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12
13 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
14 **IN AND FOR THE COUNTY OF PIMA**

15 ARIZONA CITIZENS DEFENSE
16 LEAGUE, INC, an Arizona nonprofit
17 corporation; and CHRISTOPHER M. KING,

18 Plaintiffs,

19 vs.

20 PIMA COUNTY, a political subdivision of
21 the State of Arizona; REX SCOTT, MATT
22 HEINZ, SYLVIA M. LEE, STEVE
23 CHRISTY, and ADELITA S. GRIJALVA,
24 in their official capacities as members of and
25 constituting the Pima County Board of
26 Supervisors,

27 Defendants,

Case No.

**COMPLAINT SEEKING
DECLARATORY AND
INJUNCTIVE RELIEF
(Not Subject to Compulsory
Arbitration)**

28
INTRODUCTION

1. The Pima County Board of Supervisors unlawfully enacted an ordinance that subjects firearm owners to fines of up to \$1,000 for failing to report the loss or theft of a firearm to law enforcement within 48 hours. The expressly stated goals of the ordinance are to combat “the *sale or transfer* of firearms to prohibited *possessors* ... from *straw purchasers* who *buy* firearms on their behalf with the intent of *selling* them illegally” and to impose penalties on firearm owners of up to \$1,000—more than any state law penalty—for failing to report the loss or theft of a firearm to the government. Pima County Ordinance 2024-2 (the ‘Ordinance’) (emphasis added).

1 that “[o]ur office has previously advised the Board that section 13-3108 prevents the
2 Board from imposing contract terms ... that would prohibit the use of fairgrounds for gun
3 shows” and then made clear that

4 Section 13-3108 imposes numerous restrictions on political subdivisions,
5 acting in any capacity, including barring any ordinance or rule relating to the
6 sale of firearms. Any ordinance or rule that violates the statute is
7 unenforceable and can result in significant liability including a civil penalty
8 up to \$50,000 and actual damages up to \$100,000. A directive by the Board
relating to the abrogation of gun show contracts, and the prohibition against
the creation of future contracts, may violate section 13-3108 as effectively
regulating the sale of firearms by a political subdivision and thus result in
liability.

9 Brown recommended, among other things, that the Board

10 pass a resolution (not an ordinance or rule) expressing the Board’s
11 identification of the issue (increase in gun violence), statement of purpose
12 (wishing to take no actions that may contribute to this identified crisis), and
calling for help from the federal and state government (since Arizona law has
stripped it of authority to pass rules or ordinances related to gun regulation).

13 Additionally, in response to a question about a court challenge to A.R.S. § 13-3108, Brown
14 explained:

15 The prospects for success are not high, and may hinge on the County’s ability
16 to: (1) challenge the constitutionality of A.R.S. § 13-3108; (2) identify a
17 procedural defect in the statute’s construction; or (3) secure an injunction
18 against the State’s enforcement of A.R.S. § 13-3108 and its prohibition on a
19 political subdivision’s regulation of firearms. ... Even though the County has
20 broad public health authority, this specific statute (section 13-3108) likely
preempts County action and would control. ... The County would need to
show that the statute is unconstitutional, and we have yet to identify a viable
argument to challenge its constitutionality.

21 Ex. 1.

22 17. On August 2, 2022, the Pima County Board of Supervisors passed a
23 resolution sponsored by Supervisor Scott calling for the repeal of A.R.S. § 13-3108.
24 Resolution 2022-44 is attached as Exhibit 2. Brown’s Mar. 1, 2022 memo was included as
25 agenda material. *See* Ex. 1. Additionally, a follow-up memo dated March 24, 2022, again
26 citing A.R.S. § 13-3108, was also included and is attached as Exhibit 3.

27 18. Plaintiff AzCDL submitted a letter opposing Resolution 2022-44, attached
28 as Exhibit 4.

1 19. As documented in the minutes, Supervisor Scott said that “it was wrong for
2 the County [to] be denied to insist that gun sales on its property be conducted solely by
3 those that held federal firearm licenses, who therefore put their buyers through
4 background checks.” August 2, 2022 Meeting Minutes at 26.¹ He added that “it was
5 wrong for the statute to call for penalties and sanctions against any local government or
6 individuals when it came to gun safety and regulation” and that “the resolution also
7 directed the Pima County Attorney, Laura Conover, to provide the Board with the means
8 to move forward with a lawsuit to challenge the statute.” *Id.* Supervisor Christy, in
9 opposition, “commented that the resolution ... was an attempt to insert a new angle into
10 efforts to eliminate guns, gun usage and sales, gun purchases and shows and gun
11 hobbyists” and that it “would not only affect gun shows and sales, but gun purchases
12 made in legal stores, including target ranges, recreational target competitions and hunting
13 sports.” *Id.* Supervisor Grijalva “indicated that there needed to be some push back at the
14 local level if the federal or state governments did not do what was in the best interest of
15 the community.” *Id.* The resolution passed by a 3-2 vote, with then-Chair Bronson² and
16 Supervisor Christy voting “nay.” *Id.* at 27.³

17 20. On December 20, 2022, the Board met in Executive Session with Brown
18 “for legal advice and discussion regarding updates on the memorandum on State Firearm
19 Preemption Laws. ... No Board action was taken.” December 20, 2022 Meeting Minutes
20 at 3.⁴

21 21. On August 8, 2023, the Board discussed efforts “to allow jurisdictions to
22 regulate firearm sales” as a part of setting their 2024 Legislative Agenda, mentioning the
23 prior resolution “that called for the legislature to repeal A.R.S. § 13-3108” which “would
24 allow local jurisdictions to have stricter firearms regulations than state regulations.”

25 _____
26 ¹ <https://tinyurl.com/2bymrvv3>.

27 ² Supervisor Lee had not yet taken office. Sharon Bronson sat on and chaired the Board.

28 ³ *See also* Bennito L. Kelty, *Pima Supes vote 3–2 to challenge Arizona Ban on Local Gun Controls*, Tucson Sentinel (Aug. 9, 2022),

https://www.tucsonsentinel.com/local/report/080922_pima_guns_supes/pima-supes-vote-3-2-challenge-arizona-ban-local-gun-controls/.

⁴ <https://tinyurl.com/bdx35frc>.

1 August 8, 2023 Meeting Minutes at 10–11⁵. Supervisor Scott made clear that “the Board
2 had already taken a position on that issue.” *Id.* at 11. Chair Grijalva stated that the issue
3 would be submitted to the County Supervisors Association for consideration and
4 “incorporat[ion] into that association’s platform.” *Id.*

5 22. In response to the Board’s resolution calling for a repeal of A.R.S. § 13-
6 3108, Rep. Nancy Gutierrez introduced House Bill 2566⁶ on or about January 22, 2024.
7 The bill did not receive a hearing.

8 23. Having failed to convince the state legislature to repeal A.R.S. § 13-3108,
9 the Board then disregarded it.⁷

10 **Ordinance 2024-2**

11 24. On or about February 13, 2024, Pima County issued a press release
12 regarding coordinated efforts between the Board and two state representatives to “address
13 gun violence.” These included Rep. Gutierrez’s HB 2566, another firearm-related bill
14 proposed by Rep. Stacey Travers, and an ordinance to be proposed by the Pima County
15 Board of Supervisors to “require the reporting of lost or stolen firearms to help keep
16 dangerous weapons out of the hands of prohibited possessors.” A draft copy of the press
17 release, which was prepared by the Pima County Attorney’s Office and coordinated by
18 Supervisor Scott, is attached as Exhibit 5.

19 25. On February 16, 2024, District 1 Supervisor Rex Scott held a press
20 conference with Rep. Nancy Gutierrez⁸ and Pima County Attorney Laura Conover,
21 announcing their coordinated efforts. *See, e.g.,* Austin Janos, *Local and State Leaders to*

22
23
24 ⁵ <https://tinyurl.com/2p9shk44>.

25 ⁶ <https://apps.azleg.gov/BillStatus/BillOverview/80433>.

26 ⁷ The Board is not the only entity to ignore firearm preemption statutes recently. In 2023,
27 the City of Phoenix violated A.R.S. § 13-1308(A) and other firearm preemption statutes
28 by unlawfully transferring nearly 600 “unclaimed” firearms to the National Police of
Ukraine via a private export company. *See* AG Investigative Report No. 23-003 (Sept. 20,
2023), [https://www.azag.gov/sites/default/files/docs/complaints/sb1487/23-
003/Investigative%20Report%20No.%2023-003.pdf](https://www.azag.gov/sites/default/files/docs/complaints/sb1487/23-003/Investigative%20Report%20No.%2023-003.pdf).

⁸ Email records show that Rep. Gutierrez also coordinated with the activist group Moms
Demand Action.

1 *Meet Friday to Address Gun Laws in Arizona*, KGUN 9 (Feb. 14, 2024).⁹ The Press
2 Conference Schedule, attached as Exhibit 6, indicates that Supervisor Scott spoke about “a
3 proposed ordinance that will require the reporting of lost or stolen firearms to help keep
4 dangerous weapons out of the hands of prohibited possessors.”

5 26. On February 16, 2024, Supervisor Scott submitted a “Memorandum” and
6 draft ordinance to Clerk of the Board Melissa Manriquez, requesting that the following
7 item be placed on the agenda for the March 5, 2024 Board of Supervisors meeting:

8 BOARD OF SUPERVISORS

9 Hearing – Code Text Amendment

10 ORDINANCE NO. 2024-____, an Ordinance of the Board of Supervisors of
11 Pima County, Arizona, relating to Law Enforcement; amending the Pima County
Code, Title 9.

12 Memorandum and accompanying draft ordinance attached as Exhibit 7.

13 27. Between February 20 and February 23, 2024, Pima County Sheriff Chris
14 Nanos exchanged a series of emails with PCAO’s Sam Brown and Supervisor Scott.
15 Those emails are attached as Exhibit 8. The sheriff expressed mixed feelings about the
16 proposed ordinance, including his thoughts on the limited impact the ordinance would
17 have on “prohibitive [sic] possessors.”¹⁰ *Id.* at 1. Brown’s response specifically
18 acknowledges that “counties are subdivisions of the state” and “unfortunately, the state
19 has a firearm preemption law (13-3108) that prohibits most local efforts at firearm
20 regulation, though the BOS has taken steps to try to challenge that legislatively.” *Id.* at 3.
21 In a follow-up email, Brown says that “the BOS is interested in doing what it can within
22 the limitations,” which were described as “[v]ery frustrating.” *Id.* at 9. Supervisor Scott
23 sent the sheriff the two legal memos that had been prepared by PCAO, explaining:

24 The Board removed attorney-client privilege from them the same month we
25 passed the resolution calling for the repeal of ARS 13-3108. These two
26 memos were attempts to find some way to address the issues at the gun shows.
When we got the memos, it was clear that the next logical step was to call for

27 ⁹ <https://www.kgun9.com/news/local-news/local-and-state-leaders-to-meet-friday-to-address-gun-laws-in-arizona>.

28 ¹⁰ The sheriff also appears to have been in touch with the activist group Moms Demand Action. *See* Ex. 8 at 1 (referring to “Mom’s Demanding Action [sic]”).

1 the repeal of the statute. I send these to you to point out that there were
2 attempts made by the Board to address the issues in the email you sent to Sam
and others Tuesday and forwarded to me tonight.

3 The current proposed ordinance is also attached. It includes this language:

4 *Although A.R.S. § 13-3108 prohibits the enactment of any local*
5 *ordinance relating to the transportation, possession, carrying,*
6 *sale, transfer, purchase, acquisition, gift, devise, storage,*
7 *licensing, registration, discharge or use of firearms, a*
8 *reporting requirement for the loss or theft of a firearm relates*
to none of these issues. The Arizona Court of Appeals found in
City of Tucson v. Rineer that A.R.S. § 13-3108 only prohibits
local firearms regulations with respect to those issues
specifically identified in § 13-3108.

9 Sam has told me that this ordinance was drafted by PCAO with the goal of
10 surviving a court challenge. This excerpt attests to those efforts, as does other
language in the ordinance.

11 *Id.* at 14–15.

12 In the sheriff’s response, he recalled:

13 I thought in my discussion yesterday with Sam *this ordinance might find a*
14 *loop hole* [sic] *to land, but in the long run it would not hold up to future*
15 *challenges...be it legislative or judicial.* We all know that 13-3108 doesn’t
have the language on reporting requirements, but just how fast do we think it
would take to make the addendum?

16 *Id.* at 14 (emphasis added).

17 28. Between February 16 and February 29, 2024, Tucson Chief of Police Chad
18 Kasmar exchanged emails with Supervisor Scott and other county staff, attached as
19 Exhibit 9. Supervisor Scott requested a letter of support from the Chief and explained that
20 the Ordinance “was drafted for our consideration by the Pima County Attorney’s Office at
21 my request and their staff consulted with the Arizona Attorney General’s office during the
22 drafting process.” *Id.* at 2. In his reply, after explaining his limitations against lobbying for
23 policy changes as an appointed official, the police chief stated, “I am certainly an
24 advocate of firearms responsible ownership and gun crime accountability, but I do worry
25 about the victim accountability language in your proposed policy. I could see that being
26 problematic if someone was not from Tucson or unaware of county ordinances.” *Id.* at 1.

27 29. On March 4, 2024, Pima County Attorney Laura Conover submitted a letter
28 to the Board requesting that the proposed penalty of \$300 be increased to “up to \$1000 for

1 each violation,” ostensibly so that the County Attorney would have “discretion to apply
2 different fines depending on the circumstances,” including “allowing stiffer fines for
3 individuals involved in straw *purchases*.” Conover letter attached as Exhibit 10 at 2
4 (emphasis added). Conover’s letter was included as part of the March 5th meeting’s
5 agenda material. *Id.* at 1.

6 30. Conover’s letter emphasized that “the Sheriff and the County Attorney have
7 a ... duty to enforce laws prohibiting the *sale or transfer* of firearms to prohibited
8 *possessors*,” mentioned that “[i]n 2023, the County Attorney’s Office handled more than
9 100 cases or crimes involving firearms committed by prohibited *possessors*,” and opined
10 that “the proposed ordinance[] can assist us in keeping firearms out of the hands of people
11 who should not, by law, have them.” *Id.* at 1 (emphasis added).

12 31. Conover’s letter also alleged, inconsistently, that “the proposed ordinance
13 ... would not invalidate anyone’s right to legally own or possess any firearm,” that
14 “[t]here is no impact on a person’s right to own or possess something which is no longer
15 in their possession,” and that “[i]n fact, the proposed ordinance may assist law
16 enforcement in retrieving the missing firearm *in order to return it back to the owner’s*
17 *possession*.” *Id.* (emphasis added).

18 32. On March 5, 2024, the Pima County Board of Supervisors met¹¹ and
19 considered Supervisor Scott’s proposed ordinance. *See* Item 41 on March 5, 2024 Meeting
20 Agenda, attached as Exhibit 11 at 11; March 5, 2024 Meeting Summary Report attached
21 as Exhibit 12 at 8.

22 33. Before the vote, Supervisors Scott, Heinz, and Lee spoke in favor of the
23 proposed ordinance, and Supervisor Christy spoke against it.¹²

24 34. Supervisor Scott specifically stated that the Ordinance “is designed to
25 combat straw purchases ... [and] make sure that prohibited possessors do not obtain
26 weapons.”¹³

27 ¹¹ <https://youtu.be/nL1n3flCzWA>.

28 ¹² *Id.*

¹³ *Id.*

1 35. Supervisor Heinz, citing his own experience as a former state legislator,
2 acknowledged that “the only way” to enact certain firearm regulations is “at the state
3 level,” a sentiment echoed by Supervisor Lee, who shared Heinz’s desire to see a change
4 in the composition of the state legislature so that certain firearms could then be banned at
5 the local level. *Id.* Supervisor Heinz also cited the alleged transfer of firearms into Mexico
6 as additional grounds for disagreeing with Supervisor Christy’s concerns about the
7 Ordinance. *Id.*

8 36. The Board passed the Ordinance, with Conover’s proposed augmentation of
9 the permissible penalty, by a 4–1 vote.¹⁴ A signed copy of the Ordinance is attached as
10 Exhibit 13. By its terms, the Ordinance would become effective 30 days later. *Id.*

11 37. On March 12, 2024, Representative Quang Nguyen, who chairs the
12 Judiciary Committee in the Arizona House of Representatives, notified the Board that the
13 Ordinance violates A.R.S. § 13-3108 and demanded that it be immediately repealed. Rep.
14 Nguyen’s letter is attached as Exhibit 14.

15 38. On March 13, 2024, Senator Justine Wadsack, then a member of the
16 Judiciary Committee in the Arizona Senate and who represents District 17 (which covers
17 part of Pima County), sent a similar letter to the Board stating that the Ordinance is
18 “preempted by longstanding state law.” Sen. Wadsack’s letter is attached as Exhibit 15.

19 39. On March 18, 2024, Plaintiff AzCDL, through counsel, sent a letter to the
20 Board demanding repeal of the Ordinance no later than April 2, 2024. The letter is
21 attached as Exhibit 16.

22 40. The Board has not repealed the Ordinance. *See* April 2, 2024 Meeting
23 Summary Report¹⁵; April 16, 2024 Meeting Summary Report¹⁶. The Ordinance took
24 effect¹⁷ April 4, 2024. *See* Ex. 13 at 4 § 2.

25
26 _____
14 Only Supervisor Steve Christy voted against the Ordinance. Ex. 12 at 8.

15 <https://tinyurl.com/yrwychb4>.

16 <https://tinyurl.com/yc58xa24>.

17 The operative language of the Ordinance is codified at Chapter 9.85 of the Pima County Code. *See* Ex. 13 at 2 § 1.

COUNT 1
(A.R.S. § 13-3108)

1
2 41. Plaintiffs incorporate every allegation of the Complaint as if herein alleged
3 in full.

4 42. The right to keep and bear arms is a fundamental individual right under both
5 the U.S. and Arizona constitutions. U.S. Const. amend. II; Ariz. Const. art. II § 26. As
6 such, the Arizona Legislature has taken—and reinforced—measures to prevent a
7 regulatory patchwork across the state by expressly preempting all local firearms-related
8 rules, ordinances, and regulations, with very narrow and defined exceptions. *See generally*
9 A.R.S. § 13-3108. *See also* A.R.S. §§ 12-943, 12-945(B) (prescribing how municipalities
10 dispose of unclaimed firearms).

11 43. Arizona’s firearm preemption statute prohibits Defendants from enacting
12 “any ordinance ... *relating to* the transportation, *possession*, carrying, *sale*, *transfer*,
13 *purchase*, *acquisition*, gift, devise, storage, licensing, registration, discharge or use of
14 firearms,” A.R.S. § 13-3108(A) (emphasis added).

15 44. Additionally, A.R.S. § 13-3108(D) preempts any ordinance that “*relates to*
16 firearms and is more prohibitive than *or that has a penalty that is greater than any state*
17 *law penalty*,” A.R.S. § 13-3108(D) (emphasis added).

18 45. “Related” means “[c]onnected in some way; having relationship to or with
19 something else.” Black’s Law Dictionary 1541 (11th ed. 2019). *Accord* “relate to”¹⁸
20 Merriam-Webster.com (“to connect (something) with (something else) ... to be connected
21 with (someone or something): to be about (someone or something)”).

22 46. Under its plain terms, the Ordinance relates to firearms.

23 47. The Ordinance defines “firearm” in line with state law. Ex. 13 at 3 §
24 9.85.020(A). It makes it “unlawful for any person to fail to report to a local law
25 enforcement agency the knowing loss or theft of a firearm.” *Id.* § 9.85.030(A). “The
26 report ... must be made in the jurisdiction in which the loss or theft occurred and within

27
28 ¹⁸ The variants “related to,” “relating to,” and “relates to” are all covered by Merriam
Webster’s definition of the phrasal verb “relate to.” *See* [https://www.merriam-
webster.com/dictionary/relate%20to](https://www.merriam-webster.com/dictionary/relate%20to).

1 forty-eight hours of the time the person knew or reasonably should have known that the
2 firearm had been lost or stolen.” *Id.* § 9.85.030(B). And the report must include “the
3 make, model, and serial number of the firearm, if known by the person, and any additional
4 relevant information required by the law enforcement agency taking the report.” *Id.*
5 § 9.85.030(C). Additional references to firearms are made throughout the Ordinance.

