

## Editors Note

What appears below is an interpretation by McDowell Sonoran Preserve Commission (MSPC) chair Jim Heitel of what Deputy City Attorney, Joe Padilla, told the MSPC. It is expected that the actual meeting date was January 31, 2013 meeting. The City Attorney's office claims it is not accurate so we are requesting the audio of that meeting to determine what was said vs. what is in this interpretation. What appears below is exactly what Jim Heitel wrote and asked the city attorney to confirm. They refused to do clarify what was and was not said.

RE: January 31, 2012 meeting of the McDowell Sonoran Preserve Commission:

- Pursuant to Article 8, Section 8 of the Scottsdale City Charter; *"Land purchased directly with the proceeds of a tax specifically authorized by the electors for purchase of preserve land shall be deemed designated as preserve land upon the city's acquisition."*
- Pursuant to Article 8, Section 10 of the Scottsdale City Charter: *"The city shall not convey ownership or grant an easement, lease, lien or other real property interest in any land designated as preserve land."*
- Pursuant to Article 8, Section 11 of the Scottsdale City Charter, for parcels of more than one acre: *"Removal of the preserve designation from any other parcel of land shall require approval by an affirmative vote of two-thirds (2/3) of all members of the council, but shall not become effective unless submitted by the council to the electors and approved by vote of the majority of votes cast at the election".*

It is the opinion of the Scottsdale City Attorney's office that on any lands designated Preserve:

1. The city council by simple majority vote without approval by the electors:
  - a. May make any changes it desires to allow uses currently prohibited in the Preserve,
  - b. May rezone any part of the Preserve to allow commercial or other such activities,
  - c. May change the general plan designation of such parcels to be consistent with the rezoning,
  - d. May spend any amounts it chooses from monies collected or to be collected by the Preserve land acquisition taxes to build any structure or facility which they deem an "improvement",
    - i. These potential "improvements" could include but are not limited to
      1. restaurants
      2. cafes
      3. amphitheaters
      4. retail stores
      5. event centers
  - e. May lease or enter into a long term management agreement with a third party operator to operate the facilities.