

1907 - 2007



City of Globe

150 N. Pine Street  
Globe, Arizona 85501

July 12, 2011

CITY OF GLOBE PRESS RELEASE

**INITIATIVE PETITIONS ON PRIVATE PRISON REJECTED BY CITY CLERK**

The City Clerk has received and reviewed the two (2) Initiative Petitions submitted, Petition No. 2011-01 the proposed "No City Resources Spent on New Prison Act" and Petition No. 2011-02 the proposed " Voters Must Approve New Prison In Globe Act." The City Clerk has rejected both Petitions on the grounds and for the reasons that the proponents failed to properly complete and file with the City Clerk a State of Arizona Political Committee Statement of Organization that complies with the requirements of A.R.S. § 16-902.01. This applies to both Petitions. Petition No. 2011-02 was also rejected because it is well settled law that zoning by initiative is prohibited and void in Arizona. Copies of the rejection letters are attached and they contain the relevant legal analysis. An independent legal opinion was obtained supporting these conclusions. Petitioners were previously advised that there were legal issues and to consult with their attorney. The City will have no further official comment pending any litigation.

Mr. Jim E. Moss, Chairman  
Citizens to Protect Globe's Resources  
404 S. Broad St.  
Globe, Arizona 85501  
Page 2 of 3

(1) All of the signatures on all of the petition sheets are invalid because Citizens to Protect Globe's Resources, prior to the collection of signatures on the petitions, did not complete and file with the City Clerk a State of Arizona Political Committee Statement of Organization form that fully complies with A.R.S. § 16-902.01. Specifically, A.R.S. § 16-902.01(F) requires that "[f]or a political committee that makes expenditures in an attempt to influence the results of a ballot proposition election, the statement of organization shall include in the name of the political committee the official serial number for the petition, if assigned, and a statement as to whether the political committee supports or opposes the passage of the ballot measure." (emphasis supplied). The serial number for Number 2011-02 does not appear in the political committee name "Citizens to Protect Globe's Resources." In addition, this political committee failed to indicate either in its name or on the Political Committee Statement of Organization form whether it "supports" or "opposes" Number 2011-02. Rather, both boxes on the form were left unchecked. Hence, the form was incomplete when filed.

Pursuant to A.R.S. § 19-114(B), signatures collected on petition sheets for an initiative petition are not valid and are not to be counted if they are collected prior to the filing of a properly completed State of Arizona Political Committee Statement of Organization form. *See also Israel v. Town of Cave Creek*, 196 Ariz. 150, 155 n. 7, 993 P.2d 1114, 1119 n. 7 (App. Div. One 1999) ("[A] failure to make a required organizational listing . . . invalidates any signatures obtained on . . . petitions circulated pursuant to an insufficient application.").

(2) All of the signatures on all of the petition sheets are also invalid because Number 2011-02 is not proper local legislation and consequently would enact nothing. *See Winkle v. City of Tucson*, 190 Ariz. 413, 949 P.2d 502 (1997). This initiative, if adopted, would single out for special treatment a specific use of property—prison or correctional facility. It unquestionably is an attempt to change zoning by initiative, which is illegal and void in Arizona. *See Transamerica Title Ins. Co. Trust Nos. 8295, 8297, 8299, 8300 and 8301 v. City of Tucson*, 157 Ariz. 346, 757 P.2d 1055 (1988); *Queen Creek Land & Cattle Corp. v. Yavapai County Bd. of Supervisors*, 108 Ariz. 449, 501 P.2d 391 (1972); *City of Scottsdale v. Superior Court*, 103 Ariz. 204, 439 P.2d 290 (1968).

Please also be advised that our office also found during our review pursuant to A.R.S. § 19-121.01, the following deficiencies in the signatures included on the submitted signature sheets as specifically set forth in the accompanying spread sheet attached hereto as Exhibit "A" and hereby incorporated in its entirety by this reference as if set forth in full.

CITY OF GLOBE  
FAX COVER SHEET  
150 N PINE ST  
GLOBE AZ 85501  
928-425-7146

DATE: July 12, 2011

TO: Media Release

FAX #: On File

FROM: Ruby Ann Pino, Legal Assistant

FAX # (928) 425-4820

COMMENTS:

Greetings:

Attached please find a copy of the City of Globe's Press Release and City Clerk's) rejection letters (2) dated July 12, 2011.

THIS FAX INCLUDES A TOTAL OF 11 PAGE(S), INCLUDING THE COVER SHEET.

IF FOR SOME REASON YOU DO NOT RECEIVE ALL PAGES OF THIS FAX OR IF YOU HAVE QUESTIONS CONCERNING ITEMS INCLUDED, PLEASE CALL ME AT (928) 425-7146x24.

HANDICAPPED INDIVIDUALS WITH SPECIAL ACCESSIBILITY NEEDS MAY CONTACT ADA COORDINATOR AT (928) 425-7146.

