future of our judicial system? What changes would you advocate for and why?
14. Have you ever been disciplined by the bar association or the state commission on judicial conduct?
15. SCENARIO: Your Court Administrator is on vacation and you overhear from your office the court employees raising their voices to each other. What, if anything, do you do next?

16. How would you handle a situation where either the prosecution or defense repeatedly indicates that they are not prepared to move forward in a case that has been on the docket for a long time?
17. SCENARIO: The city manager requests that you review a draft ordinance and parking enforcement policy. The purpose for the review is not to comment on the merits of the policy but rather to identify any potential conflicts or lack of clarity should the policies result in a case before the Court. What do you do?
18. Does a municipal judge play a role in ensuring that the parties are effectively represented in court? If so, how do you accomplish that?
19. Please describe a situation in which you took a controversial position that angered or offended people, and explain how you handled it.
20. What process would you generally use to determine what amount of a fine or fee is appropriate in any given case?
21. Describe your most difficult case.
22. What factors are the most relevant to be considered when determining whether or not to grant an order of protection. Which ones would you give the most weight? Why?
23. Please describe what you believe should be the nature of the relationship between the Court and the Police Department and the Court and the City Prosecutor?
24. Please describe the most challenging ethical dilemma you have encountered. How did you handle it? How would you handle ethical dilemmas on the bench?
25. Thank for your time today. Do you have any questions for us?

Municipal Court Governance Roles and Responsibilities

Contents

- A. **Supervision and Management**.....4
 - 1. City or town responsibility to maintain a municipal court.....4
 - 2. Coordination in consolidating a municipal court.....4
 - 3. Legal status of municipal courts.....4
 - 4. Relationship between the municipal court and city or town.....5
 - 5. Authority to administer the municipal court.....5
 - 6. Municipal court operational reviews and audits.....6
 - 7. Authority to set municipal court hours of operation.....6
 - 8. Authority to require the judge to attend court every business day and use attendance as a criterion for evaluating the judge’s performance.....7
 - 9. Reporting judicial misconduct8

- B. **Budget and Finances**.....8
 - 1. Responsibility for providing staff and other resources to ensure effective court operations.....8
 - 2. Preparation of the municipal court budget and requirement to follow city or town budget and finance procedures.....9
 - 3. Authority of the municipal judge to move funds between budget line items and to make fiscal-neutral staff reassignments.....9
 - 4. Authority to direct the expenditure of funds appropriated to the court through state statutes or municipal ordinances.....10
 - 5. Responsibility for collection of court fine, sanction, restitution, and bond payments.....10

6.	<u><i>Court collection of fees in addition to those expressly provided in Arizona Revised Statute § 22-404.</i></u>	11
7.	<u><i>Authority to resolve fines and civil sanctions that are determined to be uncollectible.</i></u>	11
8.	<u><i>Disposition of interest earned on funds designated for use by the court.</i></u>	11
C.	<u>Personnel</u>	11
1.	<u><i>Appointment and reappointment of municipal judges.</i></u>	11
2.	<u><i>Obligation to pay judicial salaries.</i></u>	12
3.	<u><i>Judge’s refusal/waiver of payment of the judge’s salary.</i></u>	12
4.	<u><i>Authority of the city or town to conduct performance reviews of the presiding municipal judge.</i></u>	12
5.	<u><i>Requirements for appointing a part time municipal judge.</i></u>	13
6.	<u><i>Procedures for appointing "special judicial officers" such as associate magistrates.</i></u>	13
7.	<u><i>Authority to hire, supervise, discipline, and terminate municipal court employees.</i></u>	14
8.	<u><i>Role of the city or town manager concerning the need for court personnel.</i></u>	14
9.	<u><i>Role of the city or town manager and finance department in approving travel arrangements for judges and court staff to attend compulsory educational conferences and meetings.</i></u>	15
10.	<u><i>Applicability of city or town personnel rules to employees of the municipal court.</i></u>	16
11.	<u><i>Liability for court operations and employees.</i></u>	16
12.	<u><i>Authority over employees assigned to the court on a part-time basis.</i></u>	17
D.	<u>Facilities</u>	17
1.	<u><i>Responsibility for providing facilities, staff, and other resources to ensure the safe and effective operation of the court.</i></u>	17
2.	<u><i>Use of the courtroom by the city or town for non-judicial purposes.</i></u>	18

E. <u>Records</u>	18
1. <u><i>Responsibility for maintaining municipal court records.</i></u>	18
2. <u><i>Availability of court records to city or town personnel not employed by the court.</i></u>	18

Introduction

In 1994, the Arizona Administrative Office of the Courts (AOC) developed the predecessor of this document, titled the Municipal Court Q&A, in response to questions posed by the Arizona League of Cities and Towns concerning the relationship between local governing bodies and their municipal courts. Since then, the AOC, Legal Services Office has received and responded to additional questions on this subject and produced additional versions of the Q&A that we provided to the League for comment and distribution to members. Recently, AOC staff worked with a committee of judges and court administrators to address suggested changes, expand, reformat, and reorganize the Q&A to produce the current municipal court document.

This document is provided as guidance to judges, court staff, and city officials to assist in resolving the most common issues involving the relationship between the municipal court and other branches of city or town government. It does not address all the issues that may arise and the answers given may not apply in every situation, but it is designed to provide some clarification about respective roles and responsibilities concerning the operation of the municipal court. General and specific (where available) authority is provided for the content in the footnotes of this document.

This document represents the AOC’s understanding of relevant constitutional provisions, statutes, rules, case law, and court orders.

1. *City or town obligation to maintain a municipal court.*

State law requires municipalities to maintain a court to adjudicate cases involving criminal, civil traffic, and ordinance violations committed within the city or town limits.¹ The municipality may establish its own court or enter an intergovernmental agreement with either a justice court with jurisdiction within the municipality or another municipal court within the same county to handle those cases.

¹ A.R.S. § 22-402.

2. *Coordination in consolidating a municipal court.*

A municipality is authorized to enter into an intergovernmental agreement² for performance of the services of its municipal court by either a justice of the peace court in whose jurisdiction the municipality is located or another municipal court within the same county.³

Notice of opening, closing, consolidating, co-locating, or splitting of courts should be provided to the Administrative Office of the Courts and assistance will be provided upon request. To facilitate creating or changing the administration or operation of courts, Court Services has created a document, Guidelines for Courts: Opening, Closing, Consolidating, Co-locating and Splitting Courts, which provides checklists about governance, external agencies, automation, financial, forms, records management, and staffing.