6 48. The text of the ordinance repeatedly refers to the alleged problem of
7 “prohibited *possessors*” as among the motivations for the measure. Ex. 13 at 1–2 ¶¶ 4–7
8 (emphasis added).

9 49. The Arizona Attorney General has found that a local ordinance requiring a
10 person who owns or possesses a firearm to report its theft to law enforcement or face fines
11 relates to the possession or transfer of firearms. Ariz. AG Op. I13-010 (2013) at 5.

12 50. The text of the ordinance cites A.R.S. § 13-3102(A)(5), which prohibits the
13 *sale or transfer* of firearms to prohibited possessors. Ex. 13 at 1 ¶ 4.

14 51. The text of the ordinance cites the alleged problem of “straw *purchasers*
15 who *buy* firearms on their behalf or with the intent of *selling* them illegally.” *Id.* at 2 ¶ 7
16 (emphasis added). Moreover, the Board found that “[r]eporting requirements assist with
17 the apprehension and prosecution of straw purchasers, preventing or deterring them from
18 claiming that a firearm they bought and transferred to a prohibited possessor was lost or
19 taken in an unreported theft” *Id.*; *see also* Ariz. AG Op. I78-274 (1978) (overlapping
20 ordinance regarding unlawful possession of firearm preempted by earlier version of state
21 law).

22 52. By its plain terms, the Ordinance “relat[es] to the transportation, *possession*,
23 carrying, *sale, transfer, purchase, acquisition*, gift, devise, storage, licensing, registration,
24 discharge or use of firearms,” A.R.S. § 13-3108(A) (emphasis added).

25 53. Members of the Board made numerous statements indicating that the
26 Ordinance related to—at a minimum—firearm possession, sale, transfer, purchase, and
27 acquisition.

28 54. The Ordinance is also more prohibitive than state law.

1 60. “[Generally] applicable[] firearms-related statutes implicate several matters
2 of statewide, not merely local, concern and therefore govern over [a] conflicting
3 municipal [o]rdinance.” *Id.* ¶ 38. *See also id.* at 591 ¶ 1.

4 61. “To determine whether the Legislature intended to occupy a particular field
5 to the exclusion of all local regulation, we may look to the ‘whole purpose and scope of
6 the legislative scheme.’” *Ariz. AG Op. I78-274* (citation omitted).

7 62. “When a state legislature creates a ‘comprehensive statutory scheme’
8 regarding a particular field, that scheme implies ‘an obvious preemptive policy’ toward
9 that field. ... In enacting and amending A.R.S. § 13-3108, the Arizona Legislature has
10 developed a comprehensive statutory scheme regarding firearm regulation, thus adopting
11 a clear preemptive policy.” *Ariz. AG Op. I13-010* at 6 (quoting *Jett v. City of Tucson*, 180
12 *Ariz* 115, 122 (1994)). The AG pointed to broad language such as “*relating to*,” “*relates*
13 *to*,” and “a political subdivision acting in *any* capacity” as indication “that the Legislature
14 intended to make itself the only decision maker in the state law field of Arizona firearms
15 regulation.” *Id.* at 6–7. The title of the statute and its statement of intent also reflect a
16 preemptive policy. *Id.* at 7. The AG concluded that “[a]lthough the Legislature could have
17 conclusively demonstrated its intent to preempt cities from regulating firearms with more
18 explicit and unequivocal language, it nevertheless appears to have effectively preempted
19 the field.” *Id.* Therefore, firearm reporting ordinances govern a subject in a field that state
20 law already fully occupies. *See id.*

21 63. Other statutes likewise express the state’s intent to occupy the field of
22 firearm regulation. *See, e.g.*, A.R.S. §§ 12-943, 12-945(B) (preempting unauthorized
23 destruction or disposal of unclaimed or seized firearms). *See also Brnovich*, 242 *Ariz.*
24 588; *Ariz. AG Investigative Report 23-003*. *Cf.* A.R.S. § 13-3120 (preempting regulation
25 of knives).

26 64. For these reasons, the state has occupied the field of firearm-related
27 regulations and the Ordinance is preempted under the doctrine of field preemption.
28

1 **ENTITLEMENT TO RELIEF**

2 65. Plaintiffs incorporate every allegation of the Complaint as if herein alleged
3 in full.

4 66. Plaintiffs are adversely affected by Pima County’s implementation of this
5 illegal Ordinance. A.R.S. § 13-3108(K).

6 67. An actual and substantial controversy exists between Plaintiffs and
7 Defendants as to their respective legal rights and duties under the Ordinance and state
8 statute. *See* A.R.S. § 12-1831.

9 68. A.R.S. § 13-3108 preempts the Ordinance for the reasons articulated herein.

10 69. This Court has the power to determine the rights, legal relations, and status
11 of the parties with respect to statutes and County ordinances and may determine any
12 question of construction or validity with respect to the same.

13 70. Plaintiffs are therefore entitled to a declaration that Ordinance 2024-2 is
14 preempted by state law.

15 71. In addition, Plaintiffs are suffering and will suffer in the future irreparable
16 harm to their rights under Arizona law.

17 72. Plaintiffs have no adequate legal, administrative, or other remedy by which
18 to prevent or minimize this harm.

19 73. Unless Defendants are enjoined from implementing and administering the
20 Ordinance, Plaintiffs and others similarly situated will continue to suffer great and
21 irreparable harm.

22 **REQUEST FOR RELIEF**

23 Plaintiffs respectfully request that the Court award the following relief:

24 A. Declare that A.R.S. § 13-3108 preempts Pima County Ordinance 2024-2,
25 thereby rendering it null and void;

26 B. Declare that Ordinance 2024-2 is field preempted;

27 D. Issue a preliminary and permanent injunction enjoining the County from
28 implementing or enforcing Ordinance 2024-2;

1 E. Award attorney fees and costs pursuant to A.R.S. §§ 12-341, 12-348, 13-
2 3108(K), and the private attorney general doctrine; and

3 F. Order such additional relief as may be just and proper.

4 **RESPECTFULLY SUBMITTED** this 26th day of April 2024.

5

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GOLDWATER INSTITUTE

7

/s/ Parker Jackson

8

Jonathan Riches (025712)

Scott Day Freeman (019784)

Parker Jackson (037844)

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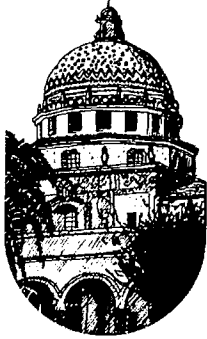
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MEMORANDUM

PIMA COUNTY ATTORNEY'S OFFICE | CIVIL DIVISION
32 N. Stone Ave., Suite 2100
Tucson, AZ 85701
(520) 724-5700 | Fax: (520) 620-6556

To: Supervisors Rex Scott and Adelita Grijalva
From: Samuel E. Brown, Chief Civil Deputy, PCAO
Acknowledgments: Niya Tawachi, PCAO Civil Law Clerk
Date: 3/1/2022

Subject: Gun Shows at the Pima County Fairgrounds: Current and Future Contracting

Questions Presented:

On December 18, 2021, you asked our office to provide an opinion regarding the following:

1. Can the Board of Supervisors direct the members of the Southwestern Fair Commission (SFC) to abrogate the contracts for the 2022 gun shows and prohibit the SFC from entering into future contracts?
2. If the Board of Supervisors is able to direct the SFC to take this action, what reasons can the Board of Supervisors cite that would not run afoul of Arizona statutes?
3. Can the SFC take independent action to abrogate its contracts with gun shows and refuse to enter into any future contracts of a similar nature?
4. If the SFC honors existing contracts with the gun show, can the SFC not book gun shows in the future?
5. Does the Board of Supervisors and or/ the SFC have any ability to abrogate the gun show contracts and refuse to enter into similar ones unaddressed by the previous inquiries?
6. Given that the cited statutes enacted by the Legislature prevent local governments from taking appropriate action to ensure public health and safety, including on its own property, what would be the County's prospects for success if it were to challenge State laws in any court action

AUG 02 22 10:41 AM PCAO CLK OF BD
Man

Analysis:

1. Can the Board of Supervisors direct the members of the SFC to abrogate the contracts for the 2022 gun shows and prohibit them from entering future contracts?

No, the Board of Supervisors (Board) does not have the authority to direct members of the SFC to abrogate the contracts for the 2022 gun shows or to prohibit the SFC from entering future contracts. The SFC is an independent, nonprofit organization, contractually permitted to enter into contracts with third parties for any purpose that is aligned with its Articles of Incorporation, its bylaws, and/or its operating agreement with Pima County.

The operating agreement grants the SFC “the status of an independent contractor,” delineates that the SFC “shall [not] be considered an employee of Pima County,” and grants the SFC “the exclusive right to use and occupy the Fairgrounds.” The contract further provides that the SFC is to “operate, manage, maintain and improve the Fairgrounds.” In doing so, the SFC is expressly “permitted to enter into agreements with third parties related to the operation of the Fair and Special Events, and for the management or use of portions, or facilities located on, the Fairgrounds.” Additionally, “[a]ll utilization of the Fairgrounds by third parties shall be scheduled and directed by and through the... [SFC].”

The SFC has entered into four contracts for gun shows in 2022. By their terms, those contracts “may be amended or added to...[through] an agreement in writing signed by the parties.” However, even if the SFC were not an independent entity, A.R.S. § 13-3108 (section 13-3108) may prevent the Board from directing the SFC regarding its gun show contracts. Our office has previously advised the Board that section 13-3108 prevents the Board from imposing contract terms on the SFC that would prohibit the use of fairgrounds for gun shows. Section 13-3108 imposes numerous restrictions on political subdivisions, acting in any capacity, including barring any ordinance or rule relating to the sale of firearms. Any ordinance or rule that violates the statute is unenforceable and can result in significant liability including a civil penalty up to \$50,000 and actual damages up to \$100,000. A directive by the Board relating to the abrogation of gun show contracts, and the prohibition against the creation of future contracts, may violate section 13-3108 as effectively regulating the sale of firearms by a political subdivision and thus result in liability.

Other Considerations

While the Board may not be able to direct the SFC regarding its contracting with gun shows, the Board may have some authority over the SFC actions regarding other matters. The contract between the County and the SFC provides the County with authority in the following areas:

- Fees (Section 4.4): The SFC may charge fees for Special Events and the use of the Fairgrounds, however, the fee amounts require County approval.
- Assignment, Concessions, and Subcontractors (Section 5): The SFC is not permitted to “assign or transfer [its Agreement with the County] or any interest therein, or allow any other person...to occupy the Fairgrounds...without first obtaining the written consent of [the] County.” Advance written consent from the County is also required for third party

agreements with the SFC that last more than three years (including any extensions or renewals.) The SFC is also required to respond to the County's request for "copies of any of its agreements with third parties that relate to the Fairgrounds or [the SFC's] operations thereon."

- Fairgrounds Revenues (Section 6): The SFC's level of compensation is subject to the "County's reasonable judgment."
- Alterations (Section 7): The County's written consent is needed for "any improvements, alterations, additions, or changes to the Fairgrounds...involving an expenditure of more than...\$100,000." Additionally, the SFC is required to "notify the County prior to beginning any Alteration on the Fairgrounds that will cost in excess of \$10,000." For those alterations "that cost more than the applicable Maximum Expenditure Amount...[the] County shall have the right to object to the plans and specifications."
- Prohibited Activities (Section 13): The SFC must secure the County's written consent in order to "conduct any activity or permit any activity to be conducted on the Fairgrounds which is not covered by the insurance policies provided pursuant to Section 18" of the contract. In addition to the County's written consent, the SFC is required to provide "additional insurance [to cover] the activity or event...with coverage limits and carriers acceptable to [the] County." The SFC is expressly prohibited from doing or permitting anything that "will in any way increase the existing rate of or affect any fire or other insurance upon the Fairgrounds."
- Insurance (Section 18): While the SFC "may require that [commercial general liability] insurance be carried by those users of the Fairgrounds who actually carry out the activities being insured...[the SFC] shall be liable to the County for any failure by such third party to furnish the required insurance." The County is expressly provided the authority to "increase the limits on coverage for unique or high risk Special Events." Additionally, the "County retains the right to reasonably increase the limits or types of coverage...as determined in the best interest of [the] County by the Pima County Risk Manager."
- Environmental Compliance (Section 19): The SFC cannot "cause or permit any Hazardous Material...to be brought upon, kept, or used in or about the Fairgrounds...without the prior written consent of the County."

2. If the Board of Supervisors is able to direct the SFC to take action, what reasons can we cite that would not run afoul of Arizona statutes?

In light of the analysis provided above, it is unlikely that the Board is able to direct the SFC to take action without violating section 13-3108 or the Board's contractual obligations to the SFC.

3. If we honor the contracts already in existence, can the SFC not book gun shows in the future?

The SFC, as an independent entity, is likely able to decline contracting with gun shows in the

future. There are no provisions in either its contracts with the gun show or the County that would require the SFC to continue to enter future contracts with gun shows. In its Articles of Incorporation and its contract with the County, the SFC is charged with managing the Fairgrounds for the benefit of the public and in furtherance of the public's interests. In light of increasing gun violence, the SFC's decision not to contract with future gun shows may be a decision made for the benefit of the public, it may be a pure economical decision, or a decision made for other reasons that are aligned with its non-profit purposes.

However, although the SFC is an independent entity, such a decision may be characterized or viewed by a Court as the SFC acting as an agent of the County through its operating agreement.

The BOS might consider discontinuing the practice of its Fair Commission board members automatically becoming SFC board members. Then, the SFC would select its own board members who may or may not also serve on the Fair Commission board.

4. Could the SFC take independent action to abrogate these contracts and refuse to enter into any further contracts of a similar nature?

The SFC may be able to take independent action to abrogate its contracts with the gun show so long as that action is premised on the gun show's breach of contract. The contract between the SFC and the gun show stipulates that should either party breach the terms of the contract, "the breaching party agrees to pay reasonable attorney's fees, expenses and costs for legal enforcement of the provisions." Unlike the contract between the SFC and the County, the contract between the SFC and the gun show does not explicitly address what actions constitute a breach of agreement. However, the SFC may be able to abrogate its contract if it finds that the "contract signer, promoter and show staff . . . [have failed] to comply with all local, state and federal laws while conducting their event."

5. Does the Board of Supervisors and/or the SFC have any ability to abrogate these contracts and refuse to enter similar contracts unaddressed by the previous questions?

SFC

The Board of Supervisors may have limited authority regarding the SFC's ability to contract with third parties. The contract between the County and the SFC expressly provides that the SFC "be permitted to enter into agreements with third parties related to the operation of the Fair and Special Events, and for the management or use of portions of, or facilities located on, the Fairgrounds." The contract further provides that these agreements "include, without limitation, third party uses and operations for food and beverage operations, and other activities related to the Fair or" Special Events. Additionally, the SFC may "hire third parties to perform services such as maintenance, construction and landscaping on the Fairgrounds."

The SFC's ability to contract with third parties is only constrained by limited County oversight. For example, the SFC must obtain the County's advance written consent for agreements lasting longer than 3 years "(including any extensions or renewals)." Additionally, the SFC is prohibited from "delegat[ing] its overall responsibility for all operations on the Fairgrounds, without County's written consent, which may be withheld at the reasonable discretion of the County." The contract further provides that all agreements between the SFC and third parties "shall be

subordinate and subject to the terms of” the agreement between the County and the SFC. Additionally, the SFC is prohibited from entering “into any agreement with any entity or person with respect to the Fairgrounds or [the SFC’s] operations at the Fairgrounds that will result in a direct or indirect pecuniary benefit to any person who is, or within the five years preceding the transaction was, an officer, director, employee or representative of” the SFC.

Board

Another consideration that carries inherent risk but may be a viable option: pass a resolution (not an ordinance or rule) expressing the Board’s identification of the issue (increase in gun violence), statement of purpose (wishing to take no actions that may contribute to this identified crisis), and calling for help from the federal and state government (since Arizona law has stripped it of authority to pass rules or ordinances related to gun regulation). However, passing a resolution that induces the SFC to abrogate a contract could also potentially result in liability for interference with contractual relations.

6. Given that Arizona statutes prevent local governments from taking appropriate action to ensure public health and safety, including on local government property, what would be the county’s prospects for success if we challenged the laws in any court action, especially since we are the local public health authority under state law?

The prospects for success are not high, and may hinge on the County’s ability to: (1) challenge the constitutionality of A.R.S. §13-3108; (2) identify a procedural defect in the statute’s construction; or (3) secure an injunction against the State’s enforcement of A.R.S. § 13-3108 and its prohibition on a political subdivision’s regulation of firearms. Under A.R.S. § 12-1801, a judge may grant an injunction in three circumstances: (1) “When...the party applying for the writ is entitled to the relief demanded, and such relief...requires the restraint of some act prejudicial to the applicant;” (2) “When, pending litigation, it appears that a party is doing some act respecting the subject of litigation...in violation of the rights of the applicant, which tend to render the judgement ineffectual;” and (3) “In all other cases when applicant is entitled to an injunction under the principles of equity.”

When seeking a preliminary injunction, the seeking party “must show (1) a strong likelihood of success on the merits, (2) the possibility of irreparable harm if the relief is not granted, (3) the balance of hardships favors the party seeking injunctive relief, and (4) public policy favors granting the injunctive relief.” *Fann v. State*, 493 P.3d 246, 253 (2021) (citing *Smith v. Ariz. Citizens Clean Elections Comm’n*, 132 P.3d 1187, 1190 (2006)). When seeking a permanent injunction, the seeking party “must demonstrate: (1) that it has suffered an irreparable injury; (2) that remedies available at law...are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction.” *eBay v. MercExchange*, 547 U.S. 388, 391 (2006).

Even though the County has broad public health authority, this specific statute (section 13-3108) likely preempts County action and would control. Specific legislation controls over general legislation, “[i]t is fundamental that when two statutes deal with the same subject, the more specific statute controls... .” *Pinal Vista Props., L.L.C. v. Turnbull*, 208 Ariz. 188, ¶ 23 (App. 2004).

The County would need to show that the statute is unconstitutional, and we have yet to identify a viable argument to challenge its constitutionality.

Conclusion:

The Board of Supervisors likely has little authority over the SFC's ability to contract with gun shows. Even if the Board of Supervisors were able to direct the SFC with regards to the gun shows, such action would likely violate Arizona law. While the Board of Supervisors is limited in its authority, the SFC may be able to take independent action. Without breaching the lease agreement, it may be difficult for the SFC to abrogate its current lease agreements with the gun shows.