1907 - 2007



City of Globe

150 N. Pine Street  
Globe, Arizona 85501

**VIA HAND-DELIVERY, CERTIFIED MAIL,  
RETURN RECEIPT REQUESTED  
& REGULAR U.S. MAIL**

July 12, 2011

Mr. Jim E. Moss, Chairman  
Citizens to Protect Globe's Resources  
o/o Pickle Barrel Trading Post  
404 S. Broad St.  
Globe, Arizona 85501

**Re: City of Globe Initiative Petition Serial Number 2011-02  
Issued June 2, 2011**

Dear Mr. Moss:

On June 22, 2011, our office received from Kelly E. Moss, Treasurer of Citizens to Protect Globe's Resources, ninety-three (93) initiative petition sheets for Initiative Petition Serial Number 2011-02 entitled "Voters Must Approve New Prison in Globe Act" ("Number 2011-02") bearing what purport to be 1016 signatures of City of Globe registered voters. On that date, our office issued to Ms. Moss, on your behalf, a receipt for these completed signature sheets for Number 2011-02, which was acknowledged and signed by Ms. Moss, also on your behalf.

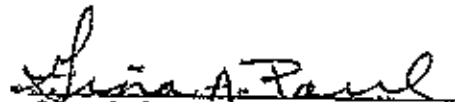
The City Clerk's Office has completed its review of the signature sheets for the Number 2011-02, as required by A.R.S. § 19-121.01. Please be advised that the City, based on the recommendation of the City Attorney, will not be forwarding any of these signature sheets to the Gila County Recorder for verification of signatures as would otherwise be required by A.R.S. § 19-121.01(C), for the following reasons:

Mr. Jim E. Moss, Chairman  
Citizens to Protect Globe's Resources  
404 S. Broad St.  
Globe, Arizona 85501  
Page 3 of 3

For the reasons stated above, the City Clerk for the City of Globe, pursuant to A.R.S. § 19-122, hereby declines and refuses to forward the received 93 signature sheets for Number 2011-02 to the Gila County Recorder for verification of the signatures per A.R.S. § 19-121.02.

Very truly yours,

CITY OF GLOBE, ARIZONA

  
Gina A. Paul  
City Clerk

GAP/rap

Enc.

cc: Mayor and City Council  
K. Kane Graves, City Attorney  
Ellen M. Van Riper, Esq.

EXHIBIT "A"			
2011-02			
INITIATIVE PETITION - SIGNATURES WITHDRAWN			
	PAGE	NUMBER	REASON
1	3	1	Address Incomplete
2	3	2	Address Incomplete
3	3	3	Address Incomplete
4	3	4	Address Incomplete
5	4	3	Actual Address Missing
6	7	13	City Info Missing
7	9	2	Address Incomplete
8	9	3	Address Incomplete
9	9	8	Address Incomplete
10	10	2	Address Incomplete
11	10	8	Actual Address Missing
12	10	12	Address Incomplete
13	10	13	Address Incomplete
14	11	12	Date Missing
15	12	9	Address Incomplete
16	12	10	Address Incomplete
17	13	9	Date Missing
18	16	4	Incomplete Address
19	18	1	Info Crossed Out
20	21	3	Address Incomplete
21	21	9	City and Date Missing
22	23	13	City and Date Missing
23	24	1	Address Incomplete
24	24	4	Date Missing
25	24	12	Address Incomplete
26	31	7	Info Crossed Out
27	33	8	Info Crossed Out
28	41	7	Actual Address Missing
29	47	1	Info Crossed Out
30	47	12	Actual Address Missing
31	64	11	Blank
32	67	13	Info Crossed Out
33	68	2	Blank
34	64	10	Info Crossed Out
35	65	3	Incomplete Address
36	66	4	Blank
37	68	4	Info Crossed Out
38	70	7	Info Crossed Out
39	76	10	Info Crossed Out
40	80	7	City Missing
41	86	5	City and Date Missing
42	87	11	Actual Address Missing
43	87	12	Actual Address Missing



1907 - 2007



City of Globe

150 N. Pine Street  
Globe, Arizona 85501

**VIA HAND-DELIVERY, CERTIFIED MAIL,  
RETURN RECEIPT REQUESTED  
& REGULAR U.S. MAIL**

July 12, 2011

Mr. Jim E. Moss, Chairman  
Citizens Opposed to Becoming a Prison Town  
c/o Pickle Barrel Trading Post  
404 S. Broad St.  
Globe, Arizona 85501

**Re: City of Globe Initiative Petition Serial Number 2011-01  
Issued June 2, 2011**

Dear Mr. Moss:

On June 22, 2011, our office received from Kelly E. Moss, Treasurer of Citizens Opposed to Becoming a Prison Town, ninety-three (93) initiative petition sheets for Initiative Petition Serial Number 2011-01 entitled "No City Resources Spent on New Prison Act" ("Number 2011-01") bearing what purport to be 1003 signatures of City of Globe registered voters. On that date, our office issued to Ms. Moss, on your behalf, a receipt for these completed signature sheets for Number 2011-01, which was acknowledged and signed by Ms. Moss, also on your behalf.