3. *Legal status of municipal courts.*

In Winter v. Coor, 144 Ariz. 56, 59, 695 P.2d 1094, 1097 (1985), the Arizona Supreme Court held that magistrate (municipal) courts are part of the integrated judicial department of this state, citing Article VI, § 1 of the Arizona Constitution. Consequently, municipal courts have authority and duties under the state constitution and statutes in addition to their duties as part of municipal government, must be administered as a separate branch of municipal government pursuant to Ariz. Const. Art. III, and are subject to the administrative authority of the Supreme Court pursuant to Ariz. Const. Art. VI § 3.

4. *Relationship between the municipal court and city or town.*

In Winter v. Coor, the Supreme Court held that municipal judges are judicial officers, not officers or agents of the town⁴. The Court further acknowledged the necessity of maintaining municipal courts as fair, independent, and impartial tribunals, and the importance of preserving the public's perception of these courts as impartial and unbiased. So, while the judge is selected in the manner set forth in the municipal charter or ordinances, and the judge's compensation is set by the governing body of the city or town, any other authority over the municipal court is limited by the need for the courts to operate in a fair, independent and impartial manner. Interference that impedes the court from carrying out the impartial administration of justice violates the distribution of powers provision of the Constitution of the State of Arizona, and the fundamental principles of our constitutional form of government. The municipal court, consistent with relevant constitutional provisions, statutes, and case law, must maintain its impartiality while fostering a cooperative relationship with the executive and legislative departments of municipal government. The court is not part of the city or town

² A.R.S. § 11-952.

³ A.R.S. § 22-402(C).

⁴ 144 Ariz. at 62, 695 P.2d 1049, 1100.

administration subject to the supervision of the manager.⁵ Rather the court is the judicial department of municipal government and part of the judicial branch of state government subject only to the judicial appointments, reasonable policy-making, and appropriations authority of the council.

5. *Authority to administer the municipal court.*

Through Supreme Court [Administrative Order No. 2005-32](#), the chief justice delegated Art. 6, § 3 administrative supervisory authority to the presiding superior court judge of each county and to the presiding judge of each municipal court. “Presiding judges shall be the Chief Judicial Executive Officers of their respective counties and shall exercise administrative supervision over the superior court including all of its divisions and judges thereof in their counties. “Presiding judges shall also exercise administrative supervision over the municipal courts in their counties.” The presiding judge of the county delegates administrative duties to the presiding municipal court judges in the county.

[Administrative Order 2005-32](#) specifically provides that presiding municipal court judges may appoint a court administrator according to local charter or ordinance provisions. The presiding municipal court judge supervises judges, judicial staff, and non-judicial staff while they are performing work for the court. Presiding municipal court judges are also specifically authorized to supervise the internal administrative functions of the court including personnel, training, facilities, procurement, finance, and court security. Presiding municipal court judges oversee court administrative operations including:

- Preparing and submitting an annual budget for the court.
- Establishing and maintaining docketing, calendaring, case management policies and procedures, and court automation systems.
- Setting bond schedules.
- Reporting case activity statistics.
- Jury management.
- Records management.
- Compliance with the Minimum Accounting Standards adopted by the Supreme Court.

6. *Municipal court operational reviews and audits*

Court operations are reviewed periodically by the AOC as part of the Supreme Court’s A.R.S. Const. Art. VI § 3 supervisory duties. Operational review reports may be obtained upon request by city officials.

The city or town may conduct a separate audit of the municipal court in a manner that does not impair the ability of the court to conduct business as required by

⁵“It is our conclusion that the magistrate courts are indeed part of the integrated judicial department of this state.” [Winter v. Coor](#), 144 Ariz. 56, 59, 695 P.2d 1094, 1097 (1985).

A.R.S. § 22-402(A) and court rules. Fiscal or management audits or an organizational review of a municipal court may proceed with the agreement of the presiding judge as to the timing, scope, and nature of the audit or review in order to minimize the disruption of judicial proceedings. This agreement should not be unreasonably withheld. Any audit or review must not target a judicial decision of a court.⁶

The presiding municipal judge should be given the results of any such audit or review to determine whether any responsive action is warranted. The court is required to “provide the presiding judge of the county and the AOC Court Services Division a copy of all final reports, findings and evaluations from any audit within seven business days of receipt.” ACJA § 1-401(G)(3).

7. *Authority to set municipal court hours of operation.*

The city or town legislative body may set the days and hours of operation of the municipal court in the same manner as the hours of other municipal offices are established under a charter or ordinance. This could include closing the court some days of the week, requiring furlough days, and holding night sessions, in addition to regular day time hours, if the city or town provides sufficient judicial and support staff for such sessions.⁷ The presiding judge's recommendation regarding the optimal hours of court operation should be sought and given great deference.

Such hours must not conflict with hours of the municipal court set by other authority such as statutes, the Arizona Rules of Court, or the presiding judge of the county. The hours must not be set in such a manner as to unreasonably impede the public's access to justice or impair the court's ability to conduct its business consistent with the operation of the entire justice system in the county.⁸ This includes effective arrangements for coverage of orders of protection, initial appearances, and any other matters required to be addressed over a weekend.

8. *Authority to require the judge to attend court every business day and use of attendance as a criterion for evaluating the judge's performance.*

Such an ordinance would be unreasonably intrusive upon the administration of the municipal court and is, therefore, inconsistent with distribution of powers principles. Due to illness and other necessary absence for personal reasons, no officer or employee can perform or reasonably be expected to perform assigned duties every day of the year except weekends and holidays. Leave policies are established for employees to provide for absence for personal reasons. Of course, a leave policy for judges could be adopted as well. However, a judge is expected to perform the established duties of the office for the established salary without regard for the time required. Leave policies and practices are matters of internal

⁶ Ariz. Const. Art. III.

⁷ A.R.S. § 22-402.