RESOLUTION NO. 2022- 44

**RESOLUTION OF THE PIMA COUNTY BOARD OF SUPERVISORS CALLING FOR
THE REPEAL OF A.R.S. SECTION 3108 AND REQUESTING FROM THE PIMA
COUNTY ATTORNEY'S OFFICE OPTIONS TO CHALLENGE ITS LEGALITY AND/OR
CONSTITUTIONALITY**

WHEREAS, Arizona Revised Statutes (A.R.S.) section Title 13, Section 3108(A), prohibits political subdivisions in Arizona, including Pima County, from enacting "any ordinance, rule or tax relating to the transportation, possession, carrying, sale, transfer, purchase, acquisition, gift, devise, storage, licensing, registration, discharge or use of firearms or ammunition or any firearm or ammunition components or related accessories in this state";

WHEREAS, A.R.S. § 13-3108(B) prohibits political subdivisions in Arizona, including Pima County, from requiring "the licensing or registration of firearms or ammunition or any firearm or ammunition components or related accessories or prohibit the ownership, purchase, sale or transfer of firearms or ammunition or any firearm or ammunition components, or related accessories";

WHEREAS, A.R.S. § 13-3108(C)(2) prohibits political subdivisions in Arizona, including Pima County, from requiring or maintaining, "a record in any form, whether permanent or temporary, including a list, log or database, of ... any identifying information of a person who owns, possesses, purchases, sells or transfers a firearm [except in the course of a law enforcement investigation]";

WHEREAS, A.R.S. § 13-3108(D) prohibits political subdivisions in Arizona, including Pima County, from enacting "any rule or ordinance that relates to firearms and is more prohibitive than or that has a penalty that is greater than any state law penalty. A political subdivision's rule or ordinance that relates to firearms and that is inconsistent with or more restrictive than state law, whether enacted before or after July 29, 2010, is null and void;"

WHEREAS, any ordinance, regulation, tax or rule that is enacted by a political subdivision in Arizona, including Pima County, that is found to violate A.R.S. § 13-3108 is invalid and subject to a permanent injunction against the political subdivision from enforcing the ordinance, regulation, tax or rule. It is not a defense that the political subdivision was acting in good faith or on the advice of counsel (*see* A.R.S. § 13-3108(H));

WHEREAS, if a court determines that a political subdivision has knowingly and wilfully violated A.R.S. § 13-3108, the court may assess a civil penalty of up to fifty thousand dollars against the political subdivision (*see* A.R.S. § 13-3108(I));

WHEREAS, if a court determines that a person has knowingly and wilfully violated A.R.S. § 13-3108 while acting in the person's official capacity through enactment of any ordinance, regulation, tax, measure, directive, rule, enactment, order or policy,

the person may be subject to termination from employment to the extent allowable under state law (*see* A.R.S. § 13-3108(J));

WHEREAS, if a court determines that a person has knowingly and wilfully violated A.R.S. § 13-3108 while acting in the person's official capacity through enactment of any ordinance, regulation, tax, measure, directive, rule, enactment, order or policy, the person may be subject to termination from employment to the extent allowable under state law (*see* A.R.S. § 13-3108(J));

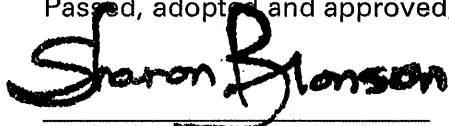
WHEREAS, the Centers for Disease Control and Prevention (CDC) has recognized firearm injuries as a serious public health problem; and

WHEREAS, Pima County, through both the Board of Supervisors and its Health Department, has broad authority to take action to protect the public health and safety of all Pima County's inhabitants (*see* A.R.S. § 11-251 (17); A.R.S. Title 36, Chapter 1, Article 4; and *Marsoner v. Pima County*, 166 Ariz. 486 (1991), including authority to adopt and enforce "regulations necessary for the public health and safety of the inhabitants," A.R.S. § 36-183.02).

NOW THEREFORE BE IT RESOLVED THAT:

1. The Board of Supervisors will call on the Arizona Legislature to repeal A.R.S. § 13-3108 and any other laws that inhibit the ability of local governments to take action to prevent gun violence, or to take other necessary measures related to the regulation of guns within the boundaries of their jurisdiction.
2. The Board of Supervisors requests from the Pima County Attorney's Office a set of options to challenge the legality and/or constitutionality of A.R.S. § 13-3108, especially regarding Pima County's statutory duties as the public health authority for all inhabitants of the County. These options should be presented to the Board of Supervisors no later than November 15, 2022.

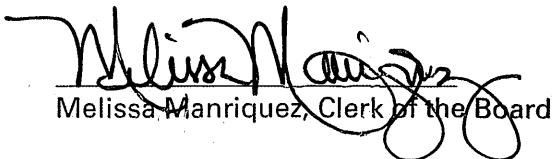
Passed, adopted and approved, this 2nd day of August, 2022.



Sharon Bronson, Chair
Pima County Board of Supervisors

AUG 02 2022

ATTEST:



Melissa Manriquez, Clerk of the Board

APPROVED AS TO FORM:



County Attorney

**ATTORNEY/CLIENT PRIVILEGED
M E M O R A N D U M**

Pima County Attorney's Office
Civil Division
32 North Stone Ave, Suite 2100
Phone 520.724.5700 Fax 520.620.6556



To: Pima County Supervisor Rex Scott
From: Sam Brown, Chief Civil Deputy Attorney
Date: March 24, 2022
Subject: Gun Show Memorandum Follow-Up

On Tuesday March 22, 2022, Supervisor Scott posed three follow-up questions to the March 1, 2022 Gun Show memo, relating specifically to the Southwestern Fair Commission (SFC):

- 1. If the SFC chose not to enter into any future contracts with the current gun show promoter, would the SFC be obliged to share their reasons for refusing to do so?*
- 2. Can the SFC be sued simply for refusing to enter into a new contract? On what basis? These questions apply to both the current promoter as well as others that might approach the SFC.*
- 3. If the SFC were sued for refusing to enter into a new contract, what would be their chances of prevailing?*

The SFC should retain its own legal counsel to provide legal advice. It is not legally permissible for PCAO to provide legal advice to SFC as they are not our client. Accordingly, Supervisors should not share this information with the SFC.

1. If the SFC chose not to enter into any future contracts with the current gun show promoter, would the SFC be obliged to share their reasons for refusing to do so?

We can see nothing in SFC's agreement with Pima County, or its rental agreements, that would require it to share their reasons. However, if there is a legal challenge to an SFC decision not to rent

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to a particular entity, their reasoning may be questioned, and they may be required to share their reasoning.

2. Can the SFC be sued simply for refusing to enter into a new contract? On what basis? These questions apply to both the current promoter as well as others that might approach the SFC.

Yes. For example, if an entity or plaintiff believed the refusal to contract violated local, state, or federal law (e.g. discriminatory purpose, etc.). Based on the language of the contract between the SFC and the current gun show promoter, it does not appear that the SFC could be sued for refusing to enter a new contract. Unlike SFC's contract with the County, SFC's contract with the gun promoter does not contain language addressing contract renewal.

The contract between SFC and the County says that SFC "shall use the Fairgrounds to conduct an annual fair...and may also use the Fairgrounds to conduct...other shows and events." Beyond hosting the annual fair, SFC has discretion as to whether to host other shows or events.

A gun show promoter may argue that SFC is a political subdivision (or, at least, that it is acting as an agent of a political subdivision) and that by refusing to contract with gun shows the SFC is violating A.R.S. § 13-3108. However, § 13-3108 prohibits a political subdivision from enacting an ordinance, rule, or tax relating to the sale of firearms. It is unlikely, but possible, that refusing to contract with a particular renter would constitute an ordinance, rule, or tax. But, if SFC were held to be (or held to be acting on behalf of) a political subdivision, a claimant could argue that by refusing to contract with gun shows, generally, SFC is regulating commercial land and structures in a different manner than other commercial businesses (see A.R.S. § 13-3108 (G)(3)).

Finally, the contract between SFC and the gun show contains an arbitration clause. Depending on a gun show promoter's claims, it may be required by contract to pursue arbitration. The arbitration clause states: "In the event of dispute between the parties as to this agreement authorized by or arising from this agreement, such dispute shall be resolved by arbitration, pursuant to A.R.S. 12-501, and controlled by the law of the state of Arizona and such arbitration shall take place in Tucson, Arizona."

3. If the SFC were sued for refusing to enter into a new contract, what would be their chances of prevailing?

It depends. SFC may have a good chance of prevailing because their current contract with the gun show promoter does not create an obligation to continue contracting. The promoter's success in bringing suit under the firearm statutes would hinge on the promoter's ability to show that SFC is a political subdivision or is acting on behalf of a subdivision. But, even then, it would have to prove that SFC either enacted an ordinance, rule, or tax, or that it is regulating commercial land in a different manner than other commercial businesses.



Protecting Your Freedom

Madam chair, board, and county residents,

My name is Tom Woodrow, and I represent AzCDL.org as a member of the board of directors of that organization. I address you today to let you know that Azcdl is monitoring you and your decision to pass a resolution to petition the legislature for the repeal of ARS 13-3108, state firearms law preemption.

I represent over 20,000 citizens and voters in the state of Arizona, and we founded in 2005 with the intention of promoting Az Constitution Article 2, section 2, that "governments... are established to protect and maintain individual rights", mainly pertaining to 2nd amendment protected civil rights.

Pertaining to the purpose of you resolution, I would like to read to you from Justice Bolicks opinion in regard to your question of "constitutionality" regarding this resolution:

¶83 The Court also observes that the subject matter at issue here is addressed by our state's constitutional protection of the right to keep and bear arms in article 2, section 26 of the Arizona Constitution. In my view, that necessarily elevates the subject matter to statewide concern. Tucson contends that its regulation does not limit the constitutional right to "bear arms." Ariz. Const. art. 2, § 26. The inquiry under current precedents is not whether the charter enactment implicates a constitutional right, but whether it implicates a matter of statewide concern. The state may reasonably determine that destroying firearms limits the quantity of firearms in the market, so that its statute addresses a matter of statewide concern not only pursuant to the state's police powers but its power to enforce the right to bear arms. Cf. City of Scottsdale v. State, 237 Ariz. 467, 472 ¶¶ 20–21 (App. 2015) (state is authorized to protect free speech rights, which prevails over conflicting charter enactment). (App. 1999); City of Tucson v. Rineer, 193 Ariz. 160, 163 ¶¶ 7–9, 164 ¶ 11 (App. 1998).

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1) What Pima County proposes to do in the supposed name of "safety," is a violation of Article 2, Section 26 of the Arizona Constitution.

"The right of the individual citizen to bear arms in defense of himself or the state shall not be impaired..."

2) Article 2, Section 2 of the Arizona Constitution, the purpose of government, says "Political power; purpose of government"

"All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect

Arizona Citizens Defense League



Protecting Your Freedom

and maintain individual rights.”

What you propose to do, in the supposed name of “safety,” Violates those rights.

- 3) The Arizona Supreme Court, as recently as August 17 of 2017, upheld the constitutionality of ARS 13-3108, and it’s supremacy over Tucson City Ordinance.

There is no evidence that there is any difference between that circumstance and this one.

<https://www.kold.com/story/36154456/az-supreme-court-expected-to-rule-in-lawsuit-over-destruction-of-seized-guns/>

- 4) All 5 of you Supervisors are under oath to uphold the Arizona Constitution and its laws. What you propose to do places you in violation of your oath.

Last week, AzCDL.org became aware of this resolution. For the record, AzCDL.org is opposed to any resolution that would repeal state firearms preemption. 13-3108 is designed to protect the citizen by ensuring a uniform framework of policy across the state, preventing a law abiding individual from crossing into another municipal boundary and suddenly being afoul of the law. Is this the intention of Pima County?

Madam chair, Supervisors, have a nice day

DRAFT PRESS RELEASE

Why: to notify the press about efforts by Pima County, and efforts by the Legislature that are supported by Pima County, to address gun violence in our community

What: three state and local efforts to address gun violence that would give local governments greater flexibility in addressing gun violence, protect educational institutions from known threats, and keep firearms out of the hands of prohibited possessors.

How: (1) a bill by Arizona State Representative Nancy Gutierrez (H.B. 2566) to repeal Arizona's firearm preemption statute, A.R.S. § 13-3108, as proposed by the Pima County Board through Resolution 2022-44 on August 2, 2022; (2) a bill by Arizona State Representative Stacey Travers (H.B. 2791) to protect educational institutions from known threats; and (3) a proposed ordinance that will be under consideration by the Pima County Board of Supervisors to require the reporting of lost or stolen firearms to help keep them out of the hands of prohibited possessors.

LOCAL AND STATE EFFORTS TO ADDRESS GUN VIOLENCE IN PIMA COUNTY AND ARIZONA Tucson, AZ

Local and state officials are addressing the issue of gun violence and laws in Arizona. Now a multi-part plan is moving forward to gain more flexibility with state law.

Leading into the plan, the Pima County Board of Supervisors passed a resolution in August 2022 calling for the repeal of a state law (A.R.S. § 13-3108) that prohibits local governments from addressing gun violence. Soon after, a University of Arizona professor was shot and killed by an expelled and disgruntled graduate student in an incident that may have been prevented, if a red flag law in Arizona had existed.

This month, three distinct state and local efforts are being proposed to address gun violence that would give local governments greater flexibility, protect educational institutions from known threats, and keep firearms out of the hands of prohibited possessors.

First, Arizona State Representative Nancy Gutierrez introduced House Bill 2566 to repeal Arizona's firearm preemption statute, A.R.S. § 13-3108, as proposed by the Pima County Board through Resolution 2022-44 on August 2, 2022. Second, Arizona State Representative Stacey Travers has introduced House Bill 2791 to protect educational institutions from known threats, similar to the threat that resulted in the death of a University of Arizona Professor in 2022. Finally, the Pima County Board of Supervisors will consider a proposed ordinance that will require the reporting of lost or stolen firearms to help keep dangerous weapons out of the hands of prohibited possessors.

Every year, an average of 371 people in Arizona die from gun homicides and 370 are wounded by gun assaults. Overall, *every single day* in Arizona, a person kills another person with a gun, *and* another is assaulted and injured by a gun assault. Arizona has the 26th-highest rate of gun homicides and gun assaults in the US, and guns are the *leading cause of death among Arizona children* between 15 and 17 years old.

Like many other states, Arizona law severely restricts local governments from enacting or enforcing gun control policies, all while refusing to enact statewide gun safety laws that will save lives under the philosophy of, "guns don't kill people, people kill people." This belief permeates our society, and the fact is that guns are dangerous weapons designed for killing and should be regulated the same way we regulate other dangerous products.

PRESS CONFERENCE INFORMATION

Date: Friday, February 16, 2024

Time: 10:00 a.m. – 11:00 a.m.

Location: Pima County Historic Courthouse, Turquoise Room, 115 N Church Ave.

Contact: Supervisor Rex Scott 520-724-2738 email: district1@pima.gov

Press Conference Schedule:

- **10:00 am - Pima County Supervisor Rex Scott** – welcome and introductions
- **10:05 am - Arizona State Representative Nancy Gutierrez (LD18)** introducing House Bill 2566 to repeal Arizona's firearm preemption statute, A.R.S. § 13-3108
- **10:15 am - Pima County Attorney Laura Conover** – will speak to Red Flag Warnings
- **10:25 am - Pima County Supervisor Rex Scott (D1)** will speak to a proposed ordinance that will require the reporting of lost or stolen firearms to help keep dangerous weapons out of the hands of prohibited possessors.
- **10:35 Questions from the Press (25 minutes)**
- **11:00 am Conference ends**

11:00 am - interviews in the Courthouse Patio –

- Southeast corner – away for music and museum

NOTE:

- The Mineral Museum opens at 10 am. The Turquoise Room and the entrance to the Mineral Museum share the entry hallway.
- Music in the Courtyard starting at 11:00 am in the SW corner of the patio
- Sign-in sheets will be at the entry door of the Turquoise Room.

MEMORANDUM

To: Melissa Manriquez, Clerk of the Board
Pima County Board of Supervisors

Date: February 16, 2024

Re: Agenda Item for 3/5/24 Meeting

From: Rex Scott
District 1 Supervisor
Pima County Board of Supervisors

Please place the following item on the agenda for the Board of Supervisors meeting March 5, 2024.

BOARD OF SUPERVISORS

Hearing - Code Text Amendment

ORDINANCE NO. 2024-____, an Ordinance of the Board of Supervisors of Pima County, Arizona, relating to Law Enforcement; amending the Pima County Code, Title 9.

ORDINANCE 2024- _____

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA
COUNTY, ARIZONA, RELATING TO LAW ENFORCEMENT;
AMENDING THE PIMA COUNTY CODE, TITLE 9**

THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA, FINDS THAT:

1. The Board of Supervisors has authority under A.R.S. § 11-251.05 to adopt ordinances necessary or proper to carry out the duties, responsibilities, and functions of the county.
2. The Pima County Sheriff and Pima County Attorney, as county officers, have a duty to preserve the peace and prosecute criminal proceedings under A.R.S. §§ 11-441 and 11-532, respectively.
3. The county also has a duty to take action to preserve the health of the county and the health and safety of its inhabitants. See, e.g., A.R.S. §§ 36-183.02, 11-251(17).
4. The Sheriff and County Attorney are responsible for enforcing A.R.S. § 13-3102(A)(5), prohibiting the sale or transfer of firearms to prohibited possessors.
5. Under A.R.S. § 13-3101(A)(7), prohibited possessors include people convicted of a felony or domestic violence offense, people who have been involuntarily committed for mental health treatment, and undocumented aliens.
6. Firearm-related violence by prohibited possessors is a threat to public order and to the health and safety of the county and its inhabitants. Most prohibited possessors abide by the removal of their right to possess a firearm unless or until it is restored. However, prohibited possessors commit a significant number of firearm-related crimes in Pima County. And, people who are prohibited from possessing firearms for reasons related to their mental health are at a higher risk of suicide if they are able to illegally obtain a gun.

7. Prohibited possessors routinely obtain firearms from straw purchasers who buy firearms on their behalf or with the intent of selling them illegally. Reporting requirements assist with the apprehension and prosecution of straw purchasers, preventing or deterring them from claiming that a firearm they bought and transferred to a prohibited possessor was lost or taken in an unreported theft as well as preventing or deterring prohibited possessors from falsely claiming that their firearms were lost or stolen when law enforcement moves to remove them.
8. Although A.R.S. § 13-3108 prohibits the enactment of any local ordinance relating to the transportation, possession, carrying, sale, transfer, purchase, acquisition, gift, devise, storage, licensing, registration, discharge or use of firearms, a reporting requirement for the loss or theft of a firearm relates to none of these issues. The Arizona Court of Appeals found in *City of Tucson v. Rineer* that A.R.S. § 13-3108 only prohibits local firearms regulations with respect to those issues specifically identified in § 13-3108.
9. A U.S. District Court within the Ninth Circuit found that a city ordinance requiring gun owners to maintain liability insurance was not preempted by general state laws regarding firearm possession, “[w]ithout any means by which handgun possession can be revoked, the Ordinance cannot be interpreted to be entering the field of residential handgun possession... .” *National Association for Gun Rights, Inc. v. City of San Jose*, 632 F.Supp.3d 1088, 1100 (N.D. Cal. 2022). Likewise, a reporting requirement for the loss or theft of a firearm that does not provide means by which firearm possession could be revoked does not enter the field of firearm possession.
10. It is in the best interest of the county to amend the Pima County Code by adding a requirement that the loss or theft of a firearm be reported to law enforcement.

IT IS ORDAINED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA:

SECTION 1. A new Chapter 9.85 of the Pima County Code is enacted, reading as follows:

CHAPTER 9.85 LOSS OR THEFT OF FIREARM—MANDATORY REPORTING

9.85.010 Declaration of policy. The purpose of this chapter is to protect the inhabitants of Pima County by aiding local law enforcement and the County Attorney in the enforcement of A.R.S. § 13-3102(A)(5) and preventing the commission of crimes using firearms obtained in violation of that statute. This chapter in no way affects the possession, transfer, or storage of firearms because this chapter does not provide means by which firearm possession could be revoked or transferred, nor does it seek to regulate the storage of firearms.

9.85.020 Definitions.

A. "Firearm" is defined as in A.R.S. § 13-3101.

B. "Person" is defined as in A.R.S. § 13-105.

9.85.030 Mandatory reporting of loss or theft of firearm.

A. Except as otherwise provided in this chapter, it is unlawful for any person to fail to report to a local law enforcement agency the knowing loss or theft of a firearm.

B. The report of a loss or theft of a firearm pursuant to section A must be made in the jurisdiction in which the loss or theft occurred and within forty-eight hours of the time the person knew or reasonably should have known that the firearm had been lost or stolen.

C. Every person reporting a lost or stolen firearm pursuant to section A must report the make, model, and serial number of the firearm, if known by the person, and any additional relevant information required by the local law enforcement agency taking the report.

9.85.040 False reporting. It is unlawful for any person to report to a local law enforcement agency that a firearm has been lost or stolen, knowing the report to be false.

9.85.050 Exemptions. This chapter does not apply to:

A. Any law enforcement agency or peace officer acting within the course and scope of his or her employment or official duties if he or she reports the loss or theft to his or her employing agency.

B. Any United States marshal or member of the Armed Forces of the United States or the National Guard, while engaged in his or her official duties.

C. Any firearms dealer or manufacturer licensed under federal law and subject to the reporting requirements of 18 U.S.C. 923(g)(6).

9.85.060 Violation—Penalty. A person violating a provision of this chapter is guilty of a petty offense and is subject to a penalty of \$300.00 for each violation.

SECTION 2. This Ordinance is effective 30 days after the date of adoption.

