



Doug Ducey
Governor

ARIZONA STATE PARKS & TRAILS

Bob Broscheid
Executive Director



Date: February 18, 2021

To: Chair, Off-Highway Vehicle Advisory Group
From: Bob Broscheid, Executive Director, Arizona State Parks and Trails

Subject: 552008 Quartzsite OHV Staging Area Project Amendment

Background:

In fiscal year 2020 the Off-Highway Vehicle Advisory Group awarded the Town of Quartzsite a project for \$512,469.00 to develop a staging area for the growing OHV community. However, since obtaining their award they have received eight (8) bids from various contractors of which the lowest cost estimate was \$544,315.00. As a result, the town is requesting an \$86,679.00 increase to their project award to cover un-anticipated project and design costs. A letter from the Town is attached.

Town of Quartzsite Amendment Request		
Initial Award Amount	Amendment Request	New Award Amount
\$512,469.00	\$86,679.00	\$599,148.00
TOTAL		\$599,148.00

Recommendation:

The Arizona State Parks and Trails Grants and Trails team reviewed the request for amendment to project 552008 and have made recommendations based on project need and funding availability.

Recommended Motion:

I move that OHVAG recommend that the Arizona State Park Board approve an amendment to the budget for the Town of Quartzsite Project Number 552008 to increase the award amount from \$512,469.00 to \$599,148.00.

Prepared by: Matt Eberhart, State OHV Coordinator, Arizona State Parks and Trails

Approved:

Bob Broscheid, Executive Director



TOWN OF QUARTZSITE

465 North Plymouth Avenue • PO Box 2812 • Quartzsite, AZ 85346

Phone (928) 927-4333 • Fax (928) 927-4400

Arizona Relay Service (928)927-3762 (TDD)

We are an equal opportunity employer

www.ci.quartzsite.az.us

January 21, 2021

Mickey Rogers
Chief of Grants and Trails
Arizona State Parks
23751 N 23rd Ave, Suite 190
Phoenix, AZ 85085

Re: Project No. 552008 Amendment

Dear Mickey:

The Town has successfully rebid the Quartzsite OHV Staging Area Project and will need an amendment to the original contract now that we have determined a more accurate estimate of what the project will actually cost. The Town received eight bids on January 14, 2021 from qualified construction firms during this re-bid process. The lowest apparent bidder submitted a cost estimate of \$544,315. I have attached to this letter the bid record showing all recent bid amounts and a Bid Schedule showing the line item detail of the apparent low bidder.

The original grant amount for this project is \$512,469 of which 9.6% or \$49,200 is the in-kind contribution by the Town. The Town is requesting an increase of \$81,046 in Project Cost and \$5,633 in Establish and Design Costs for a total increase of \$86,679. This would bring the total project cost to \$599,148. The new project grant amount would be \$544,315 while the new in-kind contribution amount would be \$54,833.

We appreciate your patience in working with the Town to obtain the best value for these grant funds and still establish an important OHV Staging Area for the region.

Sincerely,

Cliff O'Neill
Assistant Town Manager

Cc: Project file
Town Manager Jim Ferguson
Mark Goldberg, Grant Writer

Quartzsite, Arizona "The Rock Capital of the World"



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Governor

ARIZONA STATE PARKS & TRAILS

Bob Broscheid
Executive Director



Date: February 18, 2021

To: Chair, Off-Highway Vehicle Advisory Group

From: Bob Broscheid, Executive Director, Arizona State Parks and Trails

Subject: Safety and Environmental Education Grant Applications

Background:

The Safety and Environmental Education (SEE) Grant Program provides funding for education and safety programs related to motorized use. These grants can be submitted for review at any time throughout the fiscal year and are reviewed on a quarterly basis. These projects are funded through the Recreational Trails Program. For this quarter, there was one SEE grant submitted for \$4,815.25

Sponsor	Request	Staff
Arizona Game and Fish Department: Region 3	\$4,815.25	\$4,815.00
TOTAL	\$4,815.25	\$4,815.00

Recommendation:

The Arizona State Parks and Trails Grants and Trails team reviewed the application and made funding recommendations based on priorities set in the Arizona State Parks and Trails 2020 State Trails Plan and project need.

Recommended Motion:

I move that OHVAG recommend that the Arizona State Parks Board approve funding for the submitted 2022 Safety Environmental Grant Application as follows:

Arizona Game and Fish Department: Region 3 in the amount of \$ _____.

Prepared by: Matt Eberhart, State OHV Coordinator, Arizona State Parks and Trails

Approved:

Bob Broscheid, Executive Director



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ARIZONA STATE PARKS & TRAILS

Bob Broscheid
Executive Director



Date: February 18, 2021

To: Chair, Off-Highway Vehicle Advisory Group

From: Bob Broscheid, Executive Director, Arizona State Parks and Trails

Subject: Supplemental Grant Applications

Background:

The Off-Highway Vehicle Decal Supplemental Grant Program provides funding for small projects, signage, mitigation, and law enforcement. These grants can be submitted for review at any time throughout the fiscal year and are reviewed on a quarterly basis. These projects are funded through the OHV Decal Program. For this quarter, three Law Enforcement Grants and one Small Grant were submitted for a total request of \$115,006.00.