⁸ Ariz. Const. Art. III; A.R.S. § 22-402(A).

court administration appropriately within the authority of the presiding municipal judge to operate the court in a manner that best serves the administration of justice.⁹

Consistent with distribution of powers, an ordinance could require that the municipal court be open and appropriately staffed to conduct court business. This is also consistent with the approach to court hours taken in Art. 6, § 17 that requires the superior court be open except on non-judicial days, and the requirement in A.R.S. § 38-401 that requires all state offices be open at specified times. However, requiring that a judge be present during all hours that the court is open goes far beyond what is reasonably needed to assure that the court be open and operating effectively and, instead, intrudes upon the presiding municipal judge's discretion to manage the court in a manner that achieves this legitimate objective of municipal government.

Winter, 144 Ariz.at 64, 695 P.2d at 1102 and Jett v. City of Tucson, 180 Ariz. 115, 123, 882 P.2d 426, 434 (1994), imply that the city or town council clearly has responsibility and authority to evaluate judges in order to determine whether a judge should be appointed for an additional term. However, it would not be reasonable to negatively evaluate a judge for not being present at the municipal court due to absence for legitimate personal reasons or to perform other professional duties as discussed above.

9. *Reporting Judicial Misconduct.*

The Arizona Commission on Judicial Conduct, created by Article VI.I of the Arizona Constitution receives and investigates reports of judicial misconduct. The Commission posts information on its website about the complaints it has received and how they were resolved for complaints dating back to 2006, *see* azcourts.gov/azcjc.

B. Budget and Finances

1. *Responsibility for providing staff and other resources to ensure effective court operations.*

The case law is clear that municipal courts are part of the state's integrated judiciary (Winter v. Coor) and therefore the same, or at least similar, standards

⁹ "Presiding municipal court judges shall supervise the administration of the judicial and internal administrative functions of the municipal court including: a. Determining judicial assignments for each judge and, within guidelines established by city or town council, establishing and maintaining standard working hours and times to effectively discharge those assignments." Administrative Order 2005-32(C)(3). A judge with supervisory authority for the performance of other judges shall take reasonable measures to ensure that those judges properly discharge their judicial responsibilities, including the prompt disposition of matters before them. Rule 81, Supreme Court Rules, Code of Judicial Conduct, Rule 2.12 (B).

apply to municipal courts as to the superior court.¹⁰ In Maricopa County v. Dann), the Supreme Court held that courts have a right to necessary personnel to carry out the court's constitutional and statutory duties, and that legislative bodies have the duty of approving personnel requests unless there is a clear showing that the judges acted unreasonably, arbitrarily, or capriciously in making the request. First, the presiding judge must follow the "procedure to request employment of necessary court personnel."¹¹ The presiding judge should not ignore the funding authority's policies or procedures because the judge merely disagrees with the policies and "an orderly fiscal policy is a governmental necessity and to order expenditures for personnel in excess of budget provisions might be unreasonable, arbitrary and capricious."¹² Additionally, courts should be mindful if a municipality is experiencing a fiscal deficit or shortfall and work cooperatively with the municipality to achieve a mutually agreeable solution. If the court follows the funding authority's policies and is still denied adequate staff or facilities, the court may, through its inherent powers, order the funding authority to provide for adequate staff or facilities.¹³

2. *Preparation of the municipal court budget and requirement to follow city or town budget and finance procedures.*

The presiding judge of the municipal court and the court administrator, if any, must prepare a budget for the municipal court.¹⁴ In doing so they must follow any budgeting and finance procedures established by the city or town.¹⁵ The state judicial department budget is separate from the Governor's budget and is presented directly to the legislature. Likewise, the municipal court's budget may be presented with the manager's budget or directly to the council. The budget process must yield funding necessary for the proper operation of the court. The local government must defer to the judge's determination of the financial needs of

¹⁰ 157 Ariz. 396, 758 P.2d 1298 (1988) (Superior Court). "The municipal court can only engender proper respect for the law and provide justice in the individual case if the court is provided with sufficient judges, support staff, legal resource materials such as the Arizona Revised Statutes, training opportunities for court personnel and physical facilities to assure prompt, fair and dignified administration of justice. The Presiding Municipal Court judge responsible for the administration of the Municipal Court should be mindful of the needs of the court, and seek the cooperation of the funding authority to provide the funds required to meet those needs." Standard 8, Standards for Municipal Courts Revised Administrative Order 83-11 (Jan 17, 1990).

¹¹ Maricopa County v. Dann, 157 Ariz. 396, 398, 758 P.2d 1298, 1300 (1988).

¹² *Id.*

¹³ "Thus, while we recognize the inherent power of a justice court to require the providing of personnel in order to perform its necessary functions, this power should be exercised only when there is no established method for obtaining needed personnel or when a reasonable, good faith, diligent effort to utilize such methods has been attempted and has failed." Reinhold v. Board of Supervisors of Navajo County, 139 Ariz. 227, 232, 677 P.2d 1335, 1340 (Ct.App. Div. 1, 1984).

¹⁴ Administrative Order 2005-32, Presiding Judge – Municipal Court:

¹⁵ Maricopa County v. Tinney, 183 Ariz. 412, 904 P.2d 1236 (1995), Maricopa County v. Dann, 157 Ariz. 396, 758 P.2d 1298 (1988).

the court and the advisability of implementing any recommendations, unless the judge's determination is arbitrary, capricious or unreasonable.¹⁶

The municipal court must follow city or town expenditure procedures unless the Procurement Code for the Judicial Branch (PCJB)¹⁷ has been adopted by the Presiding Judge of the county to apply to the municipal court. Every court is required to follow a procurement procedure substantially equivalent to the PCJB.¹⁸ The authority of the municipal judge to make individual expenditures within the court's budget should be equivalent to the authority of the manager and subordinates to make expenditures within executive agency budgets.

3. *Authority of the municipal judge to move funds between budget line items and to make fiscal-neutral staff reassignments.*

The authority of the presiding municipal judge over the court's budget is provided by the city or town council and [Administrative Order 2005-32](#). In order to avoid distribution of powers conflicts between the presiding judge, the manager, and the council, the council should provide funding for the court in a manner that allows the presiding judge flexibility similar to the manager regarding how the monies are allocated. This avoids placing the manager in the role of approving court expenditures in a manner that intrudes upon the authority of the presiding judge to administer the court impartially pursuant to [Administrative Order 2005-32](#) or that interferes with court operations. As noted below, the presiding judge already has independent authority under state statutes to manage and expend monies collected or granted pursuant to statute.