The City Clerk's Office has completed its review of the signature sheets for Number 2011-01, as required by A.R.S. § 19-121.01. Please be advised that the City, based on the recommendation of the City Attorney, will not be forwarding any of these signature sheets to the Gila County Recorder for verification of signatures as would otherwise be required by A.R.S. § 19-121.01(C), for the following reasons:

Mr. Jim E. Moss, Chairman  
Citizens Opposed to Becoming a Prison Town  
404 S. Broad St.  
Globe, Arizona 85501  
Page 2 of 3

(1) All of the signatures on all of the petition sheets are invalid because Citizens Opposed to Becoming a Prison Town, prior to the collection of signatures on the petitions, did not complete and file with the City Clerk a State of Arizona Political Committee Statement of Organization form that fully complies with A.R.S. § 16-902.01. Specifically, A.R.S. § 16-902.01(F) requires that "[f]or a political committee that makes expenditures in an attempt to influence the results of a ballot proposition election, *the statement of organization shall include in the name of the political committee the official serial number for the petition, if assigned, and a statement as to whether the political committee supports or opposes the passage of the ballot measure.*" (emphasis supplied). The serial number for Number 2011-01 does not appear in the political committee name "Citizens Opposed to Becoming a Prison Town." In addition, this political committee failed to indicate either in its name or on the Political Committee Statement of Organization form whether it "supports" or "opposes" Number 2011-01. Rather, both boxes on the form were left unchecked. Hence, the form was incomplete when filed.

(2) All of the signatures on all of the petition sheets are also invalid because Citizens Opposed to Becoming a Prison Town, prior to the collection of signatures on the petitions, did not complete and file with the City Clerk a State of Arizona Political Committee Statement of Organization form that truthfully indicates its type of political committee. Under "Type of Political Committee," the box for "committee organized in support of or opposition to one or more candidates" is checked. This is incorrect. The box that should have been checked was that for "committee in support of or opposition to the qualification, passage or defeat of a ballot issue." This misrepresentation is contrary to the Chairman's and Treasurer's Statement on the reverse side of the form wherein both officials avow that the contents of the form are "true, correct and complete" to the best of their knowledge.

Pursuant to A.R.S. § 16-114(B), signatures collected on petition sheets for an initiative petition are not valid and are not to be counted if they are collected prior to the filing of a properly completed and truthful State of Arizona Political Committee Statement of Organization form. See also *Israel v. Town of Cave Creek*, 196 Ariz. 150, 155 n. 7, 993 P.2d 1114, 1119 n. 7 (App. Div. One 1999) ("[A] failure to make a required organizational listing . . . invalidates any signatures obtained on . . . petitions circulated pursuant to an insufficient application.").

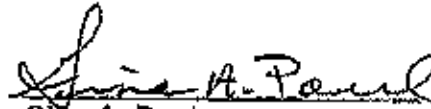
Mr. Jim E. Moss, Chairman  
Citizens Opposed to Becoming a Prison Town  
404 S. Broad St.  
Globe, Arizona 85501  
Page 3 of 3

Please also be advised that our office also found during our review pursuant to A.R.S. § 19-121.01, the following deficiencies in the signatures included on the submitted signature sheets as specifically set forth in the accompanying spread sheet attached hereto as Exhibit "A" and hereby incorporated in its entirety by this reference as if set forth in full.

For the reasons stated above, the City Clerk for the City of Globe, pursuant to A.R.S. § 19-122, hereby declines and refuses to forward the received 93 signature sheets for Number 2011-01 to the Gila County Recorder for verification of the signatures per A.R.S. § 19-121.02.

Very truly yours,

CITY OF GLOBE, ARIZONA



Gina A. Paul  
City Clerk

GAP/rup  
Enc.

cc: Mayor and City Council  
K. Kane Graves, City Attorney  
Ellen M. Van Riper, Esq.

EXHIBIT "A"			
2011-01			
INITIATIVE PETITION - SIGNATURES WITHDRAWN			
	PAGE	NUMBER	REASON
1	14	2	Address Incomplete
2	14	11	City and Date Incomplete
3	13	6	Info Crossed Out
4	28	12	Blank
5	20	8	Incomplete City
6	30	4	Incomplete Address
7	31	1	Blank
8	31	3	Blank
9	31	7	Date Missing
10	36	12	City and Date missing
11	40	7	Actual Address Missing
12	43	6	City and Date missing
13	45	7	Info Crossed out
14	45	9	Blank
15	45	10	Blank
16	48	3	Blank
17	49	4	Actual Address Missing
18	61	9	Address, City and Date Missing
19	60	10	Word - Void
20	58	12	Actual Address Missing and City
21	69	8	City and Date Missing
22	76	12	Actual Address Missing
<b>A.R.S. 19-112 22 SIGNATURES INELIGIBLE FOR VERIFICATION</b>			
		7	Incomplete Address
		5	Incomplete City
		2	Info Crossed Out
		7	Blank
		1	Date Missing
<b>A.R.S. 19-102 7 REJECTED SHEETS</b>			
3	Circulator's address is incomplete		
2	Paid / Volunteer left blank		
2	Notary dated earlier than circulated		