2021 Supplemental Motorized Grant Applications			
Sponsor	Project	Request	Staff
Arizona Game and Fish Department: Region 2	Law Enforcement RZR	\$30,000.00	\$30,000.00
Arizona Game and Fish Department: Region 6	Law Enforcement RZR	\$30,000.00	\$30,000.00
La Paz County	Law Enforcement	\$27,331.00	\$27,331.00
Wickenburg Cultural & Conservation Foundation	Box Canyon Cleanup	\$27,675.00	\$27,675.00
TOTAL		\$115,006.00	\$115,006.00

Recommendation:

The Arizona State Parks and Trails Grants and Trails team reviewed the application and made funding recommendations based on priorities set in the Arizona State Parks and Trails 2020 State Trails Plan and project need.

Recommended Motion:

I move that OHVAG recommend that the Arizona State Parks Board approve funding for the submitted 2021 Supplemental Motorized Grant Applications as follows:
Arizona Game and Fish Department: Region 2 in the amount of \$ _____, Arizona Game and Fish Department: Region 6 in the amount of \$ _____, La Paz County in the amount of \$ _____, and Wickenburg Cultural and Conservation Foundation in the amount of \$ _____.

Prepared by: Matt Eberhart, State OHV Coordinator, Arizona State Parks and Trails

Approved:

Bob Broscheid, Executive Director

Grant Project Summary

2022 Safety and Environmental Education Projects

1. Arizona Game and Fish Department: Region 3 – Youth Helmet Project



Grant Request Amount: \$4,816

Sponsor Match Amount: \$5,543

Total Project Cost: \$10,358

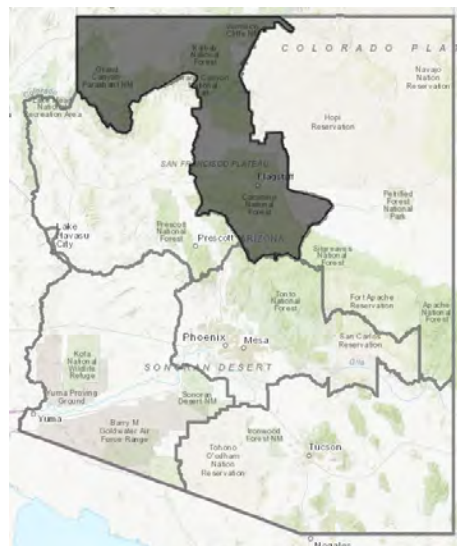
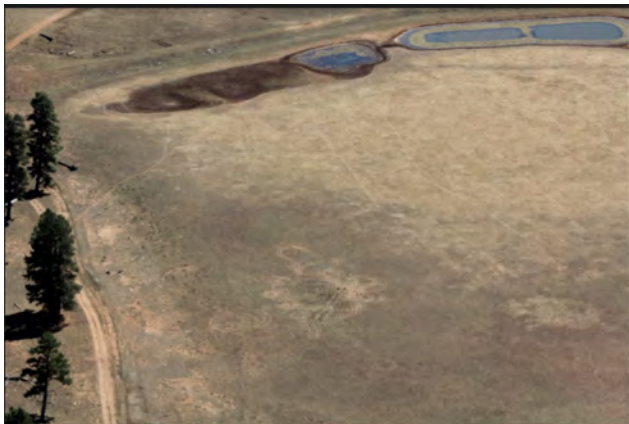
Project Description:

Region III is requesting funds to purchase and distribute OHV helmets to young riders in the community. Currently there is a portion of the riding public that isn't putting helmets on riders under the age of 18 which violates state law. This program would allow the Game and Fish Department to distribute helmets rather than issuing citations. The project budget includes the following:

- \$1,800 for youth helmets
- \$400 for youth goggles
- \$1,900 for adult helmets
- \$400 for adult goggles
- \$175 for shipping

2021 Supplemental Projects

1. Arizona Game and Fish Department: Region 2 – Law Enforcement Equipment



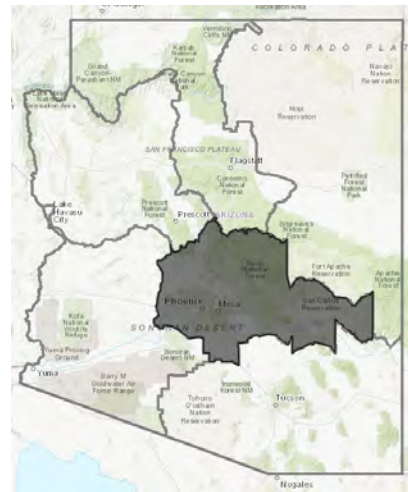
Grant Request Amount: \$30,000
Sponsor Match Amount: \$9,490
Total Project Cost: \$39,490