4. *Authority to direct the expenditure of funds appropriated to the court through state statutes or municipal ordinances.*

If the monies at issue are state funds, such as judicial collection enhancement fund monies granted to the court under A.R.S. § 12-113 or time payment fees authorized to be expended under A.R.S. § 12-116, these monies must be spent only for the purposes stated in such grant or authorization. These funds are expressly provided for use "by the court" which means the presiding judge rather than the manager. Additionally, state statutes and the terms of grants typically prohibit use of state or grant funds to supplant or replace local funds for a particular court program or expenditure.¹⁹ If the monies at issue are generated pursuant to a municipal ordinance, the ordinance should provide how expenditure of the monies is authorized. Such ordinances should respect distribution of

¹⁶ [Reinhold v. Board of Supervisors of Navajo County](#), 139 Ariz. 227, 232 (Ct. of Appeals 1984) recognized the inherent power of a justice court "to require that personnel necessary for its function as a court be supplied by the board of supervisors unless such a request is arbitrary, capricious or unreasonable."

¹⁷ ACJA § 1-402.

¹⁸ ACJA § 1-402(B)(2).

¹⁹ See, e.g., A.R.S. §§ 12-102.02(E)(state aid to the courts fund); 12-113(C) (judicial collection enhancement fund); and 12-135(D)(alternative dispute resolution fund).

powers principles by providing the presiding judge discretion over expenditure of monies dedicated to funding court operations.

5. *Responsibility for collection of court fine, sanction, restitution, and bond payments.*

Under the direction of the presiding judge, the court must collect all fine, sanction, restitution, and bond payments imposed by the court and deposit them with the city or town treasurer, as required by A.R.S. § 22-407 and A.R.S. § 41-2401. The Supreme Court has adopted detailed minimum accounting standards to govern the handling of court payments by court personnel.²⁰

Arizona Rules of Criminal Procedure Rule 26.12(b), provides that payment of a fine, restitution, or both, must be made to the clerk of the superior court unless the court expressly directs otherwise. A.R.S. § 22-423 extends this rule to municipal courts. Although A.R.S. § 22-404 provides for ultimate payment to the city or town treasurer of all fines and forfeitures collected, the statute clearly implies that the municipal court must collect the payments. Other statutes also require or imply that procedure. With regard to bail and civil sanction deposits, A.R.S. § 22-424 requires the judge to establish schedules for traffic offenses and violations that do not involve death or a felony and to permit receipt of bail bonds and provided for acceptance of deposits for civil traffic violations on behalf of the court.

Further, A.R.S. § 28-1559(A)(2) requires every judge, magistrate, or hearing officer to, “keep a record of each official action by the court” and the “amount of the civil penalty, fine or forfeiture resulting from each traffic complaint deposited with or presented to the court...” Pursuant to the requirements of this section, it appears that fines and forfeitures should be collected by the court in order to ensure the accuracy of the records that the court is required to maintain. Consistent with judicial department Minimum Accounting Standards, the disposition of the funds received may be provided by ordinance or city policy to the extent it is not otherwise provided by law.

6. *Court collection of fees in addition to those expressly provided in A.R.S. § 22-404(B).*

A.R.S. § 22-404(E) provides that any city or town may establish and assess fees for court programs and services. Unless specifically prohibited by law, a particular fee is subject to deferral, reduction or waiver by the Judge in a case. Local fines and many local fees are subject to state surcharges.²¹

7. *Authority to resolve fines and civil sanctions that are determined to be uncollectible.*

²⁰ ACJA § 1-401.

²¹ Ariz. Atty. Gen. Op. I00-015 (June 22, 2000).

There is currently no statutory authority that would allow courts to forgive outstanding obligations in total.²² While the city or town may adopt procedures to “write-off” court obligations owed to the city or town, amounts to be transmitted to the state general fund or other state agencies may only be written off by the state or those agencies pursuant to state law.

8. *Disposition of interest earned on funds designated for use by the court.*

Unless otherwise provided, interest earned on an account must be deposited in that account to serve the purpose for which the account was established, [ACJA § 5-107\(C\)\(14\)](#) specifically provides “interest earned remains with the fund and may be used in support of the approved case processing plan.”

C. Personnel

1. *Appointment and reappointment of municipal judges.*

The Winter case requires appointment to at least a two-year term from which a judge may not be removed without cause. Jett v. City of Tucson suggests “Under contemporary standards, a 4-year term seems appropriate.”²³ Additionally, a change in the number of judges may not affect removal of a judge during the judge’s term.²⁴ Both cases imply that at the end of the term the judge may be removed without cause. However, a decision not to reappoint a judge may be held invalid when it is in retaliation for the judge’s refusal to “commit an act or omission that would violate the Constitution of Arizona or the statutes of this state,”²⁵ such as the separation of powers provided in Article III of the Arizona Constitution. Cities and towns have established judicial selection and performance review committees to make recommendations for appointment and reappointment of judges based upon merit. The recommendations of these committees should be given great weight by city and town councils in order to avoid invalid reappointment decisions.

2. *Obligation to pay judicial salaries.*

Municipal judge salaries may not be reduced during the term of office even if they are not set by charter or ordinance, and even in the event of budget reductions.²⁶

3. *Judge’s refusal/waiver of payment of the judge’s salary.*

²² A.R.S. § 13-824 authorizes a court to convert an order to pay fines, fees, assessments, or incarceration costs to community restitution, if the court finds the defendant is unable to pay.

²³ Id. 180 Ariz. 115, 125 n.6, 882 P.2d 426, 436 n.6 (1994).

²⁴ See also Ariz. Const. Art. VI § 33.

²⁵ A.R.S. § 23-1501(3)(c).

²⁶ Ariz. Const. Art. VI § 33.

Since the constitution prohibits reduction of the current salary, however established, during a municipal judge's term, a judge cannot effectively waive part of the judge's salary during the term.²⁷ However, a municipal judge may voluntarily donate back to the city or town any part of the salary the judge has been paid.

