

# Statement Analysis

1. The following statements have been made by one side or the other during the election campaign on proposition 420. In this analysis we try to look at how true they are based on the history of both the Preserve and Desert Discovery Center (DDC) and Desert Edge (DE) projects. In general, most contain a sliver of truth, but then it may be distorted to make a point. Common statements, and the truth, are presented below. We don't identify which side said what, just present the statement and an analysis of it.
2. **The City Council should make decisions on the Preserve, this would hinder them.** - The council has proved they will not represent citizens but rather make decisions based on what 4 of them want, not what the majority of Scottsdale Citizens want when they voted to not give the citizens a vote on the DDC/DE project. Proposition 420 was actually created specifically because the council majority ignored what citizens want, and worse denied them a voice or vote in the process of approving a development in the Preserve.
3. **Proposition 420 was created in opposition to the Desert Discovery Center (DDC), now the Desert Edge (DE).** If passed, it will hinder the development of the DDC. Partially true, when citizens found out a special interest group wanted to build this commercial venue in the Preserve, they were alarmed and angered, which eventually led to them becoming involved in either killing it, or as a minimum giving citizens control over it by requiring a public vote to build it in the Preserve.
4. **Requiring a public vote would hinder education and access and more "improvements".** First of all "access" is not limited or changed by the proposed Charter change in proposition 420. Currently ANYONE can go into the Preserve and the Preserve has 3 ADA accessible trails, in addition to hiking, biking, and equestrian (multiuse) trails and rock climbing areas to accommodate as many different users as possible. And it is all FREE to everyone. Second, education is already provided by the city's non-profit partner, the McDowell Sonoran Conservancy (MSC). The MSC provides educational hikes, lectures, online education, and educational guides, all at NO COST to the city and all without ANY BUILDINGS. Would it hinder "more improvements". It will not hinder additional trails, but would hinder other development in the Preserve but only by requiring the public approve any proposed project, so in that sense it would "hinder" such "improvements", but requiring public approval doesn't prevent them, it simply requires public approval to make sure it is appropriate for the Preserve. That is basically what the Charter change in proposition 420 is all about, giving the public control over any "improvements" 4 members of the city council may want in the Preserve.

5. **It would not allow emergency actions to be quickly approved.** Nothing in the proposed Charter change impacts current management of the Preserve, including emergencies. Anticipated emergencies, like fire, have already been considered and the reaction formalized in the Preserve Fire Management Plan. The Charter change has NO impact on this or any other emergency plans or actions. This argument has NO basis in fact.
6. **Proposition 420 was created by NYMBYS who want to limit access to the Preserve and keep it for themselves.** See the argument about limiting access. Nothing in the proposed Charter change impacts current access of the Preserve. Proposition 420 WAS NOT created by residents near the Preserve, but rather by residents who have been involved with the Preserve since its inception, most of whom do not live near the Preserve. It was embraced by many who live near the Preserve, but not created by them.
7. **Proposition 420 puts decisions in the hands of an unelected body.** There is only ONE mention of any public body and that is that NEW trails must be approved by the McDowell Sonoran Preserve Commission (MSPC) who is currently tasked with creating the management and trails plans for the Preserve so this is not a new requirement but rather just requires what is already in the Preserve Ordinance, which also established the MSPC to be the citizen body that oversees all Preserve related actions. Since the ordinance can be changed by just 4 council members, this addition to the charter would keep the MSPC involved in deciding where new trails should go and are appropriate. As mentioned in this statement, members to the MSPC are not elected, but rather are assigned by the city council, so in reality the council still does have some control over the process by who they assign to the MSPC.
8. **It changes the management of the Preserve.** The Charter change in Proposition 420 does nothing to the existing management of the Preserve, except it would require MSPC approval of NEW trails, which they are already responsible for by the Preserve Ordinance. However it would prevent staff, and the city council, from building anything they want in the Preserve without a public vote, which is the purpose of the charter change. So in that respect it technically changes the management of the Preserve by giving citizens some control.