Project Description:

Region 2 is seeking grant funding to purchase a side by side, lighting package and radio system for the vehicle. The amount of summer OHV users has grown exponentially over the last few years. With this growth, the officers in Region 2 have seen a different user group that does not appear to be aware of OHV laws. This behavior has led to an increase in habitat damage by people driving cross-country, mainly through meadows which make up fragile, and critical wildlife habitat. The budget includes the following:

- \$27,000 for a side by side
- \$9,200 for Tri Band Radio
- \$3,300 for LE Lighting Package

2. Arizona Game and Fish Department: Region 6 – Law Enforcement Equipment



Grant Request Amount: \$30,000
Sponsor Match Amount: \$9,490
Total Project Cost: \$39,490

Project Description:

Region 6 is requesting a side by side, radio and law enforcement package for OHV enforcement. The dramatic increase in the number of UTV's being used, and the high speeds at which they travel, make it extremely difficult for officers to effectively conduct OHV patrols from their trucks. The requested UTV will be an essential piece of equipment that will greatly increase the Department's ability to accomplish effective OHV enforcement activities in the back country, as well as greatly decrease the time it takes to respond to medical emergencies. This grant would provide funding toward a UTV, tri-band radio, law enforcement lights, siren and a trailer. The budget includes the following:

- \$27,000 for a side by side
- \$9,200 for Tri Band Radio
- \$3,300 for LE Lighting Package

3. La Paz County: OHV Enforcement



Grant Request Amount: \$27,331

Sponsor Match Amount: \$4,437

Total Project Cost: \$31,769

Project Description:

This project will be used to purchase a law enforcement side-by-side to be used for OHV patrols on more than 800 square miles. La Paz County is also home to the Parker 250 and the Parker 425. These races draw large crowds and on holiday weekends there are thousands of OHV users in the area. During winter months OHV use skyrockets and this vehicle will be a useful tool to ensure users are riding responsibly. The budget includes the following:

- \$25,000 for a side by side
- \$2,000 for a law enforcement package on the vehicle
- \$4,438 in staff match

4. Wickenburg Conservation Foundation



Grant Request Amount: \$27,675

Sponsor Match Amount: \$83,832

Total Project Cost: \$111,507

Project Description:

Wickenburg Conservation Foundation, as part of its Wickenburg Clean and Beautiful initiative, has formed a partnership with the Bureau of Land Management, Wickenburg Chamber of Commerce's Box Canyon Cares Committee, the Town of Wickenburg and Rincon Road homeowners to keep the area clean and educate users on the responsible use of public lands. To do this we will:

1. Implement an ambassador program and recruit volunteer ambassadors
2. Meet with OHV groups throughout the year and enlist the support of individuals within those groups to promote LNT concepts
3. Participate in community events and work with youth groups to provide LNT education
4. Design and install bilingual LNT, safety and interpretive signage along the corridor and at access points
5. Continue monthly cleanups with the goal of reducing the needed frequency to twice per year by 2022.
6. People recreating in the corridor, local homeowners and the Town of Wickenburg will all benefit from this project.

The Projects budget will include the following items:

- \$23,800 for signage, cleanup supplies, volunteer uniforms and PPE
- \$3,390 for insurance, trash disposal fees, and office supplies



ARIZONA STATE PARKS & TRAILS

Off-Highway Vehicle Advisory Group (OHVAG)

Thursday, February 18, 2021

Ben Alteneder, Geoff Chain, Jason Cobb, Todd
Davis, Holly Irwin, Tom Murphy, Charles Wood

AGENDA – A

Call to Order



AGENDA - B

Pledge of Allegiance

Member Roll Call

Ben Altoneder

Geoff Chain

Jason Cobb

Todd Davis

Holly Irwin

Tom Murphy

Charles Wood

AGENDA – D1

New Members

The coordinator will introduce new member Tom Murphy to the group and allow him time to talk about his experience and ask any questions of the group.

AGENDA – D2

Election of 2021 Arizona State Parks Off-Highway Vehicle Advisory Group Chairman and Vice Chairman

The Group will nominate and elect its Chair and Vice-Chair.

AGENDA – D2

Motion:

I move to approve _____ as Chair of the Off-Highway Vehicle Advisory Group.

AGENDA – D2

Motion:

I move to approve _____ as Vice Chair of the Off-Highway Vehicle Advisory Group.