4. *Authority of the city or town to conduct performance reviews of the presiding municipal judge.*

Another implication of the Winter and Jett cases is that since councils have discretion regarding renewal of a municipal judge's appointment, they must have the discretion to review the performance of that judge prior to renewal.²⁸ Of course, the review must be performed in a manner that does not interfere with performance of the judge's duties and carefully avoid criteria for non-renewal that conflict with federal or state law, court rules, the impartiality of the court, or any other ethical obligation of the judge. Municipalities may use the results of audits and reviews conducted by the city or town and any review conducted by the judiciary. Any city or town council wishing to establish a system for evaluating the performance of a municipal judge may seek assistance from the Administrative Office of the Courts.

5. *Requirements for appointing a part-time municipal judge.*

There is no statutory authority for appointing a pro tem judge in a municipal court as there is in justice court. However, a city whose charter provides for judges pro tempore may appoint them.²⁹ Additionally, the constitutional provision that permits non-lawyer judges pro tem in justice courts does not cover municipal courts.³⁰ Consequently, it appears that a pro tem municipal court judge would need to be an attorney.³¹

²⁷ Glavey v. United States, 182 U.S. 595, 609 (1901) (holding that a failure to demand a salary guaranteed by statute was not a waiver of the same).

²⁸ "In our opinion, an interpretation of the amendment [to Article VI.I, Section 5 of the Arizona Constitution] that accommodates parallel processes of removal furthers its underlying purpose, i.e., providing citizens with added protection against magistrates who engage in misconduct. By preserving a city's authority to remove its magistrates from office, such an interpretation places magistrates in the same position as all other judges in the state, who are subject to removal by means other than a disciplinary proceeding initiated by the Commission." Jett v. City of Tucson, 180 Ariz. 115, 1240, 882 P.2d 426, 431 (1994).

²⁹ State v. Mercurio 153 Ariz. 336, 339, 736 P.2d 819, 822 (App. 1987).

³⁰ Ariz. Const. Art. VI § 31(A).

³¹ "Qualifications. Persons applying for judicial office shall meet the minimum qualifications required by law and such special qualifications for the position as may be established by the chief justice, the chief judge, the presiding judge or the chief magistrate. Persons applying for judge pro tempore offices, except justice of the peace pro tempore, shall be at least 30 years of age, of good moral character, and admitted to the practice of law in and a resident of the State of Arizona for five years next preceding their taking office as required by article 6, § 31 of the Arizona constitution." ACJA § 1-305(C).

A municipality needing the services of a part-time judge may want to consider appointment of an “associate” or “special” magistrate instead of a pro tem judge. Under Winter v. Coor a magistrate must have at least a two year term. Therefore, an associate or special magistrate must be appointed for a two year term, rather than at the pleasure of the council or the judge, but could serve part time or “on call.” The municipal ordinance would need to establish the qualifications and the process for the appointment. If it provides for the municipal court judge to make or recommend the appointment, § 1-305 of the Arizona Code of Judicial Administration applies. An elected justice of the peace whose precinct is located in a city or town is authorized by A.R.S. § 22-403(B) to serve as a municipal court judge for that city or town.

6. *Procedures for appointing "special judicial officers" such as associate magistrates.*

A municipality has the initial responsibility to determine who appoints a judge.³² If the municipality gives the presiding judge responsibility to appoint or recommend appointment of other judicial officers, then the presiding judge must follow the requirements of [ACJA § 1-305 of the Arizona Code of Judicial Administration](#) in carrying out that responsibility. The presiding judge must establish a selection process consistent with § 1-305 and with municipal charter and ordinance provisions. If the city or town council selects other judicial officers without the presiding judge's official involvement, [ACJA § 1-305](#) does not apply. However, it is recommended the council follow a similar procedure.

7. *Authority to hire, supervise, discipline, and terminate municipal court employees.*

The appellate courts of this state have consistently held that the employees of courts within the state must be under the direct control and supervision of the presiding officer of each court.³³ While there are no cases that specifically address the issue of control over municipal court employees, Winter v. Coor made it clear that municipal courts are a part of the state’s integrated judiciary. Court personnel who are directly connected with the operation of the court must be controlled by the court. Ethical Rule 2.12, require judges to supervise court officials and staff to assure conformance with the codes of conduct applicable to judges and other court employees.³⁴

Therefore, the municipal court judge or appointee has exclusive authority to hire, supervise, discipline, and fire its employees under applicable policies and

³² A.R.S. § 22-403(A).

³³ E.g. Broomfield v. Maricopa County, 112 Ariz. 565, 544 P.2d 1080, 1082 (1975); (referring to “the judiciary’s inherent power of control over personnel directly connected with the operation of the courts . . . includes bailiffs, probation officers, court reporters, court administrators, secretaries, and others working directly in connection with the administration of justice.”), citing Mann v. County of Maricopa, 104 Ariz. 562, 563, 456 P.2d 931, 933 (1969) (superior court bailiff and probation officer).

³⁴A.R.S. Sup.Ct.Rules, Rule 81, Code of Jud.Conduct, Rule 2.12.

procedures, though the judge may consult and receive assistance from another department of the municipal government such as the human resources office. The city or town manager has a limited role or no role in court personnel matters depending upon the duties the council assigns to the manager. In order for the court to function as a co-equal branch of municipal and state government the personnel of the court must be subject to the exclusive control of the presiding judge.³⁵ This includes employee hiring, supervision, dismissal, and compensation consistent with reasonable personnel, job classification, and budget policies.³⁶ The manager has a role in these matters only if the manager also serves as the human resources director. Otherwise, the presiding judge looks to the human resources director for advice concerning court employees, just as the manager looks to the human resources director for advice concerning other municipal employees.

8. *Role of the city or town manager concerning the need for court personnel.*

Distribution of powers principles and the Supreme Court's administrative orders require that the presiding judge have the opportunity to make recommendations to the city or town council concerning the need for court positions.³⁷ The budgeting policies or ordinances adopted by the council should state what, if any, role the manager has in evaluating the need for court positions. Budget related decisions such as this must be made ultimately by the council with deference to the presiding judge's assessment of funding required to operate the court in the manner required by the constitution, statutes and court rules.