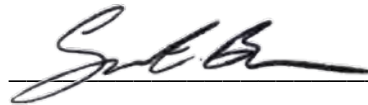
PASSED AND ADOPTED by the Board of Supervisors, Pima County, Arizona, this _____ day of _____, 2024.

Chairman, Pima County Board of Supervisors

ATTEST:

Clerk of the Board

APPROVED AS TO FORM



Deputy County Attorney

From: [Chris G. Nanos](#)
To: [Sam Brown](#)
Cc: [Baird Greene](#); [Laura Conover](#); [Jan Leshner](#)
Subject: RE: 3/5/24 Agenda Item (District 1)
Date: Tuesday, February 20, 2024 5:12:04 PM
Attachments: [image001.png](#)

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(520) 351-4700 Office
[REDACTED] Cellular
Executive Coordinator: *Caroline Vargas* 351-4711

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Sent: Tuesday, February 20, 2024 2:33 PM
To: Chris G. Nanos <Chris.Nanos@sheriff.pima.gov>
Cc: Baird Greene <Baird.Greene@pcao.pima.gov>; Laura Conover <Laura.Conover@pcao.pima.gov>
Subject: FW: 3/5/24 Agenda Item (District 1)

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Sam

From: Melissa Manriquez <Melissa.Manriquez@pima.gov>

Sent: Friday, February 16, 2024 2:23 PM

To: Sam Brown <Sam.Brown@pcao.pima.gov>; Stefanie Gillie <Stefanie.Gillie@pcao.pima.gov>

Subject: FW: 3/5/24 Agenda Item (District 1)

FYI.

From: Melissa Manriquez

Sent: Friday, February 16, 2024 2:23 PM

To: Adelita Grijalva <Adelita.Grijalva@pima.gov>; Rex Scott <Rex.Scott@pima.gov>; Matt Heinz <Matt.Heinz@pima.gov>; Sylvia Lee <Sylvia.Lee@pima.gov>; Steve Christy <Steve.Christy@pima.gov>; Jan Leshner <Jan.Leshner@pima.gov>; Keith Bagwell <Keith.Bagwell@pima.gov>; David Higuera <David.Higuera@pima.gov>; Maria Klucarova <Maria.Klucarova@pima.gov>; Beth Borozan <Beth.Borozan@pima.gov>; Monica Perez <Monica.Perez@pima.gov>

Subject: 3/5/24 Agenda Item (District 1)

Good afternoon,

The attached item has been submitted by District 1 for the March 5, 2024 Agenda.

Thank you,

Melissa Manriquez
Pima County Clerk of the Board
33 N. Stone Ave., Suite 100
Tucson, AZ 85701
520-724-8413

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Cc: [Baird Greene](#); [Laura Conover](#); [Jan Leshner](#)
Subject: RE: 3/5/24 Agenda Item (District 1)
Date: Wednesday, February 21, 2024 9:31:34 AM
Attachments: [image001.png](#)

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To: [Sam Brown](#)
Cc: [Baird Greene](#); [Laura Conover](#); [Jan Leshner](#)
Subject: RE: 3/5/24 Agenda Item (District 1)
Date: Wednesday, February 21, 2024 11:10:40 AM
Attachments: [image001.png](#)

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Cc: [Baird Greene](#); [Laura Conover](#); [Jan Leshner](#)
Subject: RE: 3/5/24 Agenda Item (District 1)
Date: Wednesday, February 21, 2024 11:11:58 AM
Attachments: [image001.png](#)

Totally understand, I think the BOS is interested in doing what it can within the limitations. Very frustrating.

From: Chris G. Nanos <Chris.Nanos@sheriff.pima.gov>
Sent: Wednesday, February 21, 2024 11:11 AM
To: Sam Brown <Sam.Brown@pcao.pima.gov>
Cc: Baird Greene <Baird.Greene@pcao.pima.gov>; Laura Conover <Laura.Conover@pcao.pima.gov>; Jan Leshner <Jan.Leshner@pima.gov>
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To: [Chris G. Nanos](#)
Cc: [Sam Brown](#); [Jan Lesher](#); [Monica Perez](#)
Subject: RE: 3/5/24 Agenda Item (District 1)
Date: Friday, February 23, 2024 3:05:32 PM
Attachments: [image003.png](#)
[image004.png](#)

Chris, thanks for your response and your questions. Here is the link to the page on the county's website for the Fair Commission:

[Pima County Fair Commission | Pima County, AZ](#)

The members of the county Fair Commission are also the members of the Southwest Fair Commission. I am not sure when their contract is up, but have copied Jan on my reply to see if she can share that information. We did not discuss fees and doubt that topic will come up.

As Sam knows, the members of the Fair Commission also have concerns about their own legal risks and liabilities under state law. They received copies of the same memos I sent to you after we released them from attorney-client privilege. I have spoken with several of the members about all the matters outlined in the memos. The Fair Commission has worked with both PCAO and Adelita's office to put voluntary measures in place at the gun shows.

I am grateful for any support you are able to offer to the ordinance that will be on the March 5 agenda. This is an incremental step, to be sure, but we think it is an important one for all the reasons Sam discussed with you and that we talked about yesterday. Laura or Sam may be in touch next week to further address your concerns.

Take care-
Rex

From: Chris G. Nanos <Chris.Nanos@sheriff.pima.gov>
Sent: Friday, February 23, 2024 12:20 PM
To: Rex Scott <Rex.Scott@pima.gov>
Cc: Sam Brown <Sam.Brown@pcao.pima.gov>
Subject: RE: 3/5/24 Agenda Item (District 1)

CAUTION: This message and sender come from outside Pima County. If you did not expect this message, proceed with caution. Verify the sender's identity before performing any action, such as clicking on a link or opening an attachment.

Thanks Rex. I do have a few questions.

Who selects the members on the SFC and when is that done?

When is the contract with the SFC up and can a number of these issues be addressed with a new contract?

I also noted that the BOS can set fees, was there consideration to raising those fees to the highest level possible...could that not serve as a deterrent?

Finally, I thought in my discussion yesterday with Sam this ordinance might find a loop hole to land, but in the long run it would not hold up to future challenges...be it legislative or judicial. We all know that 13-3108 doesn't have the language on reporting requirements, but just how fast do we think it would take to make the addendum?

If we are simply trying to make a statement by saying "I told you so" when the next tragic event occurs...because it will occur...then I would rather make the statement that we need background checks. A few years ago former State Senator Victoria Steele, now serving as JP, was involved in an effort to pass back ground checks. Perhaps she could provide some insight on how to better approach this.

As I mentioned in my previous email, I have issues placing a burden on those who actually lost their weapon as a crime victim. I also fear this fly's in the face of judicial reform. Similar to our failed bond system, this has great potential for injustice for those who are less fortunate, the largest majority of those being people of color. Again, I applaud ANY effort to make our community safer...particularly when it deals with gun violence...I just don't think this does enough. I, like you, am greatly frustrated with all of this and maybe I can lend my support by crafting a letter expressing such. My apologies for not getting back sooner.



Chris Nanos
Sheriff of Pima County
Pima County Sheriff's Department
1750 E. Benson Highway
Tucson, AZ 85714
(520) 351-4700 Office
[REDACTED] Cellular
Executive Coordinator: *Caroline Vargas* 351-4711

From: Rex Scott <Rex.Scott@pima.gov>
Sent: Thursday, February 22, 2024 8:54 PM
To: Chris G. Nanos <Chris.Nanos@sheriff.pima.gov>
Cc: Sam Brown <Sam.Brown@pcao.pima.gov>
Subject: RE: 3/5/24 Agenda Item (District 1)

CAUTION: This message and sender come from outside Pima Sheriff. If you did not expect this message, proceed with caution. Verify the sender's identity before performing any action, such as clicking on a link or opening an attachment.

Chris, please see the attached memoranda. The Board removed attorney-client privilege from them the same month we passed the resolution calling for the repeal of ARS 13-3108. These two memos were attempts to find some way to address the issues at the gun shows. When we got the memos, it

was clear that the next logical step was to call for the repeal of the statute. I send these to you to point out that there were attempts made by the Board to address the issues in the email you sent to Sam and others Tuesday and forwarded to me tonight.

The current proposed ordinance is also attached. It includes this language:

Although A.R.S. § 13-3108 prohibits the enactment of any local ordinance relating to the transportation, possession, carrying, sale, transfer, purchase, acquisition, gift, devise, storage, licensing, registration, discharge or use of firearms, a reporting requirement for the loss or theft of a firearm relates to none of these issues. The Arizona Court of Appeals found in City of Tucson v. Rineer that A.R.S. § 13-3108 only prohibits local firearms regulations with respect to those issues specifically identified in § 13-3108.

Sam has told me that this ordinance was drafted by PCAO with the goal of surviving a court challenge. This excerpt attests to those efforts, as does other language in the ordinance.

Please let either one of us know if you have questions after reviewing the two opinions and the ordinance.

Rex

From: Chris G. Nanos <Chris.Nanos@sheriff.pima.gov>

Sent: Thursday, February 22, 2024 6:59 PM

To: Rex Scott <Rex.Scott@pima.gov>

Subject: Fwd: 3/5/24 Agenda Item (District 1)

CAUTION: This message and sender come from outside Pima County. If you did not expect this message, proceed with caution. Verify the sender's identity before performing any action, such as clicking on a link or opening an attachment.

Here it...

Chris Nanos
Pima County Sheriff

[REDACTED]

From: Chris G. Nanos

Sent: Tuesday, February 20, 2024 5:11:54 PM

To: Sam Brown <Sam.Brown@pcao.pima.gov>

Cc: Baird Greene <Baird.Greene@pcao.pima.gov>; Laura Conover <Laura.Conover@pcao.pima.gov>;

Jan Leshar <Jan.Leshar@pima.gov>

Subject: RE: 3/5/24 Agenda Item (District 1)

Sam,

Thanks for sharing this important piece of information. I only wish I had known about this earlier. I

truly appreciate the efforts taken to help keep our community safe. I also believe its important to positively encourage responsible reporting by victims, but we need to keep the enforcement actions focused on perpetrators. Although I welcome any legislation that addresses the violence we are now seeing, this ordinance fails to address real needs that deal with gun violence and puts an onus on crime victims of theft and or burglary.

When "Mom's Demanding Action" possess photos of guns being sold out of the trunk of cars at the Pima County Fairgrounds with signs advertising "No ID Required" and "No Background Checks"...who do we think they are catering to?

I would hope the County could take a stance similar to the City of Tucson in stopping the sale of guns at the Tucson Convention Center, by stopping the sale of guns on County property. Closing the loophole on straw purchases would have a greater impact on keeping guns out of the hands of prohibitive possessors than requiring a police report from those who lost a weapon because they were victims of a theft. Thanks again...



Chris Nanos
Sheriff of Pima County
Pima County Sheriff's Department
1750 E. Benson Highway
Tucson, AZ 85714
(520) 351-4700 Office
[REDACTED] Cellular
Executive Coordinator: Caroline Vargas 351-4711

From: Sam Brown <Sam.Brown@pcao.pima.gov>
Sent: Tuesday, February 20, 2024 2:33 PM
To: Chris G. Nanos <Chris.Nanos@sheriff.pima.gov>
Cc: Baird Greene <Baird.Greene@pcao.pima.gov>; Laura Conover <Laura.Conover@pcao.pima.gov>
Subject: FW: 3/5/24 Agenda Item (District 1)

CAUTION: This message and sender come from outside Pima Sheriff. If you did not expect this message, proceed with caution. Verify the sender's identity before performing any action, such as clicking on a link or opening an attachment.

Sheriff Nanos: just wanted to make sure you were aware this item is up for consideration on 3.5.24.
Sam

From: Melissa Manriquez <Melissa.Manriquez@pima.gov>
Sent: Friday, February 16, 2024 2:23 PM
To: Sam Brown <Sam.Brown@pcao.pima.gov>; Stefanie Gillie <Stefanie.Gillie@pcao.pima.gov>
Subject: FW: 3/5/24 Agenda Item (District 1)

FYI.

From: Melissa Manriquez

Sent: Friday, February 16, 2024 2:23 PM

To: Adelita Grijalva <Adelita.Grijalva@pima.gov>; Rex Scott <Rex.Scott@pima.gov>; Matt Heinz <Matt.Heinz@pima.gov>; Sylvia Lee <Sylvia.Lee@pima.gov>; Steve Christy <Steve.Christy@pima.gov>; Jan Leshner <Jan.Leshner@pima.gov>; Keith Bagwell <Keith.Bagwell@pima.gov>; David Higuera <David.Higuera@pima.gov>; Maria Klucarova <Maria.Klucarova@pima.gov>; Beth Borozan <Beth.Borozan@pima.gov>; Monica Perez <Monica.Perez@pima.gov>

Subject: 3/5/24 Agenda Item (District 1)

Good afternoon,

The attached item has been submitted by District 1 for the March 5, 2024 Agenda.

Thank you,

Melissa Manriquez
Pima County Clerk of the Board
33 N. Stone Ave., Suite 100
Tucson, AZ 85701
520-724-8413

To ensure compliance with the Open Meeting Law, recipients of this message should not forward it to other members of the public body. Members of the public body may reply to this message, but they should not send a copy of the reply to other members. If you have questions, please respond directly to the sender. Thank you.

This message has been prepared and sent on resources owned by Pima County, Arizona. It is subject to the Computer Use Policy of the Pima County Attorney's Office, as well as the computer and electronic mail policies of Pima County and the Pima County Board of Supervisors.

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From: [Chad Kasmar](#)
To: [Michael Ortega](#); [Jan Lesher](#)
Cc: [Timothy Thomure](#)
Subject: FW: Pima County Proposed Ordinance Amending PC Code Title 9
Date: Wednesday, February 28, 2024 4:17:18 PM

Afternoon Boss(s)

Just closing the loop with you both for situational awareness, Chad

Chad Kasmar
Chief of Police, Tucson Police Department
Chad.Kasmar@tucsonaz.gov
Office 520-837-7735
270 South Stone Avenue
Tucson Arizona, 85701

From: Chad Kasmar <Chad.Kasmar@tucsonaz.gov>
Sent: Wednesday, February 28, 2024 4:10 PM
To: Rex Scott <Rex.Scott@pima.gov>
Cc: Cami Evans <Cami.Evans@pima.gov>
Subject: RE: Pima County Proposed Ordinance Amending PC Code Title 9

Supervisor Scott thank you for reaching out. I apologize for the delayed response; I had my hands full for the last few days with the Rodeo activities and the Stop Cop City group.

As an appointed Chief, and not an elected official, I can contribute to the development of local, state and federal polices but I cannot lobby for policy changes. I am sorry I was unaware the PCAO was working on drafting this policy for you, but that would have been the appropriate place for me to contribute.

I am certainly an advocate of firearms responsible ownership and gun crime accountability, but I do worry about the victim accountability language in your proposed policy. I could see that being problematic if someone was not from Tucson or unaware of county ordinances.

9.85.030 Mandatory reporting of loss or theft of firearm.

A. Except as otherwise provided in this chapter, it is unlawful for any person to fail to report to a local law enforcement agency the knowing loss or theft of a firearm.

B. The report of a loss or theft of a firearm pursuant to section A must be made in the jurisdiction in which the loss or theft occurred and within forty-eight hours of the time the person knew or reasonably should have known that the firearm had been lost or stolen.

C. Every person reporting a lost or stolen firearm pursuant to section A must report the make, model, and serial number of the firearm, if known by the person, and any additional relevant information required by the local law enforcement agency taking the report.

Please keep me in mind in future policy design collaboration conversations. As a Tucsonan, I continued to be inspired at the level of collaboration between the County and City leadership teams,

Chad

Chad Kasmar
Chief of Police, Tucson Police Department
Chad.Kasmar@tucsonaz.gov
Office 520-837-7735
270 South Stone Avenue
Tucson Arizona, 85701

From: Rex Scott <Rex.Scott@pima.gov>
Sent: Wednesday, February 21, 2024 6:51 PM
To: Cami Evans <Cami.Evans@pima.gov>; Chad Kasmar <Chad.Kasmar@tucsonaz.gov>; Kristi Ringler <Kristi.Ringler@tucsonaz.gov>
Subject: [EXTERNAL] RE: Pima County Proposed Ordinance Amending PC Code Title 9
Importance: High

Thank you, Cami, for adding me to this correspondence. I would very much appreciate it if Chief Kasmar could write a letter of support on behalf of this ordinance, which will be on the March 5 agenda for the Board of Supervisors. It was drafted for our consideration by the Pima County Attorney's office at my request and their staff consulted with the Arizona Attorney General's office during the drafting process. Statements of support from our local law enforcement leaders will demonstrate for my colleagues and the public the importance of enacting this legislation.

Rex Scott
Pima County Supervisor, District 1
Board Vice-Chair
520-724-2738 (Office)
520-724-8489 (Fax)
Rex.Scott@pima.gov
www.district1.pima.gov

From: Cami Evans <Cami.Evans@pima.gov>
Sent: Wednesday, February 21, 2024 3:08 PM
To: chad.kasmar@tucsonaz.gov; kristi.ringler@tucsonaz.gov
Cc: Rex Scott <Rex.Scott@pima.gov>
Subject: FW: Pima County Proposed Ordinance Amending PC Code Title 9

Good afternoon,

I wanted to follow up on my email from last week. I'm adding Supervisor Scott to the email in case you'd like to correspond with him directly—in regards to this request or any other matter.

Kind regards,
Cami

From: Cami Evans

Sent: Friday, February 16, 2024 2:27 PM

To: kristi.ringler@tucsonaz.gov

Subject: Pima County Proposed Ordinance Amending PC Code Title 9

Good afternoon,

Supervisor Scott has requested a proposed ordinance be placed on the agenda for the Pima County Board of Supervisors Meeting on March 5, 2024. Earlier today a press conference was held where he read the proposed ordinance. A question was asked about whether local law enforcement agencies support the effort.

Supervisor Scott asks if you would be willing to write a letter of support of this ordinance for the upcoming hearing. Please find it attached for your review.

Please reach out with any questions or concerns. Or please contact Supervisor Scott directly if you'd like to discuss it further.

Thank you,

Cami Evans

Office of Supervisor Rex Scott, District 1

Pima County Board of Supervisors

District1@pima.gov

From: [Jan Leshar](#)
To: [Chad Kasmar](#); [Michael Ortega](#)
Cc: [Timothy Thomure](#)
Subject: RE: Pima County Proposed Ordinance Amending PC Code Title 9
Date: Wednesday, February 28, 2024 5:53:00 PM

Thanks for letting me know, Chad. My apologies for our side of the street putting you in this position.

Jan

From: Chad Kasmar <Chad.Kasmar@tucsonaz.gov>
Sent: Wednesday, February 28, 2024 4:17 PM
To: Michael Ortega <Michael.Ortega@tucsonaz.gov>; Jan Leshar <Jan.Leshar@pima.gov>
Cc: Timothy Thomure <Timothy.Thomure@tucsonaz.gov>
Subject: FW: Pima County Proposed Ordinance Amending PC Code Title 9

Afternoon Boss(s)

Just closing the loop with you both for situational awareness, Chad

Chad Kasmar
Chief of Police, Tucson Police Department
Chad.Kasmar@tucsonaz.gov
Office 520-837-7735
270 South Stone Avenue
Tucson Arizona, 85701

From: Chad Kasmar <Chad.Kasmar@tucsonaz.gov>
Sent: Wednesday, February 28, 2024 4:10 PM
To: Rex Scott <Rex.Scott@pima.gov>
Cc: Cami Evans <Cami.Evans@pima.gov>
Subject: RE: Pima County Proposed Ordinance Amending PC Code Title 9

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As an appointed Chief, and not an elected official, I can contribute to the development of local, state and federal polices but I cannot lobby for policy changes. I am sorry I was unaware the PCAO was working on drafting this policy for you, but that would have been the appropriate place for me to contribute.

I am certainly an advocate of firearms responsible ownership and gun crime accountability, but I do worry about the victim accountability language in your proposed policy. I could see that being problematic if someone was not from Tucson or unaware of county ordinances.

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which the loss or theft occurred and within forty-eight hours of the time the person knew or reasonably should have known that the firearm had been lost or stolen.