Open Meeting Law and Conflict of Interest Laws

– Matt Eberhart, State OHV Coordinator



Arizona's Open Meeting Law Basics

NANCY H. JASCULCA
ARIZONA ATTORNEY GENERAL'S OFFICE
February 18, 2021

Disclaimer

- ▶ Views and opinions expressed in the following slides are those of the individual presenter
- ▶ The following slides are presented for educational purposes and do not constitute legal advice

Legislative Intent: Openness in Government

- ▶ Arizona's public policy requires that official deliberations and proceedings be conducted openly
- ▶ Any uncertainty should be resolved in favor of open and public meetings

A.R.S. § 38-431.09

Legal Resources

- ▶ A.R.S. §§ 38-431 through 38-431.09
- ▶ Arizona Agency Handbook
 - www.azag.gov
 - Chapter 7 (Open Meetings)
- ▶ Arizona Ombudsman website
 - www.azoca.gov
- ▶ Arizona Attorney General Opinions
 - www.azag.gov

WHO is subject
to the Open
Meeting Law?

“Public Body”

- ▶ **Arizona Attorney General Opinion I07-001**

- ▶ **“Public Body” means:**

The Legislature, all boards and commissions of this state or political subdivisions, all multimember governing bodies of departments, agencies, institutions and instrumentalities of the state or political subdivisions, including without limitation all corporations and other instrumentalities whose boards of directors are appointed or elected by the state or political subdivision.

- ▶ All quasi judicial-bodies and all standing, special or advisory committees or subcommittees of, or appointed by, the public body.

A.R.S. § 38-431(6)

Advisory Committees & Subcommittees

- ▶ “Advisory Committee” or “Subcommittee” means:
- ▶ Any entity, however designated;
- ▶ Officially established on motion or order of the public body or by the presiding officer;
- ▶ Appointed to make a recommendation concerning a decision to be made or considered by the public body.

A.R.S. §38-431(1)

Advisory Committees & Subcommittees

- ▶ Must comply with all requirements of the Open Meeting Law
- ▶ Must take minutes or make recordings of their meetings

WHEN does the
Open Meeting Law
apply?

What is a “meeting”?

- ▶ Gathering, in person
- ▶ Or through technological devices
 - Phone, email, fax
- ▶ Of a quorum, that
- ▶ Discusses, proposes or takes legal action
- ▶ Including deliberations

A.R.S. § 38-431(4)

What is a quorum?

- ▶ Generally in Arizona, a quorum is a majority of a board or commission.
- ▶ Look to your statutes and rules.
- ▶ Vacancies **DO** count toward the number of members of a board unless your statutes/laws say otherwise.

What if you don't have quorum?

- ▶ You don't have a "meeting" and you can't meet

BUT

- ▶ Beware of serial communications
- ▶ Beware of "wheel and spoke" communications
 - Meeting with individual members
 - Reporting what other members said
 - Polling the members

Discussing, Proposing or Taking Legal Action

- ▶ Normal use and meaning of these words will apply.
- ▶ Proposing legal action = “put forward for consideration, discussion, or adoption.”
- ▶ Includes deliberations = discussion of facts and opinions re: potential board business.
- ▶ **RULE: If this occurs among a quorum of the Board IT IS A MEETING.**

AG Opinion on E-Mail

- ▶ No. 105-004 (R05-010)
- ▶ E-mail communications among a quorum of a public body are subject to the same restrictions that apply to all other forms of communication among a quorum.
- ▶ E-mails among a quorum that involve discussions, deliberations or taking legal action on matters that may reasonably be expected to come before the board constitute a meeting through technological means.
- ▶ Does not have to be simultaneous
- ▶ One-way e-mail communication by one member to a quorum of members that proposes legal action is a violation even if there is no discussion, deliberation or legal action taken.

Proposing an Agenda Item?

- ▶ Proposing an item for the agenda via e-mail is allowed if you do not propose legal action.
- ▶ Communicate the TOPIC only NOT the legal action you want the board to take.
- ▶ Do not discuss, deliberate or take legal action regarding the proposed agenda item.

“Propose” – EXAMPLES in the Opinion

- ▶ “Councilperson Smith was admitted to the hospital last night”
 - Does NOT propose legal action
- ▶ “We should install a crosswalk at First and Main”
 - Does propose legal action
 - It’s more than a topic for the agenda because it urges or suggests an outcome

One-Way E-mail from Staff

- ▶ Passive receipt of information from staff, without more, does not violate OML
- ▶ Staff may send e-mail to board members
- ▶ Staff may send agenda packets to board members

Suggestions for E-Mail

- ▶ If staff send e-mails to board members, you may want to include a notice that advises members not to forward the e-mail to other board members or copy other board members in their reply to staff.

Improper Staff Communication

- ▶ Staff may NOT send opinion or substantive communication about board business from a board member to enough other members to constitute a quorum
- ▶ Cannot use a third person to violate the OML
- ▶ A third person can now be charged with a violation and pay penalties

E-Mails are Public Records

- ▶ E-mail communications of board members related to their official duties are public records that must be maintained for public inspection and reproduction.