9. *Role of the city or town manager and finance department in approving travel arrangements for judges and court staff to attend compulsory educational conferences and meetings.*

The municipal court is part of the integrated judicial department of the state.³⁸ All Arizona courts and the judges of these courts are subject to the A.R.S. Const. Art. 6 § 3 administrative supervisory authority of the chief justice. Within their first year of taking the bench, all new judges must complete judicial orientation training approved by the Supreme Court's Committee on Judicial Education and Training.³⁹ All judges are required to obtain a minimum of 16 hours of judicial education each year and any additional judicial education required to maintain competence in the law. Similarly, all judicial branch employees are obligated to complete 16 hours of judicial education pertaining to their job duties, including at

³⁵ Administrative Order No. 2005-32(C)(1).

³⁶ Mann v. County of Maricopa, at 566, 456 P.2d 931, 936 (1969) ("The department of government which has the power of control of personnel directly connected with the operation of the Courts is the Judicial Department.").

³⁷ Maricopa v. Dann, 157 Ariz. 396, 401, 758 P.2d 1298, 1303 (1988) ("The presiding judge of the superior court must follow the county procedure to request employment of necessary court personnel.").

³⁸ Ariz. Const. Art. 6 § 1.

³⁹ Arizona Code of Judicial Administration § 1-302(I)(5).

least six hours of live training.⁴⁰ The number of credit hours is pro-rated for part-time employees. The Arizona Code of Judicial Administration also requires every judge to attend the state judicial conference unless a judge is excused in writing by the Chief Justice.⁴¹ Requiring all judges to meet minimum judicial education requirements and to attend the annual judicial conference clearly fosters the integration of the judicial department contemplated by the Arizona Constitution by allowing consistent administrative direction and judicial education of all judges and court personnel. Judicial educational activities sometimes include hotel arrangements that place the judge in close proximity to education programs, meetings, and other judges. Attendance by judges and court staff at these events is a necessary cost of operating the municipal court and should be accommodated in the municipal travel policies and budget. Therefore, there should be no basis for the manager or the finance department to veto attendance at these events. Of course, the court must operate within reasonable budgetary limitations and reimbursement for travel should be governed by reasonable travel policies which apply equally to travel by council members, administrative employees, and municipal judges.

10. *Applicability of city or town personnel rules to employees of the municipal court.*

City or town personnel rules apply to municipal court employees unless these rules have been replaced by rules adopted for court personnel or they interfere with the operation of the court. The presiding judge of a county may adopt reasonable judicial personnel rules required for the court to operate effectively.⁴² Separate judicial personnel rules that are inconsistent with city or town rules concerning some matters such as hiring, supervision, and dismissal of employees may be reasonable. On the other hand, separate rules concerning matters such as employee benefits may be unreasonable due to the imposition of additional cost on the city or town. The effect of rules on the ability of the court to operate must be considered. The Supreme Court has adopted administrative orders and administrative code provisions which set reasonable minimum standards for courts addressing sexual harassment allegations and the needs of persons with disabilities, for judges involved in appointing special judicial officers, and a Code of Conduct for Judicial Employees.⁴³

As the chief executives of co-equal branches of government, the presiding municipal judge and the city or town manager should make every effort to reach agreement regarding which municipal personnel rules apply to court personnel, which rules need to be modified to recognize the authority of the presiding judge, and which personnel matters should be governed by separate rules covering court

⁴⁰ "All full-time judges and court personnel governed by these standards shall complete at least sixteen credit hours of judicial education each year, including ethics training." ACJA § 1-302(H)(1).

⁴¹ For example, Arizona Code of Judicial Administration § 1-302(I)(1)(c).

⁴² Administrative Order No. 2005-32.

⁴³ E.g. Administrative Order No. 2010-13; see also ACJA § 1-303: Code of Conduct for Judicial Employees.

employees.⁴⁴ Rules that make the manager or a personnel board the ultimate authority over other municipal employees must not be applied to court employees. Instead, the presiding municipal judge stands in the place of the manager with respect to court employees. Where agreement cannot be reached, the reasonable judgment of the presiding municipal judge will prevail.

11. *Liability for court operations and employees.*

As provided by statute, municipal judges are officials of municipal government just as Supreme Court justices are officials of state government.⁴⁵ Any liability resulting from the official acts of these judges are liabilities of the municipalities and state respectively.⁴⁶ The degree of manager or council control over these acts does not affect this liability.

12. *Authority over employees assigned to the court on a part-time basis.*

A: The presiding municipal judge must have full authority over all court employees during the time they are performing court duties including part-time employees who perform other duties for the city or town.⁴⁷ For the portion of their employment during which part-time employees perform court duties, they must be governed by personnel and operational policies established by the court and supervision by the court. The court should not be required to hire and retain a part-time employee simply because that employee is performing other duties for the city or town. The principles of distribution of powers and conflict of interest preclude assigning an employee both court duties and duties related to the administration of justice in the executive branch of municipal government such as the police department or the prosecutor's office.⁴⁸

D. Facilities

1. *Responsibility for providing facilities, staff, and other resources to ensure the safe and effective operation of the court.*

⁴⁴ Ariz. Const. Art. III.

⁴⁵ A.R.S. § 22-403(A).

⁴⁶ "Given our decision that justices of the peace are local officers, it follows that, pursuant to A.R.S. § 11-532, the county attorney is responsible for providing legal advice and representation to justices of the peace so requesting. Liability coverage for justices of the peace is the county's responsibility, as set forth in A.R.S. §§ 11-261 and -981." *Collins v. Corbin*, 160 Ariz. 165, 167, 771 P.2d 1380, 1382 (1989).

⁴⁷ "The department of government which has the power of control of personnel directly connected with the operation of the Courts is the Judicial Department." *Mann v. County of Maricopa*, 104 Ariz. 561, 566 (1969).

⁴⁸ "A judicial employee shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety." ACJA § 1-303, Canon 1, Rule 1.2. See also Standard 3, Standards for Municipal Courts Revised Administrative Order No. 83-11 (Jan. 17, 1990). "No judge should be a member of an association, the purpose of which is to advance the interests of law enforcement officers, prosecutors or defense attorneys."

In Mann v. County of Maricopa 104 Ariz. 561, 456 P.2d 931 (1969), the Arizona Supreme Court held that courts of general jurisdiction have the right to quarters appropriate to the office and personnel adequate to perform their functions. The presiding judge is authorized to provide for court security, including implementation of reasonable security standards. Presiding municipal judges may establish court security policies and procedures to provide a safe work environment for judicial employees, litigants, and users of the court that meet established court security standards and are consistent with any direction provided by the Presiding Judge of the county, who exercises administrative supervision over municipal courts.⁴⁹ Court security may include procedures, technology, security personnel, or architectural features needed to provide a safe work environment. The presiding judge may control access, including prohibiting or regulating the possession of weapons or potential weapons in the area of any building in which the court is located.