9. **The Preserve already protected, it is unnecessary no further prohibition is necessary.** We wish this were true, but sadly it is not. Some of us helped draft the Preserve Ordinance and existing Charter language, and at the time we thought they would protect the Preserve. But this city council, and the Desert Discovery Center Scottsdale Inc. organization, proved to us that the Preserve is not protected against developments like the DDC or DE and therefore needs further protection. That was actually the intent of the proposed Charter change. The following are claimed to protect the Preserve against "commercial" development, but that all depends on what your definition of "commercial" is. If you believe that an operation that has full time paid employees, sells merchandise, sells and serves food and liquor, and collects entry fees defines a "commercial" operation regardless of who owns it, then the Preserve is not protected against "commercial" development. If you believe that if the city owns it, it is not commercial then you could say the Preserve is already protected against "commercial" development but not against a commercial like development, example the current Desert Edge proposal. By the way, the real dagger in this proposal is the event center that will be rented out for events and parties at night, another violation of the Preserve Ordinance. See below.

**City Charter.** The current city charter, changed in 1998 to protect Preserve land, prohibits the council from selling off Preserve land, and requires that anything built on Preserve land has to be owned and operated by the city of Scottsdale (why some claim it protects against "commercial" development), but does not prevent the council from building any "improvements" they want on Preserve land.

**General Plan.** The General Plan does not protect anything as it is not enforceable.

**The Preserve Ordinance.** The Preserve Ordinance prohibits "park type amenities" and many things that will be in the DDC/DE, but the DDC advocates are trying to make the case that because the city must own it, they don't have to abide by the Preserve Ordinance. They also claim that the Preserve Director can issue a lifetime permit to allow violations of the Preserve Ordinance. So clearly the Preserve Ordinance isn't enough to prevent an operation like the proposed Desert Edge from being built in the Preserve. In addition, a simple majority of the council can change the Preserve Ordinance at any time without any public input or vote.

**Zoning.** The current zoning isn't even for open space so it isn't protecting against anything, plus a simple majority council vote can change the zoning at any time.

**The Environmentally Sensitive Lands Ordinance (ESLO).** The ESLO does not address the Preserve at all, other than requiring a certain percentage of the land remain natural, so it does not provide any protection against development. Its goal is to define how development should occur on environmentally sensitive lands.

So whatever protections may be in place are either insufficient or can easily be changed by the city council without a public vote, except the city Charter. This is exactly why a change to the city charter was proposed to provide further protection for the Preserve, the Charter can't be changed without public approval.

- 10. Confusing language leads to legal battles and unintended consequences.** The Charter language in proposition 420 is actually less susceptible to legal battles than the current language, which is already the subject of a legal battle because of the way the city attorney interpreted it. The language in the proposition 420 Charter change is actually stronger and less ambiguous and was also passed through one of the Valley's best legal firms for these kinds of actions. So it is less confusing and less susceptible to legal challenge than the current language. Any contention that the language is confusing, not legal, subject to debate or interpretation, dangerous, etc. is totally unfounded. A very good legal team worked on the language so it received a thorough legal review. The only unintended consequence is that the DDC/DE would now have to be approved by the public. Anyone who believes this argument should just read the Charter change language, it is pretty clear.
- 11. No more land to buy, the excess \$100M of Preserve funds should be used for MORE improvements.** There are approximately 4,000 more acres in the voter approved Preserve boundary left to buy. The remaining \$100M is not likely enough to buy all of it but it is certainly enough to buy some. Preserve funds have already been used to construct the existing trails and trail heads to allow public access as originally planned. All the planned trail heads have either been built or are in the process of being built and are exempt from restrictions of the Charter change. In fact there are more trails and trail heads than were in the original plan. Unanticipated and unplanned improvements should require public approval, including new trail heads that were NOT in the plan but especially any new improvements that do not conform to the Preserve Ordinance.
- 12. Petition gatherers lied about the DDC.** This is obviously the opinion of a DDC/DE advocate, which can neither be proved or denied without proof, however all of the volunteers were instructed on what to say and how to approach potential signers and the only thing said was that there were plans to build a DDC or DE in the Preserve at the Gateway. The cost quoted was taken from the latest Desert Edge Plan, so that is treated as a fact. So we are not sure what lies this refers to, but the overall reaction to the signature gathering effort has been extremely positive, as evidenced by the number of volunteers (over 280) and the number of citizens who signed the petition (over 37,000). As to the assertion that the city was not going ahead with the DDC/DE that again is totally false. The only thing that stalled the effort to put the DDC/DE in the Preserve was a legal challenge initiated by opponents to the DDC. That legal action stalled council action long enough to get this charter change on the ballot. Part of that legal challenge was to prove that they city had every intention of going ahead with building this in the Preserve, which was proved to sufficient extent to keep the legal challenge alive until the council actually made the decision to build it.