Avoiding OML Violations

- ▶ **DO NOT** discuss, propose, deliberate or take legal action on any potential board business between a quorum of the board outside a properly noticed public meeting.
- ▶ “Board business” – read broadly! Includes anything that may foreseeably come before the board for action.
- ▶ **Never Reply “All”**

In Summary . . .

- ▶ E-mail is a useful technological tool,
- ▶ But it must be used in a manner that follows the OML's mandate that all public bodies propose legal action, discuss, deliberate, and make decisions **in public**.

By Telephone Conferencing

- ▶ Allowed if the public body has approved this practice.
- ▶ The notice and agenda should indicate telephone participation.
- ▶ The public must be able to hear.
- ▶ Minutes should identify telephonic participants and describe public access.

What about social events?

- ▶ If more than a quorum may be present
 1. Post a “courtesy notice” announcing social event where a quorum may be present
 2. Include statement that no business of the public body will be discussed & no action will be taken
 3. Board members should avoid talking with each other – or have a witness!

HOW do you comply with the Open Meeting Law?

Find a good location

- ▶ Meetings must be accessible
- ▶ Discourage procedures that obstruct or inhibit public attendance such as:
 - Remote or inadequate location
 - Required sign in sheets
 - Unreasonable time

Give them notice

Public bodies of the State, counties and school districts shall:

- ▶ Conspicuously post a statement on their website stating where all public notices of their meetings will be posted
 - Include physical and electronic locations
 - Give additional public notice as is reasonable and practicable
- ▶ Post all public meeting notices on their website and give additional public notice as is reasonable and practicable as to all meetings.
- ▶ A technological problem or failure that prevents posting or use of the website does not preclude the holding of the meeting if the public body complies with all other notice requirements.

A.R.S. §38-431.02(A)

Physical posting location

- ▶ Post in a location where the public has reasonable access (unlocked building; geographically accessible)
- ▶ Post during normal business hours
- ▶ Make sure front **and** back can be read if inside a locked display case

- ▶ **PRACTICAL POINTER** – if you list multiple locations (website and physical, or multiple physical locations) the Agendas on each **MUST** be the same and you **MUST** post at all the locations.
- ▶ If you want to post in multiple places do so, but only list **ONE** as your official location.
- ▶ Think about marking the “unofficial” notices so that the public won’t be confused.

Notice of Meetings

- ▶ Notice required at least 24 hours in advance of a meeting
- ▶ To all members of the public body
- ▶ To the public

A.R.S. § 38-431.02(C)

Contents of Notice

- ▶ The public body
- ▶ Date, time, place (address, room number)
- ▶ Agenda or how to obtain agenda
- ▶ Executive Session if applicable (cite specific statutory authority)
- ▶ Accommodations under the ADA

Agenda content

- ▶ Agendas must include matters to be
 - Discussed,
 - Considered or
 - Decided
 - At the meeting
- ▶ Must contain information reasonably necessary to inform the public

Agendas must be understandable

- ▶ No acronyms
- ▶ Statutory cite is not enough without explanation
- ▶ No legalese
- ▶ No agency slang

Agenda Items

- ▶ Needs to include “specific” items to be discussed, considered or decided
- ▶ **NOT** GOOD ENOUGH without details:
 - “New business”
 - “Old business”
 - “Personnel”
 - “Announcements”

If it's not on the agenda

- ▶ You **cannot** discuss
- ▶ All discussion must be **reasonably related to an adequately-described agenda item**
- ▶ Add new items to the agenda for future meeting

What if there is an emergency?

- ▶ In the case of an actual emergency, a meeting may be held with such notice as is appropriate.
- ▶ May be either an open session, or executive session, or both.
- ▶ To use emergency exception, public body must do several things, including posting a notice within 24 hours declaring that an emergency session has been held and what was discussed.

ARS § 38-431.02(D), (H), (I), and (J)

Backup Materials

- ▶ Members' packets
- ▶ State on the agenda where they will be available for public inspection
- ▶ Must be available 24 hours before the meeting
- ▶ Can charge reasonable public record fee for copies

Minutes

- ▶ Must have them
- ▶ In writing or
- ▶ Recorded – audio or video tape

A.R.S. §38-431.01(B)

Changes in Agenda

- ▶ Post and distribute same as original
- ▶ 24 hour rule still applies

Contents of Minutes

- ▶ Date, time, place
- ▶ Members present/absent
- ▶ General description of matters discussed or considered
- ▶ Accurate description of legal actions proposed, discussed or taken, including a record of how each member voted.
- ▶ Name of members who propose each motion
- ▶ Name of each person making statements or presenting material and a reference to the legal action addressed
- ▶ See also A.R.S. § 38-431.02(J) and A.R.S. § 38-431.05(B)(3)