C. Every person reporting a lost or stolen firearm pursuant to section A must report the make, model, and serial number of the firearm, if known by the person, and any additional relevant information required by the local law enforcement agency taking the report.

Please keep me in mind in future policy design collaboration conversations. As a Tucsonan, I continued to be inspired at the level of collaboration between the County and City leadership teams,

Chad

Chad Kasmar
Chief of Police, Tucson Police Department
Chad.Kasmar@tucsonaz.gov
Office 520-837-7735
270 South Stone Avenue
Tucson Arizona, 85701

From: Rex Scott <Rex.Scott@pima.gov>
Sent: Wednesday, February 21, 2024 6:51 PM
To: Cami Evans <Cami.Evans@pima.gov>; Chad Kasmar <Chad.Kasmar@tucsonaz.gov>; Kristi Ringler <Kristi.Ringler@tucsonaz.gov>
Subject: [EXTERNAL] RE: Pima County Proposed Ordinance Amending PC Code Title 9
Importance: High

Thank you, Cami, for adding me to this correspondence. I would very much appreciate it if Chief Kasmar could write a letter of support on behalf of this ordinance, which will be on the March 5 agenda for the Board of Supervisors. It was drafted for our consideration by the Pima County Attorney's office at my request and their staff consulted with the Arizona Attorney General's office during the drafting process. Statements of support from our local law enforcement leaders will demonstrate for my colleagues and the public the importance of enacting this legislation.

Rex Scott
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Board Vice-Chair
520-724-2738 (Office)
520-724-8489 (Fax)
Rex.Scott@pima.gov
www.district1.pima.gov

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Sent: Wednesday, February 21, 2024 3:08 PM
To: chad.kasmar@tucsonaz.gov; kristi.ringler@tucsonaz.gov
Cc: Rex Scott <Rex.Scott@pima.gov>
Subject: FW: Pima County Proposed Ordinance Amending PC Code Title 9

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Kind regards,
Cami

From: Cami Evans

Sent: Friday, February 16, 2024 2:27 PM

To: kristi.ringler@tucsonaz.gov

Subject: Pima County Proposed Ordinance Amending PC Code Title 9

Good afternoon,

Supervisor Scott has requested a proposed ordinance be placed on the agenda for the Pima County Board of Supervisors Meeting on March 5, 2024. Earlier today a press conference was held where he read the proposed ordinance. A question was asked about whether local law enforcement agencies support the effort.

Supervisor Scott asks if you would be willing to write a letter of support of this ordinance for the upcoming hearing. Please find it attached for your review.

Please reach out with any questions or concerns. Or please contact Supervisor Scott directly if you'd like to discuss it further.

Thank you,

Cami Evans

Office of Supervisor Rex Scott, District 1

Pima County Board of Supervisors

District1@pima.gov

From: [Chad Kasmar](#)
To: [Jan Leshar](#)
Subject: RE: Pima County Proposed Ordinance Amending PC Code Title 9
Date: Thursday, February 29, 2024 8:29:23 AM

Not a problem Boss!

Have a great day, CMO Chad

Chad Kasmar
Chief of Police, Tucson Police Department
Chad.Kasmar@tucsonaz.gov
Office 520-837-7735
270 South Stone Avenue
Tucson Arizona, 85701

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Sent: Wednesday, February 28, 2024 5:54 PM
To: Chad Kasmar <Chad.Kasmar@tucsonaz.gov>; Michael Ortega <Michael.Ortega@tucsonaz.gov>
Cc: Timothy Thomure <Timothy.Thomure@tucsonaz.gov>
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Chad.Kasmar@tucsonaz.gov
Office 520-837-7735
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To: Cami Evans <Cami.Evans@pima.gov>; Chad Kasmar <Chad.Kasmar@tucsonaz.gov>; Kristi Ringler <Kristi.Ringler@tucsonaz.gov>

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Rex Scott
Pima County Supervisor, District 1
Board Vice-Chair
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520-724-8489 (Fax)
Rex.Scott@pima.gov
www.district1.pima.gov

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Thank you,

Cami Evans

Office of Supervisor Rex Scott, District 1

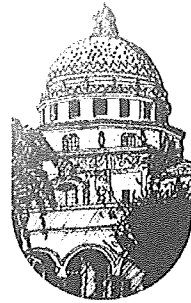
Pima County Board of Supervisors

District1@pima.gov

AGENDA MATERIAL

DATE 3/5/24 ITEM NO. RA 41

Laura Conover
Pima County Attorney



(520) 724-5600
pcao.pima.gov
32 N. Stone Avenue, Tucson, AZ 85701

March 4, 2024

Honorable Chair Adelita Grijalva
and Members of the Pima County Board of Supervisors
33 North Stone Avenue
Tucson, Arizona, 85701

Re: Proposed Ordinance re Reporting of Loss or Theft of Firearm

Dear Honorable Chair and Supervisors:

I am grateful to County Administration for the opportunity to comment on this proposed ordinance. As described in the materials, the Sheriff and County Attorney have a duty to protect and preserve the peace and to prosecute criminal proceedings under state law, including our duty to enforce laws prohibiting the sale or transfer of firearms to prohibited possessors. In 2023, the County Attorney's Office handled more than 100 cases or crimes involving firearms committed by prohibited possessors, including six murder charges. It is well established that reporting requirements, like the proposed ordinance, can assist us in keeping firearms out of the hands of people who should not, by law, have them.

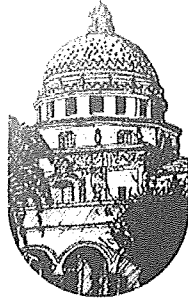
These types of ordinances also serve to protect gun owners from potential liability in instances where their firearms are lost or stolen by requiring, at minimum, notification to law enforcement. Do we want law enforcement in Pima County to track down the origins of a firearm only after a crime has been committed, only to be told that the firearm was lost or stolen? Or do we want to provide law enforcement with an opportunity to track down lost or stolen firearms before they land into the hands of prohibited possessors or, worse, the hands of young people or people with mental disabilities?

Under the proposed ordinance, reporting a lost or stolen firearm—or a failure to report one—would not invalidate anyone's right to legally own or possess any firearm. There is no impact on a person's right to own or possess something which is no longer in their possession. In fact, the proposed ordinance may assist law enforcement in retrieving the missing firearm in order to return it back to the owner's possession.

APR 04 24 PM 01:03 PCLK OF BD

3

Laura Conover
Pima County Attorney



(520) 724-5600
pcao.pima.gov
32 N. Stone Avenue, Tucson, AZ 85701

In reviewing this proposed language, and in consideration of its purpose, I strongly urge the Board to consider revising the potential penalty from “\$300 for each violation” to “up to \$1,000 for each violation.” This small change would afford the County Attorney the discretion to apply different fines depending on the circumstances to mitigate the chance of “revictimizing” an ordinary citizen who loses a firearm or has one stolen by adding on an additional fine for failing to report but allowing stiffer fines for individuals involved in straw purchases.

I urge the Board to approve the proposed ordinance, with my proposed revision.

A handwritten signature in cursive script, appearing to read 'Laura Conover'.

Laura Conover
Pima County Attorney



Pima County

Meeting Agenda

Board of Supervisors

MEETING LOCATION
Administration Bldg - East
130 W. Congress Street
1st Floor
Tucson, AZ 85701
Public Access to Hearing
Room at 8:40 a.m.

Tuesday, March 5, 2024

9:00 AM

Board of Supervisors' Hearing Room

PIMA COUNTY BOARD OF SUPERVISORS

Adelita S. Grijalva, Chair, District 5
Rex Scott, Vice Chair, District 1
Dr. Matt Heinz, Member, District 2
Dr. Sylvia M. Lee, Member, District 3
Steve Christy, Member, District 4

AGENDA/ADDENDUM AND BROADCAST INFORMATION

At least 24 hours before each scheduled meeting, the agenda/addendum is available online at www.pima.gov and in the Clerk of the Board's Office, 33 N. Stone Ave., Suite 100, Tucson, AZ 85701, Mon-Fri, 8am to 5pm.
Cable Channels: Cox 96 Webcast: www.pima.gov

PUBLIC PARTICIPATION SPEAKERS ARE LIMITED UP TO 3 MINUTES

To address the Board of Supervisors, please complete a Speaker's Card. Clearly print your name/address, the item number and other requested information. Speaker Card(s) are required for Call to the Public and Public Hearing Items. Once completed submit your Speaker Card(s) to Clerk staff. When the Chair announces your name, step forward to the podium and state your name for the record.

The Chair reserves the right to ensure all testimony is pertinent or non-repetitive so matters are handled fairly and expeditiously. All attendees are advised that the Board of Supervisors strongly adhere to the rules of civility and decorum. Outbursts, breaches of peace, boisterous conduct or other unlawful interference will result in that individual being asked to leave the meeting room. Any questions pertaining to the meeting can be directed to Melissa Manriquez, Clerk of the Board.

HEARING ROOM NOTICE

Law permits that a video and/or audio recording of all or part of this meeting may be made if doing so does not interfere with the conduct of the meeting. Pima County has no control over the use and distribution of any such recordings. In addition to the official meeting proceedings, these recordings may include images of and comments made by the public prior to the start, during a recess and after adjournment of the meeting, and may be posted on social media or other internet sites.

ACCESSIBILITY

The Board Hearing Room is wheelchair and handicapped accessible. Any person who is in need of special services (e.g., assistive listening device, Braille or large print agenda material, signer for hearing impaired, accessible parking, etc.) due to any disability will be accommodated. Please contact the Clerk of the Board at (520) 724-8449 for these services at least three (3) business days prior to the Board Meeting.

Clerk's Note: Members of the Pima County Board of Supervisors will attend either in person or by telephone, video or internet conferencing.

The meeting can be streamed via the following links: BOS Agenda March 5, 2024 (http://pima.granicus.com/ViewPublisher.php?view_id=3), on YouTube (<https://www.youtube.com/c/PimaCountyArizona/>), or via Cox Cable Channel 96. Television viewing will be available in the lobby at 130 West Congress, 1st Floor.

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. LAND ACKNOWLEDGEMENT STATEMENT**

To be offered by Diana Centeno, Reach Out and Read Coordinator, Literacy Connects.

- 4. PAUSE 4 PAWS**

PRESENTATION/PROCLAMATION

- 5. Presentation of a proclamation to Terri Spencer, Director, Procurement, proclaiming the month of March 2024 to be: "PROCUREMENT MONTH" and proclaiming the day of Wednesday, March 13, 2024 to be: "PROCUREMENT PROFESSIONAL'S DAY"**

Attachments: [PROC_ProcurementMonthandProcurementProfessionalsDay](#)

- 6. CALL TO THE PUBLIC**

Individuals wishing to participate telephonically at Call to the Public must contact the Clerk of the Board's Office at 520-724-8449, to register their request and obtain remote access information, by the deadline of Monday, March 4, 2024 at 5:00 p.m. Call to the Public shall be scheduled for one hour each meeting unless extended by a majority vote of the Board of Supervisors. Speakers shall have up to three minutes to speak. However, for any meeting where 20 or more individuals have submitted speaker cards, each speaker's time shall be limited to two minutes. Please be aware that you may not be called upon to speak if the time for Call to the Public expires and is not extended by a majority vote of the Board of Supervisors. eComments can also be submitted to COB_mail@pima.gov.

Attachments: [CalltothePublic_Greene_3-4-24_Redacted](#)

[CalltothePublic_Aaron_3-5-24_Redacted](#)

[CalltothePublic_Geldern_3-5-24](#)

[CalltothePublic_Anderson_3-5-24_Redacted](#)

EXECUTIVE SESSION

(Clerk's Note: As of the posting date of 2/28/24, no executive session item has been placed on the regular agenda. However, this is subject to any addendum. Pursuant to A.R.S. §38-431.03(A)(3) the Board of Supervisors, or the Board sitting as other boards, may vote to go into executive session for the purpose of obtaining legal advice from its counsel with respect to any item listed on this agenda or any addendum thereto.)

BOARD OF SUPERVISORS SITTING AS OTHER BOARDS

FLOOD CONTROL DISTRICT BOARD

7. **Expansion of the Pima County Regional Flood Control District's ALERT System**
RESOLUTION NO. 2024 - FC¹, of the Pima County Board of Directors, to support the expansion of the Pima County Regional Flood Control District's ALERT Flood Threat Recognition System onto the San Xavier District of the Tohono O'odham Nation.
Attachments: [FC ResoALERTSystemontoSanXavier](#)
8. **Appointment of Hearing Administrators and Hearing Officers**
RESOLUTION NO. 2024 - FC², of the Board of Supervisors, appointing Hearing Officers and Hearing Administrators and the Pima County Regional Flood Control District Board of Directors appointing District Hearing Officers.
Attachments: [FC ResoAppointingHearingAdminandOfficers](#)

SITTING AS THE BOARD OF SUPERVISORS

9. APPROVAL OF CONSENT CALENDAR

BOARD OF SUPERVISORS

10. **UNFINISHED BUSINESS (1/23/24 and 2/20/24)**
Intergovernmental Agreement (IGA) with City of South Tucson to Support Provision of Fire and Emergency Medical Services
Discussion/Direction/Action: Directing the County to enter into an IGA with the City of South Tucson to support the provision of Fire and Emergency Medical Services to the businesses and residents of South Tucson, through which the County shall provide the City of South Tucson with \$400,000.00 this fiscal year for this purpose, from the County's FY24 Contingency Funds; and declaring an emergency. (District 2)
Attachments: [BOS IGAWithCityofS.TucsonFireEMS_Dist2Submittal](#)
[BOS IGACityofS.Tucson_CityManagerCommentLetter_1-22-24](#)
[BOS IGACityofS.Tucson_CommentLetter_3-5-24_Redacted](#)

11. **Board of Supervisors Representative Updates on Boards, Committees and Commissions and Any Other Municipalities**
Attachments: [BOS District5BoardUpdates Slides 3-5-24](#)
12. **Board of Supervisors Policy**
Proposed adoption of Board of Supervisors Policy No. 22.16, Vacant Positions. (District 1)
Attachments: [BOS BOSPPolicy22.16 District1Submittal](#)
[BOS CAMemo BOSPPolicy22.16 2-29-24](#)
[BOS CAMemo VacancySummary District4Submittal 3-4-24](#)

COUNTY ADMINISTRATOR

13. **Update on County Initiatives to Address Homelessness and Public Safety**
Attachments: [CA UpdateonHomelessness&PublicSafety](#)
[CA CAMemo TransitionCenterUpdateandDataReport 2-29-24](#)
[CA Homelessness&PublicSafety CommentLetters 3-4-24 Redacted](#)
[CA Homelessness&PublicSafety CommentLetter 3-4-24 Redacted](#)
[CA Homelessness&PublicSafety Slides 3-5-24](#)
[CA Homelessness&PublicSafety TransitionCenterInfoEnvelope 3-5-24](#)
14. **Additional FY 23/24 Pima County GAP Funding for Affordable Housing Development and Preservation**
Discussion/Direction/Action: Consideration of additional FY 23/24 Pima County GAP Funding for Affordable Housing Development and Preservation.
Attachments: [CA AddFY23-24GapFundingAffordableHousingDev&Preservation](#)
[CA CAMemo AddFY23-24GapFunding 2-29-24](#)
[CA AddFY23-24GapFunding CommentLetters 3-4-24 Redacted](#)
[CA AddFY23-24GapFunding CommentLetters2 3-4-24 Redacted](#)
15. **Pima County Adult Detention Center Blue Ribbon Commission**
Discussion/Direction/Action: Establish a new charter for a new commission.
Attachments: [CA EstablishmentofNewCharterforBlueRibbonCommission](#)
[CA BlueRibbonComm CommentLetters 3-4-24 Redacted](#)
[CA CAMemo EstablishmentofaComm3-4-24](#)
[CA BlueRibbonComm CommentLetter 3-4-24 Redacted](#)

DEVELOPMENT SERVICES

16. **Appointment of Hearing Administrators and Hearing Officers**
RESOLUTION NO. 2024 - 9, of the Board of Supervisors, appointing Hearing Officers and Hearing Administrators and the Pima County Regional Flood Control District Board of Directors appointing District Hearing Officers.
Attachments: [DSD_ResoAppointingHearingAdminandOfficers](#)
17. **Amended Final Plat With Assurances**
P23FP00017, Yvon Heights, Lots 1-12 and Common Area "A". (District 1)
Attachments: [DSD_P23FP00017](#)

ELECTIONS

18. **Election Board Worker Appointments**
Pursuant to A.R.S. §16-531(A), appointment of election board workers recruited and on file in the Elections Department for the March 19, 2024 Presidential Preference Election.
Attachments: [EL_ElectionBoardWorkerAppointments](#)
[EL_ElectionBoardWorkerAppt_CommentLetter_3-4-24_Redacted](#)

FLEET SERVICES

19. **Annual Vehicle Exemptions**
In accordance with A.R.S. §38-538.03, staff requests the Board of Supervisors authorize the annual vehicle exemptions for 2024.
Attachments: [FS_2024AnnualVehicleExemptions](#)

CONTRACT AND AWARD**Community and Workforce Development**

20. To provide for an Internal Data Sharing Agreement, no cost/3 year term, for the following:
- Vendor/Data Sharing Agreement No./Contract No.**
Catholic Community Services of SO AZ, Inc./235551/CTN-CR-24-104
Dorothy Kret and Associates, Inc./235552/CTN-CR-24-101
Goodwill Industries of Southern Arizona, Inc./235553/ CTN-CR-24-102
Ser-Jobs for Progress of Southern Arizona, Inc./235554/CTN-CR-24-100
Tucson Youth Development, Inc./235555/CTN-CR-24-103

Attachments: [CTN-CR-24-100](#)
[CTN-CR-24-101](#)
[CTN-CR-24-102](#)
[CTN-CR-24-103](#)
[CTN-CR-24-104](#)
[CWD Contracts CommentLetter 3-4-24 Redacted](#)

County Attorney

21. Struck Love Bojanowski & Acedo, P.L.C., Amendment No. 7, to provide for legal representation of Pima County in Taylor v. Pima County, et al. and amend contractual language, Risk Management Tort Fund, contract amount \$250,000.00 (CT-FN-21-151)
Attachments: [CT-FN-21-151](#)
22. Community Intervention Associates, Inc., d.b.a. Community Health Associates, Amendment No. 4, to provide for Pima County enhancing drug court services, coordination and treatment, extend contract term to 9/29/24 and amend contractual language, SAMHSA Fund, contract amount \$58,000.00 (CT-PCA-20-171)
Attachments: [CT-PCA-20-171](#)

Finance and Risk Management

23. Diligence Systems, Inc., to provide for report development services, General Fund, total contract amount \$320,000.00/2 year term (\$160,000.00 per year) (CT-FN-24-339)
Attachments: [CT-FN-24-339](#)

Health

24. Helping Ourselves Pursue Enrichment, Inc., to provide for crisis cooperative for opioid misuse/abuse and prevention, SAMHSA Fund, contract amount \$275,000.00 (CT-HD-24-240)
Attachments: [CT-HD-24-240](#)

Procurement

- 25. Award**
Award: Master Agreement No. MA-PO-24-116, Janc Excavation and Construction, L.L.C. (Headquarters: Cortaro, AZ), to provide for septic system services. This master agreement is for an initial term of one (1) year in the annual award amount of \$403,000.00 (including sales tax) and includes four (4) one-year renewal options. Funding Source: CDBG Fund. Administering Department: Community & Workforce Development.
Attachments: [PO AwardMA-PO-24-116](#)
- 26. Award**
Award: Master Agreement No. MA-PO-24-127, Power Motive Corporation (Headquarters: Denver, CO), to provide for bomag rollers. This master agreement is for an initial term of one (1) year in the annual award amount of \$300,000.00 (including sales tax) and includes four (4) one-year renewal options. Funding Source: Fleet Services Ops Fund. Administering Department: Fleet Services.
Attachments: [PO AwardMA-PO-24-127](#)
- 27. Award**
Award: Master Agreement No. MA-PO-24-119, Shamrock Foods Company (Headquarters: Phoenix, AZ) and Master Agreement No. MA-PO-24-120, US Foods, Inc. (Headquarters: Chicago, IL) to provide food products for the Pima County Adult Detention Complex. These master agreements are for an initial term of one (1) year in the annual award amount of \$1,650,000.00 each, for a total award amount of \$3,300,000.00 (including sales tax) and includes four (4) one-year renewal options. Funding Source: General Fund. Administering Department: Sheriff's Department.
Attachments: [PO Award MA-PO-24-119andMA-PO-24-120](#)
- 28.** DH Pace Company, Inc., to provide for WPS Upgrade & Hosted Solution, Parking Garage Enterprise Fund, contract amount \$300,000.00 (MA-PO-24-91) Administering Department: Information Technology, on behalf of Facilities Management
Attachments: [MA-PO-24-91](#)
[MA-PO-24-91 CommentLetters 3-4-24 Redacted](#)
[MA-PO-24-91 CommentLetter 3-4-24 Redacted](#)