2. *Use of the courtroom by the city or town for non-judicial purposes.*

While the courtroom must be available as needed for court business and should not be used in a manner which conflicts or has the appearance of conflicting with the judicial function of the court, it is both a court and municipal facility.⁵⁰ When there is no conflict with court operations, there is no reason why these facilities cannot be made available for other governmental purposes. However, the court must ensure that any court records maintained in the area and the facility are secured from access by other than authorized court personnel.⁵¹

E. Records

1. *Responsibility for maintaining municipal court records.*

The court must maintain court records, A.R.S. § 22-428. A.R.S. § 39-121.01(B) provides that, “All officers and public bodies shall maintain all records reasonably necessary or appropriate to maintain an accurate knowledge of their official activities which are supported by funds from the state or any political subdivision thereof.” As the officer in charge of the court, the presiding judge is charged with the responsibility of maintaining the records of the court. A.R.S. § 39-121.01(C) further provides that the officer responsible for maintaining records is also responsible for the “preservation, maintenance and care of that officer’s public records” and must “secure, protect and preserve public records from deterioration, mutilation, loss or destruction...” Therefore, it is clear the presiding judge of the municipal court is the sole and proper custodian of all records relating to the court and its operations.

2. *Availability of court records to city or town personnel not employed by the court.*

⁴⁹ Admin. Order No. 2005-32.

⁵⁰ A.R.S. § 22-402(A).

⁵¹ Arizona Supreme Court Rule 123.

Although access to most public records in Arizona is governed by state statute, the Supreme Court has chosen to exercise its administrative authority over all court records by the adoption of Rule 123, Rules of the Supreme Court. Access to records held by any court, including municipal courts, is governed by Rule 123.

The presiding judge of the municipal court has discretion, within limits, to determine what court records are available for inspection by the public, including city or town officials, and should establish procedures for the inspection of records to ensure their preservation.⁵² Court files and pleadings must at all times remain in the care and custody of the judge and designated court staff unless a written order from the judge authorizes otherwise.⁵³ Likewise, all mail addressed to the court must be opened and read by authorized court staff.

Security measures should be implemented to secure court records in the municipal court during the hours the court is not open or in situations where court staff are out of the office.⁵⁴ For example, court files should be locked at night and at any time when the file room is left unattended. “The only individuals who should have keys to the court facility are the judge, court personnel so designated by the judge, and individuals responsible for building maintenance and security.”⁵⁵ Use of this access must be limited to the authorized purposes.

⁵² Rule 123(c)(2).

⁵³ Rule 123(i)(1).

⁵⁴ *Id.*

⁵⁵ Recommendation 6, Bullhead City Report, Administrative Office of the Courts, October, 1988.

Chapter 2.45 CITY MAGISTRATE

Sections:

[2.45.010](#) City magistrate.

2.45.010 City magistrate.

A. The city magistrate shall be the presiding officer of the magistrate's court and shall be selected by the council and shall perform those functions necessary to the maintenance of the magistrate's court as set forth in this code, and as provided by the Constitution and laws of this state, and the applicable orders, rules and directives of the Arizona Supreme Court.

B. The powers and duties of the presiding magistrate shall be those set forth in this chapter and in Chapter [2.70](#) SCC:

1. Scheduling assignments of all magistrates;
2. Exercising supervision over all court personnel who directly affect the operation of the court ("court personnel"). In exercising supervisory authority, the magistrate shall comply with the personnel rules, policies and procedures established by the city, including, but not limited to, hiring, classification, salary administration, termination, grievance procedures, sick leave, overtime and vacation time. In grievances involving court personnel, the magistrate shall be substituted for the city manager. In matters appealed to the personnel board by court personnel, the findings and decision of the personnel board shall be advisory, and shall be forwarded by the personnel board to the magistrate for final action. The magistrate may delegate supervisory authority under this section to the court administrator;
3. Submitting all reports required by the Constitution and the laws of the state, this code and ordinances of the city;
4. Reporting the activities of the magistrate court as reasonably required by the council;
5. The keeping of a docket in which shall be entered each action and the proceedings of the court therein;
6. The responsibility for fixing and receiving all bonds and bails and receiving all fines, penalties, fees and other monies as provided by law;
7. The payment of all fines, penalties, fees and other monies collected by the court to the city treasury;

8. Procedures established in A.R.S. Title 22, Chapter 4.

C. The powers and duties of the presiding magistrate shall include, but not be limited to, the following:

1. Scheduling assignments of all magistrates;
2. Submitting all reports required by the Constitution and the laws of the state, this code and ordinances of the city;
3. Reporting the activities of the magistrate court as reasonably required by the council;
4. The keeping of a docket in which shall be entered each action and the proceedings of the court therein;
5. The responsibility for fixing and receiving all bonds and bails and receiving all fines, penalties, fees and other monies as provided by law;
6. The payment of all fines, penalties, fees and other monies collected by the court to the city treasury;
7. Procedures established in A.R.S. Section 22-421. [Ord. 2009-03, 3-24-2009. Code 2006 § 3-2-6].

Chapter 2.70 MUNICIPAL COURT

Sections:

- [2.70.010](#) Municipal court established – Jurisdiction.
- [2.70.020](#) Municipal court fees.
- [2.70.030](#) City magistrates – Appointment – Compensation.
- [2.70.040](#) Hearing officer.
- [2.70.050](#) Proceedings of court – Conduct of business.
- [2.70.060](#) Duties of manager and council.

2.70.010 Municipal court established – Jurisdiction.

There is hereby established in the city a municipal court to be known as the magistrate court which shall have jurisdiction of all violations of this code, and jurisdiction concurrently with justices of the peace of precincts in which the city is located of violation of laws of the state committed within the limits of the city. The magistrate court is established pursuant to the Arizona Constitution and A.R.S. Section 22-402. [Code 2006 § 5-1-1].