Contents of Executive Session Minutes

- ▶ Date, time, place
- ▶ Members present/absent
- ▶ General description of matters discussed or considered
- ▶ Accurate description of instructions given to attorneys or designated representatives per A.R.S. 38-431.03(A)(4), (5) and (7) regarding contracts, litigation or settlement options
- ▶ Such other information as public body deems appropriate

Public Access to Minutes

- ▶ Minutes or a recording shall be available for public inspection 3 working days after the meeting
- ▶ Can stamp as “draft”

A.R.S. § 38-431.01(D)

Public Access to Executive Session Minutes

Executive session minutes
or recordings shall be kept
confidential

A.R.S. § 38-431.03(B)

Separate Recordings and Minutes

- ▶ Use separate public sessions and the executive sessions
- ▶ Makes prompt disclosure possible without redaction

Public's Rights

- ▶ Must be permitted to attend and listen to public meetings
- ▶ Open Meeting Law does not establish a right for the public to participate in the discussion or ultimate decision of the public body (Ariz. Att'y Gen. Op. 78-1)
- ▶ Cannot require them to sign in unless person intends to speak at meeting (required for Minutes)
- ▶ Public body may include a call to the public on a meeting agenda (Can limit speaking time of each speaker)
- ▶ Cannot disrupt proceedings (but make a good record before removing someone)

Meeting “Etiquette”

Discourage the Following:

- ▶ Whispering to other Board members
- ▶ Passing notes between Board members
- ▶ Letting members of the public talk to each member before the meeting starts with their hands over the microphone
- ▶ If it’s about business of the public body, this could become a violation
- ▶ In any event, it looks like a violation

Calls to the Public

- ▶ Optional
- ▶ Be fair
- ▶ Avoid getting into a discussion of matters not on the agenda
- ▶ Public body's response is limited:
 - Direct staff to study the matter
 - Respond to criticism
 - Schedule matter for future meeting

A.R.S. §38-431.01(H)

Executive Sessions

“gathering...from which the public is excluded...” (A.R.S § 38-431)

- ▶ Must include in the notice that you may go into executive session if you plan to do so (cite specific statutory provision and subject matter)
- ▶ Executive Session is only allowed for specific types of items

Executive Sessions

- ▶ Must first vote (in public session) to go into executive session
- ▶ Chair asks members of the public to leave the room; or members adjourn to another room
- ▶ Chair is required to remind members that the matters discussed and minutes of the executive session are confidential
- ▶ DO NOT vote to exit executive session

Executive Sessions

- ▶ Only certain subjects are allowed
- ▶ Restrict discussion to purpose for which adjourned
- ▶ No ACTION permitted
- ▶ Must return to public session for a vote
- ▶ Must have Minutes

Executive Session Categories

- ▶ Personnel matters
- ▶ Confidential records
- ▶ Legal advice
- ▶ Litigation, contracts and settlement discussions involving attorney consultation
- ▶ Employee salary discussions
- ▶ International, interstate and tribal negotiations
- ▶ Purchase, sale or lease of real property

A.R.S. §38-431.03(A)(1)-(7)

Who may attend Executive Session?

- ▶ Members of the public body
- ▶ Officers, appointees and employees but only as allowed in A.R.S § 38-431.03
- ▶ Auditor general in performance of official duties (A.R.S § 41-1279.04)
- ▶ “Only individuals whose presence is reasonably necessary in order for the public body to carry out its executive responsibilities

A.R.S § 38-431(2)

Legal Advice

- ▶ Discussion or consultation with attorneys *for the public body*
- ▶ Exchange of communication between lawyer and client
- ▶ Members may NOT discuss between themselves what action to take
- ▶ Members may NOT debate over what action to take – pros and cons; policy implications; alternatives
- ▶ Mere presence of an attorney does not make it legal advice
- ▶ Distinguished from legal consultation regarding litigation, contracts or settlement agreements
- ▶ ONLY provision where a general notice at top of agenda that board may go into executive session for any matter on the agenda is acceptable.

A.R.S. § 38-431.03(A)(3)

Personnel

- ▶ Must be someone the public body has the authority to hire and fire
- ▶ Cannot use for groups of people, for example “Executive session to discuss reductions in pay for all employees.”
- ▶ Must give employee individual notice of executive session and opportunity to have it in open session
- ▶ Employee does not have to be present, but is entitled to minutes

A.R.S. § 38-431.03(A)(1)

Taking Legal Action

- ▶ **CANNOT** do this in executive session
- ▶ Must return to public session to vote
- ▶ **NO STRAW POLLS IN EXECUTIVE SESSION**

Executive Session Pitfalls

- ▶ Failure to keep executive session discussion confidential
- ▶ Failure to advise persons about the confidentiality requirement A.R.S § 38-431.03(C)
- ▶ Individuals present who are not “reasonably necessary”

Executive Session Minutes

- ▶ Must be kept confidential
- ▶ Keep separate tapes and minutes for public and executive sessions
- ▶ Consider – more detail may be better

Who may have access to executive session minutes?