Real Property

29. Mosaic Quarter Development, L.L.C., to provide for the Mosaic Quarter Master Ground Lease, contract amount \$25,513,540.00 revenue/42 year term (CTN-RPS-24-136)

Attachments: [CTN-RPS-24-136](#)

[CTN-RPS-24-136 Appraisal](#)

[CTN-RPS-24-136 CAMemo ConsiderationofLeases](#)

[CTN-RPS-24-136 CommentLetters 3-1-24 Redacted](#)

[CTN-RPS-24-136 CommentLetters2 3-1-24 Redacted](#)

[CTN-RPS-24-136 CommentLetters 3-4-24 Redacted](#)

[CTN-RPS-24-136 CommentLetters2 3-4-24 Redacted](#)

[CTN-RPS-24-136 CommentLetters3 3-4-24 Redacted](#)

[CTN-RPS-24-136 CommentLetters 3-5-24 Redacted](#)

[CR MosaicQuarterProject Slides 3-5-24](#)

[CTN-RPS-24-136 CommentLetter 3-6-24 Redacted](#)

[CTN-RPS-24-136 CommentLetter2 3-6-24 Redacted](#)

30. MQD Phase I, L.L.C., to provide for the Mosaic Quarter Phase I Lease Agreement, General Fund, contract amount \$1,628,037,732.00/32 year term (CT-RPS-24-368)

Attachments: [CT-RPS-24-368](#)

[CT-RPS-24-368 CAMemo ConsiderationofLeases](#)

[CT-RPS-24-368 CommentLetters 3-1-24 Redacted](#)

[CT-RPS-24-368 CommentLetters2 3-1-24 Redacted](#)

[CT-RPS-24-368 CommentLetters 3-4-24 Redacted](#)

[CT-RPS-24-368 CommentLetters2 3-4-24 Redacted](#)

[CT-RPS-24-368 CommentLetters3 3-4-24 Redacted](#)

[CT-RPS-24-368 CommentLetters 3-5-24 Redacted](#)

[CR MosaicQuarterProject Slides 3-5-24](#)

[CT-RPS-24-368 CommentLetter 3-6-24 Redacted](#)

[CT-RPS-24-368 CommentLetter2 3-6-24 Redacted](#)

31. MQD Phase I Operations, L.L.C., to provide for the Mosaic Quarter Phase I Sublease Agreement, contract amount \$2,301,845,664.00 revenue/32 year term (CTN-RPS-24-135)

Attachments: [CTN-RPS-24-135](#)
[CTN-RPS-24-135 CAMemo ConsiderationofLeases](#)
[CTN-RPS-24-135 CommentLetters 3-1-24 Redacted](#)
[CTN-RPS-24-135 CommentLetters2 3-1-24 Redacted](#)
[CTN-RPS-24-135 CommentLetters 3-4-24 Redacted](#)
[CTN-RPS-24-135 CommentLetters2 3-4-24 Redacted](#)
[CTN-RPS-24-135 CommentLetters3 3-4-24 Redacted](#)
[CTN-RPS-24-135 CommentLetters 3-5-24 Redacted](#)
[CR MosaicQuarterProject Slides 3-5-24](#)
[CTN-RPS-24-135 CommentLetter 3-6-24 Redacted](#)
[CTN-RPS-24-136 CommentLetter2 3-6-24 Redacted](#)

Transportation

32. Chevo Studios, Inc., Amendment No. 1, to provide for South Houghton Road widening artist services, extend contract term to 3/1/25 and amend contractual language, no cost (CT-TR-22-288)

Attachments: [CT-TR-22-288](#)

GRANT APPLICATION/ACCEPTANCE

33. **Acceptance - Community and Workforce Development**
U.S. Department of Labor, Employment and Training Administration, Amendment No. 2, to provide for the H-1B One Workforce Grant Program, amend grant language and scope of work, no cost (GTAM 24-50)

Attachments: [GR GTAM 24-50](#)

34. **Acceptance - Health**
Arizona Department of Health Services, Amendment No. 4, to provide for the Well Woman Health Check Program, extend grant term to 2/14/24 and amend grant language, \$32,000.00 (GTAM 24-55)

Attachments: [GR GTAM 24-55](#)

[GR GTAM 24-55 CommentLetters 3-4-24 Redacted](#)

[GR GTAM 24-55 CommentLetters2 3-4-24 Redacted](#)

35. **Acceptance - Health**
Arizona Department of Health Services, to provide for CAVITY FREE AZ Preventive Dental Services, \$270,000.00/4 year term (GTAW 24-113)

Attachments: [GR GTAW 24-113](#)

[GR GTAW 24-113 CommentLetters 3-4-24 Redacted](#)

[GR GTAW 24-113 CommentLetters2 3-4-24 Redacted](#)

- 36. Acceptance - Health**
Arizona Department of Health Services, to provide for the Nurse Family Partnership, \$99,426.00/2 year term (GTAW 24-114)
Attachments: [GR GTAW 24-114](#)
[GR GTAW 24-114 CommentLetters 3-4-24 Redacted](#)
[GR GTAW 24-114 CommentLetters2 3-4-24 Redacted](#)
- 37. Acceptance - Health**
Arizona Department of Health Services, to provide for the sexually transmitted infection investigations, \$380,541.00/4 year term (GTAW 24-115)
Attachments: [GR GTAW 24-115](#)
[GR GTAW 24-115 CommentLetters 3-4-24 Redacted](#)
[GR GTAW 24-115 CommentLetters2 3-4-24 Redacted](#)
- 38. Acceptance - Office of Sustainability and Conservation**
Arizona State Parks & Trails, Amendment No. 1, to provide for the Juan Santa Cruz Campground rehabilitation, extend grant term to 6/30/25 and amend grant language, \$110,000.00/\$66,000.00 General Fund match/\$44,000.00 NRPR Special Revenue Funds match (GTAM 24-53)
Attachments: [GR GTAM 24-53](#)
- 39. Acceptance - Pima Animal Care Center**
Petco Love, to provide for the Petco Love Vaccine Campaign 2023, \$6,108.00 (GTAW 24-85)
Attachments: [GR GTAW 24-85](#)
[GR GTAW 24-85 CommentLetter 3-4-24 Redacted](#)
- 40. Acceptance - Regional Wastewater Reclamation**
Arizona Department of Emergency and Military Affairs, to provide for the Hazard Mitigation Grant Program, HMGP DR-4524-009-015R, \$4,729,811.66/\$522,183.34 RWRD Enterprise Funds match (GTAW 24-116)
Attachments: [GR GTAW 24-116](#)
[GR GTAW 24-116 CommentLetters 3-4-24 Redacted](#)
[GR GTAW 24-116 CommentLetter 3-4-24 Redacted](#)

***** HEARINGS *****

Individuals wishing to address the Board on a Public Hearing item, but wish to participate remotely, can contact the Clerk of the Board's Office at 520-724-8449, to obtain remote access information.

BOARD OF SUPERVISORS

41. **Hearing - Code Text Amendment**
ORDINANCE NO. 2024 - 2, of the Board of Supervisors, relating to Law Enforcement; amending the Pima County Code, Title 9. (District 1)
Attachments: [BOS_OrdCodeTextAmendment_Title9_District1Submittal](#)
[BOS_OrdCodeTextAmend_CommentLetters_3-4-24_Redacted](#)
[BOS_OrdCodeTextAmend_PCAOCommentLetter_3-4-24](#)
[BOS_OrdCodeTextAmend_CommentLetters2_3-4-24_Redacted](#)

DEVELOPMENT SERVICES

42. **Hearing - Rezoning**
P23RZ00007, PASCUA YAQUI TRIBE - W. VALENCIA ROAD
REZONING
Pascua Yaqui Tribe, represented by The Planning Center, request a rezoning of approximately 1.46 acres (Parcel Code 138-33-1160) from the GR-1 (Rural Residential) to the CB-2 (General Business) zone, located at the southeast corner of W. Valencia Road and S. Camino De Oeste, addressed as 4555 W. Valencia Road. The proposed rezoning conforms to the Pima County Comprehensive Plan which designates the property for Community Activity Center. On motion, the Planning and Zoning Commission voted 9-0 (Commissioner Becker was absent) to recommend
APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS. Staff recommends APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS. (District 5)
Attachments: [DSD_P23RZ00007](#)
[DSD_P23RZ00007_SiteAnalysis](#)

43. **Hearing - Type II Conditional Use Permit**
P23CU00016, AREVALO - W. AJO HIGHWAY
Rene and Maribel Arevalo, requests a Type II Conditional Use Permit for a tire shop and brake/tire repair shop (Parcel Code 208-66-0090) in accordance with Section 18.14.030B.5 of the Pima County Zoning Code in the GR-1 (GZ-1) (Rural Residential Gateway Overlay) zone, located approximately 120 feet northwest of the intersection of W. Ajo Highway and S. Sasabe Highway, addressed as 16200 W. Ajo Highway. Staff and the Hearing Administrator recommend **APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS.** (District 3)
Attachments: [DSD P23CU00016](#)

44. **ADJOURNMENT**

POSTED: 1st Floor, 33 N. Stone Avenue, Tucson, AZ 85701

Pima County Homepage: www.pima.gov

DATE/TIME POSTED: 2/28/24 @ 3:00 p.m.

DATE/TIME REPOSTED (additional attachments only): 2/29/24 @ 12:10 p.m.

DATE/TIME REPOSTED (additional attachments only): 2/29/24 @ 4:00 p.m.

DATE/TIME REPOSTED (additional attachments only): 2/29/24 @ 4:20 p.m.

DATE/TIME REPOSTED (additional attachments only): 3/1/24 @ 4:40 p.m.

DATE/TIME REPOSTED (additional attachments only): 3/1/24 @ 5:00 p.m.

DATE/TIME REPOSTED (additional attachments only): 3/4/24 @ 12:15 p.m.

DATE/TIME REPOSTED (additional attachments only): 3/4/24 @ 3:30 p.m.

**DATE/TIME REPOSTED (combined Agenda/Addendum and additional attachments):
3/4/24 @ 5:00 p.m.**

DATE/TIME REPOSTED (clerical correction): 3/4/24 @ 5:05 p.m.

DATE/TIME REPOSTED (additional attachments only): 3/5/24 @ 5:10 p.m.

DATE/TIME REPOSTED (additional attachments only): 3/6/24 @ 10:10 a.m.

DATE/TIME REPOSTED (additional attachments only): 3/6/24 @ 10:30 p.m.

ADDENDUM 1**PRESENTATION/PROCLAMATION**

1. Presentation of a proclamation to the Invasive Species Volunteers, proclaiming the day of Tuesday, March 5, 2024 to be: "INVASIVE SPECIES VOLUNTEER APPRECIATION DAY"
Attachments: [PROC_InvasiveSpeciesVolunteerAppreciationDay](#)

2. Presentation of a proclamation to Eva Carrillo-Dong and Anakarina Rodriguez, Co-Chairs, Arizona César Chávez and Dolores Huerta Holiday Coalition, proclaiming the month of March 2024 to be: "CÉSAR CHÁVEZ AND DOLORES HUERTA MONTH"
Attachments: [PROC_CésarChávezandDoloresHuertaMonth](#)
[PROC_CésarChávez&DoloresHuertaMo_CommentLetters_3-4-24_Redacted](#)
[PROC_CésarChávez&DoloresHuertaMo_CommentLetter_3-4-24_Redacted](#)

EXECUTIVE SESSION

3. Pursuant to A.R.S. §38-431.03 (A)(3) and (4), for legal advice and direction regarding an update on the Louis Taylor civil case with outside counsel.
Attachments: [PCA_ExecSession_UpdateTaylorCivilCase](#)

RECORDER

4. **2024 Presidential Preference Election - Revised Early Ballot Drop-Off Sites and Emergency Voting Locations**
RESOLUTION NO. 2024 - **10**, of the Board of Supervisors, relating to Elections; approving the early ballot drop-off sites and authorizing emergency voting locations for the 2024 Presidential Preference Election.
Attachments: [RE_ResoPresidentialPreferenceEarlyBallotofEmergencyVotingSites](#)

POSTED: 1st Floor, 33 N. Stone Avenue, Tucson, AZ 85701

Pima County Homepage: www.pima.gov

DATE/TIME POSTED: 3/1/24 @ 11:00 a.m.

DATE/TIME REPOSTED (additional attachments only): 3/4/24 @ 12:15 p.m.

DATE/TIME REPOSTED (additional attachments only): 3/4/24 @ 3:30 p.m.

**CONSENT
CALENDAR
MARCH 5, 2024**

CONSENT CALENDAR, MARCH 5, 2024**BOARD, COMMISSION AND/OR COMMITTEE**

1. **Election Integrity Commission**
Appointment of Matt Smith. Term expiration: 3/4/26. (Green Party recommendation)
Attachments: [BCC_ElectionIntegrityCommissionAppt](#)
2. **Building Code Committee/Board of Appeals**
 - Reappointments of Brent Woods and Rick Bright. Term expirations: 1/19/28. (Staff recommendations)
 - Reappointments of Jeff Hamstra and Dennis Coon. Term expirations: 2/7/28. (Staff recommendations)
 - Appointment of Thomas Hayes, to replace Dante Archangeli. Term expiration: 3/4/28. (Staff recommendation)**Attachments:** [BCC_BuildingCodeCommittee-BoardofAppealsApptReappts](#)
3. **Tucson-Pima County Bicycle Advisory Committee**
Ratification of University of Arizona appointment: Anona Miller, to fill a vacancy created by Javier Montenegro. Term expiration: 3/7/26. (Jurisdictional recommendation)
Attachments: [BCC_BicycleAdvisoryCommitteeAppt](#)
4. **Regional Wastewater Reclamation Advisory Committee**
Reappointment of Claire Zucker. Term expiration: 3/1/28. (District 3)
Attachments: [BCC_RegionalWastewaterReclamationAdvisoryCommitteeReappt](#)

**SPECIAL EVENT LIQUOR LICENSE/TEMPORARY EXTENSION OF PREMISES/
PATIO PERMIT/WINE FAIR/WINE FESTIVAL/JOINT PREMISES PERMIT APPROVED
PURSUANT TO RESOLUTION NO. 2019-68**

5. **Special Event**
Francisco R. Maldonado, Our Lady of the Valley Parish, Our Lady of the Valley Holy Family Center Hall, 505 N. La Cañada Drive, Green Valley, May 3 and October 18, 2024.

ELECTIONS

6. Precinct Committeemen

Pursuant to A.R.S. §16-821B, approval of Precinct Committeemen resignations and appointments:

RESIGNATION-PRECINCT-PARTY:

Jacqueline Bauer-082-DEM, Steven Early-091-DEM, Donald Kret-168-DEM, Suzanne Newton-181-DEM, Nelly Holst-012-REP, Nancy Morrow-067-REP, Daniel Duke-080-REP, Kerry Torgerson-187-REP, Sadie Carpenter-197-REP, Justine Wadsack-218-REP, Richard Valenzuela-275-REP

APPOINTMENT-PRECINCT-PARTY:

Pamela Hopkins-164-DEM, Hannah Walker-218-DEM, Onda Jenks-014-REP, Maria Diaz-104-REP, Justine Wadsack-184-REP, Tanya Morrison-187-REP, Kristen Pruett-197-REP, Breanna Lesson-237-REP

Attachments: [El PrecinctCommitteemen](#)

SUPERIOR COURT

7. Court Commissioner Appointments

Appointments of Court Commissioners:

Superior Court and Juvenile Court Commissioners

Sandra M. Bensley; Derek J. Koltunovich

Attachments: [SC_SuperiorCourtCommissionerAppts](#)

8. Judge Pro Tempore Appointment

Appointment of Interim Judge Pro Tempore of the Superior Court for the period of March 31, 2024 through June 30, 2024: Hon. Susan A. Kettlewell (Ret.)

Attachments: [SC_JudgeProTemporeAppt](#)

RATIFY AND/OR APPROVE

9. Minutes: December 19, 2023

Warrants: February, 2024

Attachments: [CL_12-19-23DraftMinutes](#)

**MEETING SUMMARY REPORT - THE MINUTES WILL BE POSTED
AT www.pima.gov/cob AFTER APPROVAL BY THE BOARD OF
SUPERVISORS**

**Pima County Board of Supervisors' Meeting
130 W. Congress St., Hearing Room, 1st Fl.
March 5, 2024 9:00 a.m.**

1. ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. LAND ACKNOWLEDGEMENT STATEMENT

To be offered by Diana Centeno, Reach Out and Read Coordinator, Literacy Connects.

4. PAUSE 4 PAWS

PRESENTATION/PROCLAMATION

5. Presentation of a proclamation to Terri Spencer, Director, Procurement, proclaiming the month of March 2024 to be: "PROCUREMENT MONTH" and proclaiming the day of Wednesday, March 13, 2024 to be: "PROCUREMENT PROFESSIONAL'S DAY"

Motion by Chair Grijalva, seconded by Supervisor Scott, approved 4-0, Supervisor Heinz not present.

6. CALL TO THE PUBLIC

Individuals wishing to participate telephonically at Call to the Public must contact the Clerk of the Board's Office at 520-724-8449, to register their request and obtain remote access information, by the deadline of Monday, March 4, 2024 at 5:00 p.m. Call to the Public shall be scheduled for one hour each meeting unless extended by a majority vote of the Board of Supervisors. Speakers shall have up to three minutes to speak. However, for any meeting where 20 or more individuals have submitted speaker cards, each speaker's time shall be limited to two minutes. Please be aware that you may not be called upon to speak if the time for Call to the Public expires and is not extended by a majority vote of the Board of Supervisors. eComments can also be submitted to COB_mail@pima.gov.

BOARD OF SUPERVISORS SITTING AS OTHER BOARDS

FLOOD CONTROL DISTRICT BOARD

7. **Expansion of the Pima County Regional Flood Control District's ALERT System**
RESOLUTION NO. 2024 - FC¹, of the Pima County Board of Directors, to support the expansion of the Pima County Regional Flood Control District's ALERT Flood Threat Recognition System onto the San Xavier District of the Tohono O'odham Nation.

Motion by Chair Grijalva, seconded by Supervisor Scott, approved 4-0, Supervisor Christy not present.
8. **Appointment of Hearing Administrators and Hearing Officers**
RESOLUTION NO. 2024 - FC², of the Board of Supervisors, appointing Hearing Officers and Hearing Administrators and the Pima County Regional Flood Control District Board of Directors appointing District Hearing Officers.

Motion by Supervisor Christy, seconded by Supervisor Scott, approved 5-0.

SITTING AS THE BOARD OF SUPERVISORS

BOARD OF SUPERVISORS

10. UNFINISHED BUSINESS (1/23/24 and 2/20/24)
Intergovernmental Agreement (IGA) with City of South Tucson to Support Provision of Fire and Emergency Medical Services
Discussion/Direction/Action: Directing the County to enter into an IGA with the City of South Tucson to support the provision of Fire and Emergency Medical Services to the businesses and residents of South Tucson, through which the County shall provide the City of South Tucson with \$400,000.00 this fiscal year for this purpose, from the County's FY24 Contingency Funds; and declaring an emergency. (District 2)

Meeting date: 3/19/2024

Continue
11. **Board of Supervisors Representative Updates on Boards, Committees and Commissions and Any Other Municipalities**

Board discussion

- 12. Board of Supervisors Policy**
Proposed adoption of Board of Supervisors Policy No. 22.16, Vacant Positions. (District 1)
Meeting date: 3/19/2024
- Substitute motion by Chair Grijalva, seconded by Supervisor Scott, continued 4-0, Supervisor Christy not present.