- 13. The Proposition 420 was funded by dark money.** This appears to be an attempt to shift the focus from what Proposition 420 does for the voters of Scottsdale to another popular topic among voters. Virtually all of the funding of the signature gathering effort came from average citizens, just like you. Some funding was received from donors who wanted to remain anonymous, but most of those funds were used to fund a legal challenge against the city, which essentially stalled action on the DDC/DE until this charter change could get on the ballot. But even those donors are Scottsdale citizens too. The legal challenges were not done by the Political Action Committee (PAC), that was formed to gather signatures, but rather was done by the Protect Our Preserve (POP) organization. POP had collected a lot of money before the petition effort even started so the decision was made to spend some of that money on this ballot initiative because it better accomplishes POP's mission of protecting the Preserve. There is absolutely nothing illegal about the way either action was done and virtually all the money raised came from Scottsdale citizens, not from mysterious outside sources trying to control an election. We did get a few dollars from tourists and other out of town visitors, because they supported our mission but couldn't sign the petition. However those donations were a very small fraction of the money collected, but did represent other people who contributed to the Preserve funds by buying things in Scottsdale.
- 14. Charter changes are serious, it is dangerous to change the Charter.** This statement ignores the history of the Charter, and more specifically as it relates to the Preserve. In 1998, the Charter was changed in an attempt to protect the Preserve by prohibiting the council from disposing of Preserve lands, leasing them, or renting them without a public vote. That change was embraced by the voters who approved it 80% to 20%. Proposition 420 is just an extension of that section of the existing charter to further protect the Preserve against inappropriate development by requiring that same public vote to build anything in the Preserve. All the planned trails and trail heads have already been built and would not be impacted by this requirement. Proposition 420 changes NOTHING else, just adds further protection for the Preserve and Preserve funds. Most Charter changes impact the entire city or its operations, this one only impacts development in the Preserve, which shouldn't have any development in it anyway. So this change is far less dangerous than many other changes to the city Charter, that has been changed 13 times covering 75 requested changes of which 70 passed, during its history.
- 15. Would lead to very expensive elections.** If a SPECIAL election were held, that could cost the city \$500,000 as they claim, but city elections were moved to November to coincide with state and national elections (the Charter was actually changed to officially move them to November), so there is absolutely NO reason to hold a special election. The claim is that emergency elections would be required, but that is false as explained in #4. The city doesn't do ANYTHING quickly except approve inappropriate development, everything else takes a year or more allowing an election in November if necessary. November elections cost the city almost nothing because the state handles it all. There is a very minor cost to print ballot pamphlets, but that is about it. If the election coincides with a city council election (every 2 years) the city will be printing the ballot pamphlets anyway so there is virtually no cost to add a question to the ballot.

- 16. Campaign violations by the major Proposition 420 proponents.** The proponents of Proposition 420 have been under constant harassment from anti proposition 420 people who have filed campaign finance complaints against all proponent groups, NoDDC, Protect Our Preserve (POP), and the Protect Our Preserve PAC (POP-PAC). The ballot initiative was done by POP PAC with some funding from POP. NoDDC does not have formal relationship with the ballot initiative. The city found NoDDC had some possible violations involving money NoDDC collected during the effort, which are being addressed by the city and a lawyer representing NoDDC. The city did not find any violations by either POP or POP PAC, however that did not stop one of the opposition people from filing another complaint which should be dismissed quickly because the city has already determine there was no violation and the complaint did not provide any additional evidence of a violation. A lot of been made of the violation by NoDDC but NoDDC was not involved in the funding or running of the ballot initiative and the violation is a minor one that should be rectified shortly. Again an attempt to shift focus from the real issue to attacking anyone or any party associated with putting the charter change on the ballot.
- 17. McDowell Sonoran Preserve Commissioners are against proposition 420.** It is true some past commissioners are against proposition 420, but it is also true a lot of past commissioners are for the charter change, so this is another statement that doesn't convey the real truth. Throughout all the years the DDC concept was around and discussed, and the 5 previous plans were analyzed, the MSPC was somewhat split on it, with more opposed than favoring it, especially after it grew and size and violated more of the Preserve ordinance. In fact the pro DDC people tried to have the council disband the commission because it was in the way of getting the DDC approved.
- 18. Handicapped relatives need the DDC.** See the answer about access which is not only free to everyone, but accommodates the handicapped already. For those few people who can't be outside in the Preserve, there is no reason why a facility for them can't be built outside the Preserve, since they aren't going into the Preserve anyway. If the existing ADA accessible trails need to be improved to accommodate a particular group, that can be done without a public vote.