- ▶ Members of the public body, including members who did not attend meeting
- ▶ Officer, appointee or employee who was the subject of the meeting authorized by A.R.S. §38-431.03(a)(1)
- ▶ Attorney for the public body
- ▶ Auditor general
- ▶ Attorney general or county attorney investigating open meeting law violations
- ▶ The court when open meeting law violations have been alleged

A.R.S. § 38-431.03(B)

WHAT happens
if there is a
problem?

What to do if you know you have a violation

- ▶ Ratify (A.R.S. § 38-431.05(B))
- ▶ Consider self-reporting
- ▶ Cooperate with County Attorney, AG, or Ombudsman's Office and move early to remedy the problem
- ▶ Consider training and changes to policy to prevent violations in the future
- ▶ Think about the public perception

What can the AG or County Attorney do?

- ▶ Investigation
- ▶ May issue “investigative demands”
- ▶ May conduct examinations under oath
- ▶ May require written statements under oath
- ▶ May file enforcement action in Superior Court

A.R.S. § 38-431.06

AGO Enforcement

- ▶ Investigates violations and seeks enforcement of the Open Meeting Law
- ▶ Assists public body attorneys in complying with the Open Meeting Law
- ▶ Will open an investigation after receipt of a signed complaint

Arizona Ombudsman's Office

- ▶ Can investigate Open Meeting Law and Public Records complaints
- ▶ Can take anonymous complaints
- ▶ Offers training
- ▶ www.azoca.gov

Private Parties

- ▶ Open Meeting Law allows private rights of action.
- ▶ AG will defer to the court if matter is filed in Superior Court
- ▶ May have to pay attorneys fees and costs
- ▶ If court finds “intent to deprive the public of information or opportunity to be heard” – could require the board member to pay out of his or her own pocket

A.R.S. § 38-431.07

Ratification

- ▶ Must take place within 30 days after discovery of the violation or after discovery should have been made
- ▶ Clear indication in agenda and notice of ratification
- ▶ Detailed written description of action to be ratified and all associated deliberations, consultations and decisions available to the public (to also be included in minutes)
- ▶ Notice, agenda, and written description available at least 72 hours before the meeting

A.R.S. § 38-431.05(B)

Penalties

- ▶ Action is null and void
 - A.R.S. § 38-431.05
- ▶ AG May Commence Suit and Court Impose Civil Penalties
 - Against anyone who commits a violation
 - Against anyone who knowingly aids, agrees to aid or attempts to aid another in committing a violation
 - Individual, not public body, pays penalty

A.R.S. § 38-431.07

Removal from Office

If intent to deprive the public of information or opportunity to be heard

- ▶ Court may remove the public officer from office

A.R.S. § 38-431.07

Arizona Conflict of Interest Law A Basic Primer

NANCY H. JASCULCA
ARIZONA ATTORNEY GENERAL'S OFFICE

Legal Resources

- ▶ A.R.S. §§ 38-501 to -511
- ▶ Arizona Agency Handbook
 - www.azag.gov
 - Chapter 8 (Conflict of Interest)

What is the Purpose of the Conflict of Interest Statutes?

“The object of conflict of interest statutes is to remove or limit the possibility of personal influence which might bear upon an official’s decision.”

Yetman v. Naumann, 16 Ariz. App. 314, 317, 492 P.2d 1252, 1255 (1972).

Do Conflict of Interest Laws Apply to Me?

The conflict of interest prohibitions “apply to all public officers and employees of incorporated cities or town, of political subdivisions and of the state and any of its departments, commissions, agencies, bodies or boards.”

A.R.S. § 38-501(A)

- ▶ Members of advisory commissions, boards, councils, and committees are public officers as that term is used in the conflict of interest laws.

Ariz. Att’y Gen. Op. 175-211;
see also Ariz. Att’y Gen. Ops.
182-105, 188-014, 189-067

When Does a Conflict of Interest Arise?

- ▶ A conflict of interest arises where the public officer's interest in a decision or contract is "substantial." A.R.S. § 38-503
- ▶ A substantial interest means "any nonspeculative pecuniary or proprietary interest, either direct or indirect, other than a remote interest." A.R.S. § 38-502(11)
- ▶ A.R.S. § 38-502(10) specifically lists remote interests. (These are certain economic interests that the Legislature has determined are so remote that they do not impermissibly influence a person's decisions or actions.)
 - Example: If the public officer or employee or a relative is a non-salaried officer of a nonprofit corporation, he or she has a remote interest in any decision affecting that corporation. A.R.S. §38-502(10)(a)

To determine whether a substantial interest exists, the Three Fact-Specific Questions to

Ask: • public officer
should ask:

- Could the decision affect, either positively or negatively, an interest of the officer or employee or the officer's or employee's relative?
- Is the interest a pecuniary or proprietary interest? Could it affect a financial interest or ownership interest?
- Is the interest something that is not statutorily designated
 - as a remote interest?