COUNTY ADMINISTRATOR

- 13. Update on County Initiatives to Address Homelessness and Public Safety**
Board discussion
- 14. Additional FY 23/24 Pima County GAP Funding for Affordable Housing Development and Preservation**
Discussion/Direction/Action: Consideration of additional FY 23/24 Pima County GAP Funding for Affordable Housing Development and Preservation.
Motion by Chair Grijalva, seconded by Supervisor Scott, approved as directed 3-2, Supervisors Christy and Lee voted nay.
- 15. Pima County Adult Detention Center Blue Ribbon Commission**
Discussion/Direction/Action: Establish a new charter for a new commission.
Meeting date: 4/2/2024
- Continue

DEVELOPMENT SERVICES

- 16. Appointment of Hearing Administrators and Hearing Officers**
RESOLUTION NO. 2024 - 9, of the Board of Supervisors, appointing Hearing Officers and Hearing Administrators and the Pima County Regional Flood Control District Board of Directors appointing District Hearing Officers.
Motion by Supervisor Christy, seconded by Supervisor Scott, approved 5-0.
- 17. Amended Final Plat With Assurances**
P23FP00017, Yvon Heights, Lots 1-12 and Common Area "A". (District 1)
Motion by Supervisor Christy, seconded by Supervisor Scott, approved 5-0.

ELECTIONS

18. **Election Board Worker Appointments**
Pursuant to A.R.S. §16-531(A), appointment of election board workers recruited and on file in the Elections Department for the March 19, 2024 Presidential Preference Election.
Motion by Supervisor Christy, seconded by Supervisor Scott, approved 5-0.

FLEET SERVICES

19. **Annual Vehicle Exemptions**
In accordance with A.R.S. §38-538.03, staff requests the Board of Supervisors authorize the annual vehicle exemptions for 2024.
Motion by Supervisor Christy, seconded by Supervisor Scott, approved 5-0.

CONTRACT AND AWARD

Community and Workforce Development

20. To provide for an Internal Data Sharing Agreement, no cost/3 year term, for the following:

Vendor/Data Sharing Agreement No./Contract No.
Catholic Community Services of SO AZ, Inc./235551/CTN-CR-24-104
Dorothy Kret and Associates, Inc./235552/CTN-CR-24-101
Goodwill Industries of Southern Arizona, Inc./235553/ CTN-CR-24-102
Ser-Jobs for Progress of Southern Arizona, Inc./235554/CTN-CR-24-100
Tucson Youth Development, Inc./235555/CTN-CR-24-103
Motion by Supervisor Christy, seconded by Supervisor Scott, approved 5-0.

County Attorney

21. Struck Love Bojanowski & Acedo, P.L.C., Amendment No. 7, to provide for legal representation of Pima County in Taylor v. Pima County, et al. and amend contractual language, Risk Management Tort Fund, contract amount \$250,000.00 (CT-FN-21-151)
Motion by Supervisor Christy, seconded by Supervisor Scott, approved 5-0.
22. Community Intervention Associates, Inc., d.b.a. Community Health Associates, Amendment No. 4, to provide for Pima County enhancing drug court services, coordination and treatment, extend contract term to 9/29/24 and amend contractual language, SAMHSA Fund, contract amount \$58,000.00 (CT-PCA-20-171)
Motion by Supervisor Christy, seconded by Supervisor Scott, approved 5-0.

Finance and Risk Management

23. Diligence Systems, Inc., to provide for report development services, General Fund, total contract amount \$320,000.00/2 year term (\$160,000.00 per year) (CT-FN-24-339)
Motion by Supervisor Christy, seconded by Supervisor Scott, approved 5-0.

Health

24. Helping Ourselves Pursue Enrichment, Inc., to provide for crisis cooperative for opioid misuse/abuse and prevention, SAMHSA Fund, contract amount \$275,000.00 (CT-HD-24-240)
Motion by Supervisor Christy, seconded by Supervisor Scott, approved 5-0.

Procurement

25. **Award**
Award: Master Agreement No. MA-PO-24-116, Janc Excavation and Construction, L.L.C. (Headquarters: Cortaro, AZ), to provide for septic system services. This master agreement is for an initial term of one (1) year in the annual award amount of \$403,000.00 (including sales tax) and includes four (4) one-year renewal options. Funding Source: CDBG Fund. Administering Department: Community & Workforce Development.
Motion by Supervisor Christy, seconded by Supervisor Scott, approved 5-0.
26. **Award**
Award: Master Agreement No. MA-PO-24-127, Power Motive Corporation (Headquarters: Denver, CO), to provide for bomag rollers. This master agreement is for an initial term of one (1) year in the annual award amount of \$300,000.00 (including sales tax) and includes four (4) one-year renewal options. Funding Source: Fleet Services Ops Fund. Administering Department: Fleet Services.
Motion by Supervisor Christy, seconded by Supervisor Scott, approved 5-0.
27. **Award**
Award: Master Agreement No. MA-PO-24-119, Shamrock Foods Company (Headquarters: Phoenix, AZ) and Master Agreement No. MA-PO-24-120, US Foods, Inc. (Headquarters: Chicago, IL) to provide food products for the Pima County Adult Detention Complex. These master agreements are for an initial term of one (1) year in the annual award amount of \$1,650,000.00 each, for a total award amount of \$3,300,000.00 (including sales tax) and includes four (4) one-year renewal options. Funding Source: General Fund. Administering Department: Sheriff's Department.
Motion by Chair Grijalva, seconded by Supervisor Scott, approved 4-0, Supervisor Christy not present.

28. DH Pace Company, Inc., to provide for WPS Upgrade & Hosted Solution, Parking Garage Enterprise Fund, contract amount \$300,000.00 (MA-PO-24-91) Administering Department: Information Technology, on behalf of Facilities Management
- Motion by Chair Grijalva, seconded by Supervisor Scott, approved 4-0, Supervisor Christy not present.**

Real Property

29. Mosaic Quarter Development, L.L.C., to provide for the Mosaic Quarter Master Ground Lease, contract amount \$25,513,540.00 revenue/42 year term (CTN-RPS-24-136)
- Motion by Chair Grijalva, seconded by Supervisor Heinz, approved 4-0, Supervisor Christy not present.**
30. MQD Phase I, L.L.C., to provide for the Mosaic Quarter Phase I Lease Agreement, General Fund, contract amount \$1,628,037,732.00/32 year term (CT-RPS-24-368)
- Motion by Chair Grijalva, seconded by Supervisor Heinz, approved 4-0, Supervisor Christy not present.**
31. MQD Phase I Operations, L.L.C., to provide for the Mosaic Quarter Phase I Sublease Agreement, contract amount \$2,301,845,664.00 revenue/32 year term (CTN-RPS-24-135)
- Motion by Chair Grijalva, seconded by Supervisor Heinz, approved 4-0, Supervisor Christy not present.**

Transportation

32. Chevo Studios, Inc., Amendment No. 1, to provide for South Houghton Road widening artist services, extend contract term to 3/1/25 and amend contractual language, no cost (CT-TR-22-288)
- Motion by Chair Grijalva, seconded by Supervisor Scott, approved 4-0, Supervisor Christy not present.**

GRANT APPLICATION/ACCEPTANCE

33. **Acceptance - Community and Workforce Development**
U.S. Department of Labor, Employment and Training Administration, Amendment No. 2, to provide for the H-1B One Workforce Grant Program, amend grant language and scope of work, no cost (GTAM 24-50)
- Motion by Chair Grijalva, seconded by Supervisor Scott, approved 4-0, Supervisor Christy not present.**

- 34. Acceptance - Health**
Arizona Department of Health Services, Amendment No. 4, to provide for the Well Woman Health Check Program, extend grant term to 2/14/24 and amend grant language, \$32,000.00 (GTAM 24-55)
Motion by Chair Grijalva, seconded by Supervisor Scott, approved 4-0, Supervisor Christy not present.
- 35. Acceptance - Health**
Arizona Department of Health Services, to provide for CAVITY FREE AZ Preventive Dental Services, \$270,000.00 **annually**/4 year term (GTAW 24-113)
Motion by Chair Grijalva, seconded by Supervisor Scott, approved as amended 4-0, Supervisor Christy not present.
- 36. Acceptance - Health**
Arizona Department of Health Services, to provide for the Nurse Family Partnership, \$99,426.00 **annually**/2 year term (GTAW 24-114)
Motion by Chair Grijalva, seconded by Supervisor Scott, approved as amended 4-0, Supervisor Christy not present.
- 37. Acceptance - Health**
Arizona Department of Health Services, to provide for the sexually transmitted infection investigations, \$380,541.00/4 year term (GTAW 24-115)
Motion by Chair Grijalva, seconded by Supervisor Scott, approved 4-0, Supervisor Christy not present.
- 38. Acceptance - Office of Sustainability and Conservation**
Arizona State Parks & Trails, Amendment No. 1, to provide for the Juan Santa Cruz Campground rehabilitation, extend grant term to 6/30/25 and amend grant language, \$110,000.00/\$66,000.00 General Fund match/\$44,000.00 NRPR Special Revenue Funds match (GTAM 24-53)
Motion by Chair Grijalva, seconded by Supervisor Scott, approved 4-0, Supervisor Christy not present.
- 39. Acceptance - Pima Animal Care Center**
Petco Love, to provide for the Petco Love Vaccine Campaign 2023, \$6,108.00 (GTAW 24-85)
Motion by Chair Grijalva, seconded by Supervisor Scott, approved 4-0, Supervisor Christy not present.

40. **Acceptance - Regional Wastewater Reclamation**
Arizona Department of Emergency and Military Affairs, to provide for the Hazard Mitigation Grant Program, HMGP DR-4524-009-015R, \$4,729,811.66/\$522,183.34 RWRD Enterprise Funds match (GTAW 24-116)
Motion by Chair Grijalva, seconded by Supervisor Scott, approved 4-0, Supervisor Christy not present.

***** HEARINGS *****

Individuals wishing to address the Board on a Public Hearing item, but wish to participate remotely, can contact the Clerk of the Board's Office at 520-724-8449, to obtain remote access information.

BOARD OF SUPERVISORS

41. **Hearing - Code Text Amendment**
ORDINANCE NO. 2024 - 2, of the Board of Supervisors, relating to Law Enforcement; amending the Pima County Code, Title 9. (District 1)
Motion by Chair Grijalva, seconded by Supervisor Scott. Upon roll call, closed the public hearing and approved as amended 4-1, Supervisor Christy voted nay.

DEVELOPMENT SERVICES

42. **Hearing - Rezoning**
P23RZ00007, PASCUA YAQUI TRIBE - W. VALENCIA ROAD REZONING
Pascua Yaqui Tribe, represented by The Planning Center, request a rezoning of approximately 1.46 acres (Parcel Code 138-33-1160) from the GR-1 (Rural Residential) to the CB-2 (General Business) zone, located at the southeast corner of W. Valencia Road and S. Camino De Oeste, addressed as 4555 W. Valencia Road. The proposed rezoning conforms to the Pima County Comprehensive Plan which designates the property for Community Activity Center. On motion, the Planning and Zoning Commission voted 9-0 (Commissioner Becker was absent) to recommend **APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS**. Staff recommends **APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS**. (District 5)
Motion by Chair Grijalva, seconded by Supervisor Scott, closed the public hearing and approved 5-0.

43.

Hearing - Type II Conditional Use Permit

P23CU00016, AREVALO - W. AJO HIGHWAY

Rene and Maribel Arevalo, requests a Type II Conditional Use Permit for a tire shop and brake/tire repair shop (Parcel Code 208-66-0090) in accordance with Section 18.14.030B.5 of the Pima County Zoning Code in the GR-1 (GZ-1) (Rural Residential Gateway Overlay) zone, located approximately 120 feet northwest of the intersection of W. Ajo Highway and S. Sasabe Highway, addressed as 16200 W. Ajo Highway. Staff and the Hearing Administrator recommend **APPROVAL SUBJECT TO STANDARD AND SPECIALCONDITIONS.** (District 3)

Motion by Chair Grijalva, seconded by Supervisor Scott, closed the public hearing and approved 5-0.

44. **ADJOURNMENT**

ADDENDUM 1

PRESENTATION/PROCLAMATION

1. Presentation of a proclamation to the Invasive Species Volunteers, proclaiming the day of Tuesday, March 5, 2024 to be: "INVASIVE SPECIES VOLUNTEER APPRECIATION DAY"
Motion by Chair Grijalva, seconded by Supervisor Scott, approved 4-0, Supervisor Heinz not present.

2. Presentation of a proclamation to Eva Carrillo-Dong and Anakarina Rodriguez, Co-Chairs, Arizona César Chávez and Dolores Huerta Holiday Coalition, proclaiming the month of March 2024 to be: "CÉSAR CHÁVEZ AND DOLORES HUERTA MONTH"
Motion by Chair Grijalva, seconded by Supervisor Scott, approved 3-0, Supervisor Christy abstained and Supervisor Heinz not present.

EXECUTIVE SESSION

3. Pursuant to A.R.S. §38-431.03 (A)(3) and (4), for legal advice and direction regarding an update on the Louis Taylor civil case with outside counsel.
Removed from the agenda

RECORDER

4. **2024 Presidential Preference Election - Revised Early Ballot Drop-Off Sites and Emergency Voting Locations**
RESOLUTION NO. 2024 - 10, of the Board of Supervisors, relating to Elections; approving the early ballot drop-off sites and authorizing emergency voting locations for the 2024 Presidential Preference Election.
Motion by Chair Grijalva, seconded by Supervisor Scott, approved 4-0, Supervisor Christy not present

CONSENT CALENDAR

Approval of the Consent Calendar

Motion by Chair Grijalva, seconded by Supervisor Scott, approved 4-0, Supervisor Christy not present.

BOARD, COMMISSION AND/OR COMMITTEE

1. **Election Integrity Commission**
Appointment of Matt Smith. Term expiration: 3/4/26. (Green Party recommendation)
This item was approved on the Consent Calendar.

2. **Building Code Committee/Board of Appeals**
 - Reappointments of Brent Woods and Rick Bright. Term expirations: 1/19/28. (Staff recommendations)
 - Reappointments of Jeff Hamstra and Dennis Coon. Term expirations: 2/7/28. (Staff recommendations)
 - Appointment of Thomas Hayes, to replace Dante Archangeli. Term expiration: 3/4/28. (Staff recommendation)**This item was approved on the Consent Calendar.**

3. **Tucson-Pima County Bicycle Advisory Committee**
Ratification of University of Arizona appointment: Anona Miller, to fill a vacancy created by Javier Montenegro. Term expiration: 3/7/26. (Jurisdictional recommendation)
This item was approved on the Consent Calendar.

4. **Regional Wastewater Reclamation Advisory Committee**
Reappointment of Claire Zucker. Term expiration: 3/1/28. (District 3)
This item was approved on the Consent Calendar.

SPECIAL EVENT LIQUOR LICENSE/TEMPORARY EXTENSION OF PREMISES/ PATIO PERMIT/WINE FAIR/WINE FESTIVAL/JOINT PREMISES PERMIT APPROVED PURSUANT TO RESOLUTION NO. 2019-68

5. **Special Event**
Francisco R. Maldonado, Our Lady of the Valley Parish, Our Lady of the Valley Holy Family Center Hall, 505 N. La Cañada Drive, Green Valley, May 3 and October 18, 2024.
This item was approved on the Consent Calendar.

ELECTIONS

6. **Precinct Committeemen**
Pursuant to A.R.S. §16-821B, approval of Precinct Committeemen resignations and appointments:
- RESIGNATION-PRECINCT-PARTY:
Jacqueline Bauer-082-DEM, Steven Early-091-DEM, Donald Kret-168-DEM, Suzanne Newton-181-DEM, Nelly Holst-012-REP, Nancy Morrow-067-REP, Daniel Duke-080-REP, Kerry Torgerson-187-REP, Sadie Carpenter-197-REP, Justine Wadsack-218-REP, Richard Valenzuela-275-REP
- APPOINTMENT-PRECINCT-PARTY:
Pamela Hopkins-164-DEM, Hannah Walker-218-DEM, Onda Jenks-014-REP, Maria Diaz-104-REP, Justine Wadsack-184-REP, Tanya Morrison-187-REP, Kristen Pruett-197-REP, Breanna Lesson-237-REP
- This item was approved on the Consent Calendar.**

SUPERIOR COURT

7. **Court Commissioner Appointments**
Appointments of Court Commissioners:
- Superior Court and Juvenile Court Commissioners**
Sandra M. Bensley; Derek J. Koltunovich
- This item was approved on the Consent Calendar.**
8. **Judge Pro Tempore Appointment**
Appointment of Interim Judge Pro Tempore of the Superior Court for the period of March 31, 2024 through June 30, 2024: Hon. Susan A. Kettlewell (Ret.)
- This item was approved on the Consent Calendar.**

RATIFY AND/OR APPROVE

9. Minutes: December 19, 2023
Warrants: February, 2024
- This item was approved on the Consent Calendar.**

ORDINANCE 2024- 2 _____

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA
COUNTY, ARIZONA, RELATING TO LAW ENFORCEMENT;
AMENDING THE PIMA COUNTY CODE, TITLE 9**

THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA, FINDS THAT:

1. The Board of Supervisors has authority under A.R.S. § 11-251.05 to adopt ordinances necessary or proper to carry out the duties, responsibilities, and functions of the county.
2. The Pima County Sheriff and Pima County Attorney, as county officers, have a duty to preserve the peace and prosecute criminal proceedings under A.R.S. §§ 11-441 and 11-532, respectively.
3. The county also has a duty to take action to preserve the health of the county and the health and safety of its inhabitants. See, e.g., A.R.S. §§ 36-183.02, 11-251(17).
4. The Sheriff and County Attorney are responsible for enforcing A.R.S. § 13-3102(A)(5), prohibiting the sale or transfer of firearms to prohibited possessors.
5. Under A.R.S. § 13-3101(A)(7), prohibited possessors include people convicted of a felony or domestic violence offense, people who have been involuntarily committed for mental health treatment, and undocumented aliens.
6. Firearm-related violence by prohibited possessors is a threat to public order and to the health and safety of the county and its inhabitants. Most prohibited possessors abide by the removal of their right to possess a firearm unless or until it is restored. However, prohibited possessors commit a significant number of firearm-related crimes in Pima County. And, people who are prohibited from possessing firearms for reasons related to their mental health are at a higher risk of suicide if they are able to illegally obtain a gun.

7. Prohibited possessors routinely obtain firearms from straw purchasers who buy firearms on their behalf or with the intent of selling them illegally. Reporting requirements assist with the apprehension and prosecution of straw purchasers, preventing or deterring them from claiming that a firearm they bought and transferred to a prohibited possessor was lost or taken in an unreported theft as well as preventing or deterring prohibited possessors from falsely claiming that their firearms were lost or stolen when law enforcement moves to remove them.
8. Although A.R.S. § 13-3108 prohibits the enactment of any local ordinance relating to the transportation, possession, carrying, sale, transfer, purchase, acquisition, gift, devise, storage, licensing, registration, discharge or use of firearms, a reporting requirement for the loss or theft of a firearm relates to none of these issues. The Arizona Court of Appeals found in *City of Tucson v. Rineer* that A.R.S. § 13-3108 only prohibits local firearms regulations with respect to those issues specifically identified in § 13-3108.
9. A U.S. District Court within the Ninth Circuit found that a city ordinance requiring gun owners to maintain liability insurance was not preempted by general state laws regarding firearm possession, “[w]ithout any means by which handgun possession can be revoked, the Ordinance cannot be interpreted to be entering the field of residential handgun possession... .” *National Association for Gun Rights, Inc. v. City of San Jose*, 632 F.Supp.3d 1088, 1100 (N.D. Cal. 2022). Likewise, a reporting requirement for the loss or theft of a firearm that does not provide means by which firearm possession could be revoked does not enter the field of firearm possession.
10. It is in the best interest of the county to amend the Pima County Code by adding a requirement that the loss or theft of a firearm be reported to law enforcement.