2.70.020 Municipal court fees.

A. Warrant Fee. When the court issues a bench warrant for failure to appear; or failure to pay a fine, sanction, restitution or agency fee; or issues an order to show cause (OSC) to enforce probation or court-

ordered counseling or school, an administrative fee not to exceed \$150.00 shall be imposed on the person for whom the bench warrant is issued, or on the defendant found in violation at the conclusion of an OSC hearing. The fee is payable to the general fund of the city.

B. Court Enhancement Fee. There is hereby created a court enhancement fund, which shall be used exclusively to enhance the technological, operational, and security capabilities of the court. It will be funded by (1) a fee in an amount not to exceed \$50.00 applied to each case assigned a docket number and involving one or more criminal, civil and/or petty offenses where a fine, fee, sanction, penalty, surcharge, assessment and/or restitution is ordered by the court, except for cases involving only parking violations, and (2) bond forfeitures that are not applied to fines. The fund shall be maintained as a separate account with the city. The monies in the fund shall be invested in the same manner as other city funds, interest earned on fund monies shall be deposited in the fund, and any balances remaining in the account at the end of the fiscal year shall carry over into the subsequent fiscal year. The municipal court shall administer the fund and may make expenditures from the fund for the purposes herein. Monies from the fund shall supplement monies already provided to the court for general purposes. The court will annually submit to the mayor, city council, and manager a report detailing the amount of money collected and expended during the fiscal year, and the progress made in court enhancement.

C. Court-Appointed Attorney Fee. In addition to any or all of the cost of court-appointed counsel ordered to be reimbursed to the city, the court may impose an administrative assessment fee not to exceed \$50.00 to defray the costs of court-appointed counsel for indigent defendants. Fees collected shall be paid into the general fund of the city.

D. Civil Traffic Default Fee. The court shall assess the defendant a default/license suspension fee not to exceed \$50.00 where default judgment is entered in a civil traffic case, and the license of the defendant is ordered suspended, unless such default is set aside. Fees collected shall be paid into the general fund of the city.

E. Deferred Prosecution Fee. In some criminal cases, the defendant may be offered deferred prosecution wherein a plea is taken but sentencing deferred pending completion of counseling, community service, restitution, or other conditions as may be submitted by the prosecutor. Such agreements require monitoring by the court, and additional correspondence with related schools or agencies. The court may impose an administrative fee for deferred prosecutions not to exceed \$150.00 per case. Fees collected shall be paid into the general fund of the city.

F. Waiver. The court may waive all or part of the above fees when it would be in the best interests of justice, such as causing an undue hardship on the defendant, the defendant has previously been found to be indigent by the court, or the defendant has presented a reasonable explanation for missed appointments with the court or another agency.

[Ord. 2011-06 § 1, 4-26-2011 (Res. 2011-11 Exh. A, 4-26-2011). Code 2006 § 5-1-2].

2.70.030 City magistrates – Appointment – Compensation.

The magistrate court shall be composed of a presiding magistrate and such other magistrates as may be determined by the council. The council shall appoint and may remove for cause the presiding magistrate and such additional magistrates appointed. All magistrates shall be appointed for a period of two years, with their compensation to be determined by the council. [Code 2006 § 5-2-1].

2.70.040 Hearing officer.

The council may appoint one or more hearing officers to preside over civil traffic violation cases when the appointment of such hearing officers are necessary to assure prompt disposition of civil traffic violation cases when the city magistrate is unable to hear the case. Hearing officers may hear and dispose of civil traffic violation cases under supervision of the presiding officer of the Sedona magistrate court which are appealable to the superior court pursuant to A.R.S. Title 22, Chapter 2, Article 4. [Code 2006 § 5-2-2].

2.70.050 Proceedings of court – Conduct of business.

The proceedings shall be conducted in accordance with the state constitution, the applicable state statutes and rules of the state supreme court pertaining to police courts. The proceedings shall also be conducted in accordance with the rules of criminal procedure for the superior court, unless otherwise prescribed, and providing this code and resolutions of the city are not in conflict therewith. The magistrate court shall at all times be open for transaction of business except on nonjudicial days. [Code 2006 § 5-3-1].

2.70.060 Duties of manager and council.

A. The duties of the city manager are:

1. To organize, administer, supervise and plan for all nonjudicial magistrate court operations, including personnel, payroll and insurance administration;
2. To review magistrate court schedule to ensure maximum utilization of city resources and recommend changes to the city magistrate and to the city council to improve such utilization;
3. Collection and safekeeping of all monies, including fines, penalties and fees collected in the magistrate court, except as otherwise provided by law.

B. Duties of the council are to provide for the financial, physical, personnel and consulting requirements of the city court. [Code 2006 § 5-4-1].



**CITY COUNCIL
AGENDA BILL**

**AB 2207
April 25, 2017
Regular Business**

Agenda Item: 8d
Proposed Action & Subject: Discussion/possible action regarding proposed State legislation and its potential impact on the City of Sedona.

Department	Legal
Time to Present	10 Minutes
Total Time for Item	30 Minutes
Other Council Meetings	02/14/2017, 02/28/2017, 03/14/2017, 03/28/17, 04/11/17
Exhibits	None

City Attorney Approval	Reviewed 4/17/17 RLP	Expenditure Required \$ 0 Amount Budgeted \$ 0 Account No. N/A (Description) Finance Approval <input checked="" type="checkbox"/>
City Manager's Recommendation	None.	

SUMMARY STATEMENT

Background: During the course of the State Legislative Session, many bills are introduced that have a potential impact on the City of Sedona. The Arizona League of Cities and Towns and City staff routinely monitor bills of interest as they progress through the legislative process.

This item is scheduled in order to provide a summary update on relevant bills, to answer questions that the City Council may have in regard to any individual bill, and to consider the need for the City Council to take a formal position in support or opposition of any particular bill. During the 2014 Legislative Session, the Council agreed by unanimous consensus to allow staff and the Mayor to weigh in on issues at the Legislature on behalf of the City, requesting only that the Council be notified via email of issues on which the City takes a position. Such a practice is a very effective method of ensuring appropriate City involvement with legislative issues. On February 14, 2017, Council agreed by majority consensus to continue this practice.

Community Plan Consistent: Yes - No - Not Applicable

Board/Commission Recommendation: Applicable - Not Applicable

Alternative(s):

MOTION

I move to: for informational purposes only, unless there is a preference to take a position on a particular bill.