Arizona Agency Handbook (2018), Section 8.3

What If I Believe I Have a Conflict of Interest?

- ▶ Must provide written disclosure of that interest
 - See Arizona Agency Handbook, Appendix 8.1 (Sample Disclosure Memorandum).
- ▶ Must refrain from participating in any manner in discussions or decisions relating to the matter
- ▶ Must not communicate about that matter with anyone involved in the decision-making process
- ▶ There are civil and criminal penalties for violating conflict of interest laws. See A.R.S. § 38-510(A)(1) and (A)(2).
- ▶ *Note:* There are other restrictions that may apply after leaving public service. See A.R.S. §§ 38-504 and 38-505.

Questions?

Meeting Minutes

The Group will review and may consider action to approve the Group meeting minutes from October 21, 2020.

AGENDA – D4

Motion:

I move to approve the meeting minutes of the October 21, 2020 meeting.

Amendment to Town of Quartzsite Project 552008

OHVAG Will Consider And May Take Action On A Recommendation To The Arizona State Park Board To Approve, Modify, Or Deny An Amendment To The Budget For The Town Of Quartzsite Project Number 552008.

– Matt Eberhart, State OHV Coordinator

AGENDA – D5

Town of Quartzsite Amendment Report

Initial Award Amount	Amendment Request	New Award Amount
\$512,469.00	\$86,679.00	\$599,148.00
TOTAL		\$599,148.00

AGENDA – D5

Motion:

I move that OHVAG recommend that the Arizona State Park Board approve an amendment to the budget for the Town of Quartzsite Project Number 552008 to increase the award amount from \$512,469.00 to \$599,148.00.

2022 Safety and Environmental Education Grant Application

OHVAG Will Consider And May Take Action On A Recommendation To The Arizona State Parks Board To Approve, Modify, Or Deny Funding For The Submitted 2022 Safety and Environmental Grant Application.

– Matt Eberhart, State OHV Coordinator

AGENDA – D6

2022 Safety and Environmental Education Grant Applications

Sponsor	Project	Request
Arizona Game and Fish Department: Region 3	Youth Helmet Distribution	\$4,815.00
TOTAL		\$4,815.00

AGENDA – D6

Motion:

I move that OHVAG recommend that the Arizona State Parks Board approve funding for the submitted 2022 Safety Environmental Grant Application as follows:

Arizona Game and Fish Department: Region 3 in the amount of _____.

2021 Supplemental Motorized Grant Applications

OHVAG Will Consider And May Take Action On A Recommendation To The Arizona State Parks Board To Approve, Modify, Or Deny Funding For The Submitted 2021 Supplemental Grant Applications

– Matt Eberhart, State OHV Coordinator

AGENDA – D7

2021 Supplemental Motorized Grant Applications

Sponsor	Project	Request
Arizona Game and Fish Department: Region 2	Law Enforcement RZR	\$30,000.00
Arizona Game and Fish Department: Region 6	Law Enforcement RZR	\$30,000.00
La Paz County	Law Enforcement	\$27,331.00
Wickenburg Cultural & Conservation Foundation	Box Canyon Cleanup	\$27,675.00
TOTAL		\$115,006.00

AGENDA – D7

Motion:

I move that OHVAG recommend that the Arizona State Parks Board approve funding for the submitted 2021 Supplemental Motorized Grant Applications as follows: Arizona Game and Fish Department: Region 2 in the amount of _____, Arizona Game and Fish Department: Region 6 in the amount of _____, La Paz County in the amount of _____, and Wickenburg Cultural and Conservation Foundation in the amount of _____.

AGENDA – D8

State OHV Coordinator Updates

– Matt Eberhart, State OHV Coordinator



State Trust Land Non-Urban Management Plan



AGENDA – D8

Great Western Trail

Kimley»»Horn

Expect More. Experience Better.



ARIZONA
STATE PARKS & TRAILS

AGENDA – D8

Outreach and Dealership Program



NASH
POWERSPORTS

2 Locations

RIDENOW
POWERSPORTS

8 Locations

ARIZONA
STATE PARKS & TRAILS

AGENDA – D8

Waterfall Emergency and Mitigation Grant



AGENDA – D8

Waterfall Emergency and Mitigation Grant



AGENDA – D8

Waterfall Emergency and Mitigation Grant



AGENDA – D8

Waterfall Emergency and Mitigation Grant



AGENDA – E

Future Agenda Items

Group members may identify items or issues they wish to be considered for inclusion on a future agenda.

AGENDA – F

Current Events

Group members will discuss current events and/or recent experiences of interest to the outdoor recreation community and/or the status of any projects with which they are currently involved.

Call to the Public

The chair will recognize those wishing to address the Group.

AGENDA – H

**Future Meeting Dates:
TBD**

THANK YOU!