IT IS ORDAINED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA:

SECTION 1. A new Chapter 9.85 of the Pima County Code is enacted, reading as follows:

CHAPTER 9.85 LOSS OR THEFT OF FIREARM–MANDATORY REPORTING

9.85.010 Declaration of policy. The purpose of this chapter is to protect the inhabitants of Pima County by aiding local law enforcement and the County Attorney in the enforcement of A.R.S. § 13-3102(A)(5) and preventing the commission of crimes using firearms obtained in violation of that statute. This chapter in no way affects the possession, transfer, or storage of firearms because this chapter does not provide means by which firearm possession could be revoked or transferred, nor does it seek to regulate the storage of firearms.

9.85.020 Definitions.

A. "Firearm" is defined as in A.R.S. § 13-3101.

B. "Person" is defined as in A.R.S. § 13-105.

9.85.030 Mandatory reporting of loss or theft of firearm.

A. Except as otherwise provided in this chapter, it is unlawful for any person to fail to report to a local law enforcement agency the knowing loss or theft of a firearm.

B. The report of a loss or theft of a firearm pursuant to section A must be made in the jurisdiction in which the loss or theft occurred and within forty-eight hours of the time the person knew or reasonably should have known that the firearm had been lost or stolen.

C. Every person reporting a lost or stolen firearm pursuant to section A must report the make, model, and serial number of the firearm, if known by the person, and any additional relevant information required by the local law enforcement agency taking the report.

9.85.040 False reporting. It is unlawful for any person to report to a local law enforcement agency that a firearm has been lost or stolen, knowing the report to be false.

9.85.050 Exemptions. This chapter does not apply to:

A. Any law enforcement agency or peace officer acting within the course and scope of his or her employment or official duties if he or she reports the loss or theft to his or her employing agency.

B. Any United States marshal or member of the Armed Forces of the United States or the National Guard, while engaged in his or her official duties.

C. Any firearms dealer or manufacturer licensed under federal law and subject to the reporting requirements of 18 U.S.C. 923(g)(6).

9.85.060 Violation—Penalty. A person violating a provision of this chapter is guilty of a petty offense and is subject to a penalty of up to \$1000.00 for each violation.

SECTION 2. This Ordinance is effective 30 days after the date of adoption.

PASSED AND ADOPTED by the Board of Supervisors, Pima County, Arizona, this 5th
day of March, 2024.



Chairman, Pima County Board of Supervisors


MAR 05 2024

ATTEST:



Clerk of the Board

APPROVED AS TO FORM



Deputy County Attorney



Arizona House of Representatives
Phoenix, Arizona 85007

March 12, 2024

Via Email and U.S. Mail
Pima County Board of Supervisors
Administration Building
130 W. Congress Street
Tucson, AZ 85701

Re: Ordinance No. 2024-002 – Mandatory Reporting Requirements for Lost or Stolen Firearms and Penalties; Conflict with State Law

Dear Supervisors,

I write to you today in my official capacity to urge you to repeal Ordinance No. 2024-002 (“Ordinance”), passed last week by a vote of 4-1. The Ordinance violates state law by imposing on lawful gun owners mandatory and stringent reporting requirements for a “knowing loss or theft of a firearm” and significant consequences (a petty offense and “a penalty of up to \$1000.00 for each violation”).

As you know, when the City of Tucson passed an ordinance that imposed the same mandatory reporting requirement (and a civil sanction of \$100) over ten years ago, the Arizona Attorney General issued an opinion concluding that the ordinance conflicted with A.R.S. § 13-3108(A) and (D).¹ State law has not materially changed since the Attorney General’s opinion. And the Ordinance even acknowledges that A.R.S. § 13-3108(A) broadly prohibits political subdivisions from enacting firearm-related regulations.

In 2017, the Arizona Supreme Court interpreted A.R.S. § 13-3108 and observed that “[i]n no uncertain terms, the Arizona Legislature has declared that ‘[f]irearms regulation is of statewide concern and has expressed its intent to preempt ‘firearms regulation in this state’ and thereby ‘limit the ability of any political subdivision of this state to regulate firearms.’” *State ex rel. Brnovich v. City of Tucson*, 242 Ariz. 588, ¶ 37 (2017).

Just last year, the Arizona Attorney General investigated the validity of a Phoenix ordinance regulating the disposition of unclaimed firearms and concluded that the ordinance violated multiple state laws—including A.R.S. § 13-3108(A).² As the Attorney General

¹ See Ariz. Att’y Gen. Op. No. I13-010 (Re: Preemption of Tucson Ordinances), available at <https://www.azag.gov/sites/default/files/2018-06/I13-010.pdf>.

² See Ariz. Att’y Gen. Investigative Report No. 23-003 (Re: Whether Phoenix Ordinance S-50010 providing for the donation of firearms to Ukraine violates state law), available at <https://www.azag.gov/sites/default/files/docs/complaints/sb1487/23-003/Investigative%20Report%20No.%2023-003.pdf>

thoroughly explained, consistent with the *City of Tucson* opinion, “[f]irearms regulation is a matter of statewide concern.” Investigative Report No. 23-003 at 5-7.

The Ordinance ignores these precedents and instead cites other authorities that purportedly authorize the Ordinance. First, the Ordinance cites a 1998 opinion of the Arizona Court of Appeals, *City of Tucson v. Rineer*, 193 Ariz. 160 (App. 1998), for the proposition that “A.R.S. § 13-3108 only prohibits local firearms regulations with respect to those issues specifically identified in § 13-3108.” But reliance on the *Rineer* opinion is misplaced for several reasons. *Rineer* interpreted a prior version of § 13-3108 and did not address the validity of an ordinance like the Ordinance here, which creates obligations and penalties relating to firearms not found in state law. In fact, subsection (D)—which broadly prohibits political subdivisions from enacting “any ordinance that relates to firearms and is more prohibitive than or that has penalty that is greater than any state law penalty”—was not even added to § 13-3108 until 2010. See 2010 Ariz. Legis. Serv. Ch. 19, 2d Reg. Sess. (H.B. 2543). Instead, *Rineer* analyzed the validity of a Tucson City Code provision that prohibited using or possessing firearms within Tucson city parks. *Rineer* also pre-dates the Arizona Supreme Court’s 2017 opinion in *City of Tucson*, the Arizona Attorney General’s 2013 opinion, and the Attorney General’s 2023 Investigative Report discussed above.

Second, the Ordinance cites a federal district court opinion, *National Association for Gun Rights, Inc. v. City of San Jose*, 632 F.Supp.3d 1088 (N.D. Cal. 2022), which upheld a city ordinance under California law. It should go without saying that Arizonans expect county officials to enact laws that comply with Arizona laws, not California laws. Moreover, the ordinance that the federal court considered in the *San Jose* case did not impose any mandatory reporting requirements, fines, or penalties and bears no resemblance to the Ordinance here.

It is extremely troubling that Supervisor Christy’s concerns and these substantial legal issues surrounding the Ordinance have not been addressed. Under state law, any ordinance that violates § 13-3108 “is invalid and subject to a permanent injunction” and “[i]t is not a defense that the political subdivision was acting in good faith or on the advice of counsel.” A.R.S. § 13-3108(H). Additionally, a knowing and wilful violation of § 13-3108 is subject to a \$50,000 penalty against the political subdivision. A.R.S. § 13-3108(I).

For these reasons, I demand that you immediately repeal the Ordinance. Please contact me at your earliest convenience.

Respectfully,

A handwritten signature in blue ink, appearing to read "Quang Nguyen", with a long horizontal flourish extending to the right.

Representative Quang Nguyen



COMMITTEES:
JUDICIARY
EDUCATION
GOVERNMENT
HEALTH AND HUMAN SERVICES

JUSTINE WADSACK
ARIZONA STATE SENATE
1700 WEST WASHINGTON, ROOM 307
PHOENIX, ARIZONA 85007-2844
CAPITOL PHONE: (602) 926-3108
TOLL FREE: 1-800-352-8404
jwadsack@azleg.gov

Arizona State Senate

DISTRICT 17

March 13, 2024

Pima County Board of Supervisors
33 N Stone Ave, Tucson, AZ 85701

Dear Supervisors,

I am very concerned with your recent passage of Ordinance 2024-002, Pima County, Ariz., Code § 9.85, (the "Firearm Reporting Ordinance"), which mandates reporting of lost or stolen firearms and imposes a penalty of \$1,000 for individuals who fail to do so. I request that you immediately repeal this blatantly unconstitutional ordinance.

The Firearm Reporting Ordinance is preempted by longstanding state law.

First, the ordinance conflicts with A.R.S. § 13-3108(A). Under this provision, counties are expressly prohibited from enacting any ordinance "relating to the transportation, possession, carrying, sale, transfer, purchase, acquisition, gift, devise, storage, licensing, registration, discharge or use of firearms." By regulating what individuals must do when they lose possession of a firearm, the Firearm Reporting Ordinance obviously relates to the "possession" or "transfer" of firearms.

Second, the ordinance conflicts with A.R.S. § 3108(D). Under this provision, counties cannot "enact any rule or ordinance that relates to firearms and is more prohibitive than or that has a penalty that is greater than any state law penalty." Because the Firearm Reporting Ordinance imposes a penalty for failing to report lost or stolen firearms when state law does not, it is obviously "more prohibitive" than state law.

Third, the Firearm Reporting Ordinance is field preempted. The Legislature's preemptive intent could not be clearer when it stated that A.R.S. § 3108 was passed to "clarify existing law relating to the state's preemption of firearms regulation" and to "limit the ability of political subdivisions of this state to regulate firearms." 2000 Ariz. Sess. Laws, ch. 376, § 4.

Finally, any conceivable doubt concerning the Firearm Reporting Ordinance is removed by Attorney General Opinion No. I13-1010. This opinion already determined that a Tucson ordinance requiring individuals to report lost and stolen firearms was preempted by A.R.S. § 13-3108. The Firearm Reporting Ordinance is materially indistinguishable from the ordinance already determined to be preempted in this attorney general opinion.

Accordingly, on behalf of the countless law-abiding gunowners in Legislative District 17 who are adversely impacted by your action, I demand that you immediately repeal the Firearm Reporting Ordinance. It is clearly unconstitutional, needlessly invites costly litigation, and infringes upon protections guaranteed under state law.

Sincerely,

Senator Justine Wadsack
Arizona Legislative District 17

MAR 13 24 PM 04:27 PCC CLK OF SD
AM



March 18, 2024

SENT VIA E-MAIL AND U.S. MAIL

Pima County Board of Supervisors
Administration Building
130 W. Congress Street
Tucson, AZ 85701

Subj: *Arizona Citizens Defense League v. Pima County Board of Supervisors -
Impending Litigation re. Ordinance 2024-2 – Mandatory Reporting for Loss or
Theft of Firearms*

Dear Supervisors:

The Scharf-Norton Center for Constitutional Litigation at the Goldwater Institute (the “Goldwater Institute”) represents the Arizona Citizens Defense League (“AzCDL”)¹ and certain of its members who reside in Pima County regarding the unlawful passage of Ordinance 2024-2 (“Ordinance”), Attachment 1, which purports to require firearm owners to report the loss or theft of a firearm within 48 hours or face a \$1000 fine. Because the ordinance violates our client’s statutory and constitutional rights, the County must swiftly repeal it to avoid litigation.

Specifically, the Ordinance directly conflicts with at least two provisions of state law. A.R.S. § 13-3108(A) preempts “any ordinance ... relating to the transportation, possession, carrying, sale, transfer, purchase, acquisition, gift, devise, storage, licensing, registration, discharge or use of firearms ... in this state.” (emphasis added). The Ordinance regulates in many of these areas. Additionally, the Ordinance is preempted because it “has a penalty that is greater than any state law penalty.” A.R.S. § 13-3108(D). Arizona has no law imposing penalties for the loss or theft of a firearm; therefore, the County’s penalty is plainly “greater than any state law penalty.”²

Indeed, the Arizona Attorney General’s Office previously issued an Opinion finding nearly identical provisions of a City of Tucson Ordinance unlawful. Opinion No. I13-010.³

¹ See <https://azcdl.org/>.

² We also understand that the Board is in receipt of a March 12, 2024 letter from Representative Quang Nguyen, who chairs the Judiciary Committee in the Arizona House of Representatives, outlining the core legal reasons why the Ordinance is preempted by state law. We agree with Rep. Nguyen’s legal analysis.

³ <https://www.azag.gov/opinions/i13-010-r13-012>

The county attorney's office⁴ and members of the public notified the Board of these legal deficiencies before it passed the Ordinance at the March 5 hearing,⁵ yet the Board disregarded them, along with related concerns raised by Supervisor Christy. Moreover, a majority⁶ of the Board recognized that state law preempts the ordinance, which subjects the county to the penalties authorized by A.R.S. § 13-3108(I) for "knowingly and willfully" violating the preemption statute.

The Ordinance also raises constitutional concerns under the Second Amendment to the U.S. Constitution and Article II, § 26 of the Arizona Constitution.

Our clients will not allow their elected representatives to ignore well-established state law and place improper restrictions on their statutory and constitutional rights.

Based on the foregoing, we demand that the Board immediately repeal Ordinance 2024-2, **no later than at its April 2, 2024 meeting**. If the ordinance is not repealed by that date, we will seek all legal remedies available to our clients.

Should you have any questions concerning this matter, please do not hesitate to contact me at (602) 462-5000 or pjackson@goldwaterinstitute.org.

Sincerely,



Parker Jackson
Staff Attorney
Scharf-Norton Center for
Constitutional Litigation at the
Goldwater Institute

⁴ See https://www.tucsonsentinel.com/local/report/030524_pima_gun_ordinance/pima-county-supes-vote-require-gun-owners-report-missing-firearms/.

⁵ See <https://youtu.be/nL1n3flCzWA>.

⁶ Supervisor Scott specifically stated that the ordinance "is designed to combat straw *purchases* ... [and] make sure that prohibited *possessors* do not *obtain* weapons." (emphasis added). Supervisor Heinz, citing his own experience as a former state legislator, acknowledged that "the only way" to enact certain firearm regulations is "at the state level," a sentiment echoed by Supervisor Lee, who shared Heinz's desire to see a change in the composition of the state legislature so that certain firearms could then be banned at the local level. Supervisor Heinz also cited the alleged transfer of firearms into Mexico as additional grounds for disagreeing with Supervisor Christy's concerns about the ordinance.

Pima County Board of Supervisors

March 18, 2024

Page 3 of 3

cc: (via email only)

Supervisor Rex Scott, District 1

District1@pima.gov

rexsc@icloud.com

Supervisor Dr. Matt Heinz, District 2

District2@pima.gov

Supervisor Dr. Sylvia M. Lee, District 3

District3@pima.gov

Supervisor Steve Christy, District 4

District4@pima.gov

Supervisor Adelita Grijalva, District 5

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Clerk of the Board

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Dan Jurkowitz, Supervising Attorney

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ORDINANCE 2024- 2 _____

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA
COUNTY, ARIZONA, RELATING TO LAW ENFORCEMENT;
AMENDING THE PIMA COUNTY CODE, TITLE 9**

THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA, FINDS THAT:

1. The Board of Supervisors has authority under A.R.S. § 11-251.05 to adopt ordinances necessary or proper to carry out the duties, responsibilities, and functions of the county.
2. The Pima County Sheriff and Pima County Attorney, as county officers, have a duty to preserve the peace and prosecute criminal proceedings under A.R.S. §§ 11-441 and 11-532, respectively.
3. The county also has a duty to take action to preserve the health of the county and the health and safety of its inhabitants. See, e.g., A.R.S. §§ 36-183.02, 11-251(17).
4. The Sheriff and County Attorney are responsible for enforcing A.R.S. § 13-3102(A)(5), prohibiting the sale or transfer of firearms to prohibited possessors.
5. Under A.R.S. § 13-3101(A)(7), prohibited possessors include people convicted of a felony or domestic violence offense, people who have been involuntarily committed for mental health treatment, and undocumented aliens.
6. Firearm-related violence by prohibited possessors is a threat to public order and to the health and safety of the county and its inhabitants. Most prohibited possessors abide by the removal of their right to possess a firearm unless or until it is restored. However, prohibited possessors commit a significant number of firearm-related crimes in Pima County. And, people who are prohibited from possessing firearms for reasons related to their mental health are at a higher risk of suicide if they are able to illegally obtain a gun.

7. Prohibited possessors routinely obtain firearms from straw purchasers who buy firearms on their behalf or with the intent of selling them illegally. Reporting requirements assist with the apprehension and prosecution of straw purchasers, preventing or deterring them from claiming that a firearm they bought and transferred to a prohibited possessor was lost or taken in an unreported theft as well as preventing or deterring prohibited possessors from falsely claiming that their firearms were lost or stolen when law enforcement moves to remove them.
8. Although A.R.S. § 13-3108 prohibits the enactment of any local ordinance relating to the transportation, possession, carrying, sale, transfer, purchase, acquisition, gift, devise, storage, licensing, registration, discharge or use of firearms, a reporting requirement for the loss or theft of a firearm relates to none of these issues. The Arizona Court of Appeals found in *City of Tucson v. Rineer* that A.R.S. § 13-3108 only prohibits local firearms regulations with respect to those issues specifically identified in § 13-3108.
9. A U.S. District Court within the Ninth Circuit found that a city ordinance requiring gun owners to maintain liability insurance was not preempted by general state laws regarding firearm possession, “[w]ithout any means by which handgun possession can be revoked, the Ordinance cannot be interpreted to be entering the field of residential handgun possession...” *National Association for Gun Rights, Inc. v. City of San Jose*, 632 F.Supp.3d 1088, 1100 (N.D. Cal. 2022). Likewise, a reporting requirement for the loss or theft of a firearm that does not provide means by which firearm possession could be revoked does not enter the field of firearm possession.
10. It is in the best interest of the county to amend the Pima County Code by adding a requirement that the loss or theft of a firearm be reported to law enforcement.

IT IS ORDAINED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA:

SECTION 1. A new Chapter 9.85 of the Pima County Code is enacted, reading as follows:

CHAPTER 9.85 LOSS OR THEFT OF FIREARM–MANDATORY REPORTING

9.85.010 Declaration of policy. The purpose of this chapter is to protect the inhabitants of Pima County by aiding local law enforcement and the County Attorney in the enforcement of A.R.S. § 13-3102(A)(5) and preventing the commission of crimes using firearms obtained in violation of that statute. This chapter in no way affects the possession, transfer, or storage of firearms because this chapter does not provide means by which firearm possession could be revoked or transferred, nor does it seek to regulate the storage of firearms.

9.85.020 Definitions.

A. "Firearm" is defined as in A.R.S. § 13-3101.

B. "Person" is defined as in A.R.S. § 13-105.

9.85.030 Mandatory reporting of loss or theft of firearm.

A. Except as otherwise provided in this chapter, it is unlawful for any person to fail to report to a local law enforcement agency the knowing loss or theft of a firearm.

B. The report of a loss or theft of a firearm pursuant to section A must be made in the jurisdiction in which the loss or theft occurred and within forty-eight hours of the time the person knew or reasonably should have known that the firearm had been lost or stolen.

C. Every person reporting a lost or stolen firearm pursuant to section A must report the make, model, and serial number of the firearm, if known by the person, and any additional relevant information required by the local law enforcement agency taking the report.

9.85.040 False reporting. It is unlawful for any person to report to a local law enforcement agency that a firearm has been lost or stolen, knowing the report to be false.

9.85.050 Exemptions. This chapter does not apply to:

A. Any law enforcement agency or peace officer acting within the course and scope of his or her employment or official duties if he or she reports the loss or theft to his or her employing agency.

B. Any United States marshal or member of the Armed Forces of the United States or the National Guard, while engaged in his or her official duties.

C. Any firearms dealer or manufacturer licensed under federal law and subject to the reporting requirements of 18 U.S.C. 923(g)(6).

9.85.060 Violation—Penalty. A person violating a provision of this chapter is guilty of a petty offense and is subject to a penalty of up to \$1000.00 for each violation.

SECTION 2. This Ordinance is effective 30 days after the date of adoption.

PASSED AND ADOPTED by the Board of Supervisors, Pima County, Arizona, this 5th
day of March, 2024.



Chairman, Pima County Board of Supervisors


MAR 05 2024

ATTEST:



Clerk of the Board

APPROVED AS TO FORM



Deputy County Attorney