

TOWN
Of
PARADISE VALLEY



TOWN COUNCIL

Vernon B. Parker, Mayor

Virginia "Jini" Simpson, Vice Mayor
Ronald B. Clarke
Pam Kirby

Bernie Barry
Mary Hamway
Scott LeMarr

Thursday, March 25, 2010
3:00 pm

Meeting Location:
Town Hall 6401 E. Lincoln Drive
Boardroom

MEETING AGENDA

1. CALL TO ORDER / ROLL CALL

2. WORK/STUDY DISCUSSION ITEMS

Work/Study is open to the public however the following items are scheduled for discussion only. The Town Council will be briefed by staff and other Town representatives. There will be no votes and no final action taken on discussion items. The Council may give direction to staff and request that items be scheduled for consideration and final action at a later date. The order of discussion items and the estimated time scheduled to hear each item is subject to change.

- a. Discussion of NewPath Networks Statement of Direction** **30 minutes**
Staff Contact: Eva Cutro, Planning & Building Director, 480-348-3522
- b. Discussion of Amendments to Article XXIV, Walls & Fences** **30 minutes**
Staff Contact: Eva Cutro, Planning & Building Director, 480-348-3522
- c. Discussion of Residential Alarm User Permit** **30 minutes**
Staff Contact: Lenore Lancaster, Management Services Director, 480-348-3532

3. EXECUTIVE SESSION

The Town Council may adjourn into Executive Session at one or more times during the meeting. Executive Sessions are not open to the public.

- a.** Discussion and consultation with Town Attorney **regarding pending or potential litigation and/or potential contract negotiations with NewPath Networks, LLC** as authorized by A.R.S. §38-431.03.A.4; legal advice **regarding the Tele-communications Act** as authorized by A.R.S. §38-431.03.A.3; and discussion and consultation with Town representatives concerning potential negotiations for the purchase, sale, or lease of in various locations as authorized by A.R.S. §38-431.03(A)(7).

- b.** Discussion of **Town Attorney performance review** as authorized by A.R.S. §38-431.03.A.1.

**Meeting Location: Town Hall Council Chambers
Approximate Start Time: 5:30 p.m.**

4. RECONVENE FOR REGULAR MEETING

5. ROLL CALL

6. PLEDGE OF ALLEGIANCE

7. PRESENTATIONS

8. CALL TO THE PUBLIC

Citizens may address the Council on any matter not on the agenda. In conformance with Open Meeting Laws, Council may not have discussion or take action on this matter at this Council meeting, but may respond to criticism, ask that staff review a matter raised, or ask that it be put on a future agenda. Those making comments shall limit their remarks to three (3) minutes. **Please fill out a Speaker Request form prior to addressing the Council.**

9. MAYOR / COUNCIL / MANAGER REPORTS

The Mayor, Council or Town Manager may provide a summary of current events. In conformance with Open Meeting Laws, Council may not have discussion or take action at this Council meeting on any matter discussed during the summary.

10. CONSENT AGENDA

All items on the Consent Agenda are considered by the Town Council to be routine and will be enacted by a single motion. There will be no separate discussion of these items. If a member of the Council or public desires discussion on any item it will be removed from the Consent Agenda and considered separately.

a. Minutes of Town Council Meeting March 11, 2010

b. Authorization to Purchase a Police Patrol Vehicle

Recommendation: Authorize the purchase of a 2010 Chevrolet Tahoe for the Police Department at a cost of \$30,038.

Staff Contact: Andrew Cooper, Jr., Public Works Director, 480-348-3573

c. Approval of Special Event Liquor License for Habitat For Humanity

Recommendation: Approve the Special Event Liquor License for Habitat For Humanity Central Arizona, subject to the stipulations in the Action Report.

Staff Contact: Duncan Miller, Town Clerk, 480-348-3610

- d. **Approval of Special Event Liquor License for Montessori Academy**
Recommendation: Approve the Special Event Liquor License for Montessori Academy, Inc., subject to the stipulations in the Action Report.
Staff Contact: Duncan Miller, Town Clerk, 480-348-3610

- e. **Approval of Resolution Number 1212 Certifying the Results of the March 9, 2010 Primary Election**
Recommendation: Adopt Resolution Number 1212 certifying the results of the Primary Election held on March 9, 2010.
Staff Contact: Duncan Miller, Town Clerk, 480-348-3610

11. PUBLIC HEARINGS

None

12. ACTION ITEMS – The Town Council May Take Action on Any of These Matters.

- a. **Approval of NewPath Networks Special Use Permit Statement of Direction**
Recommendation: Approve the NewPath Networks Statement of Direction dated March 25, 2010
Staff Contact: Eva Cutro, Planning & Building Director, 480-348-3522

13. ADJOURN

AGENDA IS SUBJECT TO CHANGE

The Town of Paradise Valley endeavors to make all public meetings accessible to persons with disabilities. With 72 hours advance notice, special assistance can also be provided for disabled persons at public meetings. Please call 480-948-7411 (voice) or 480-483-1811 (TDD) to request accommodation to participate in the Town Council meeting.

2a



Memorandum

TO: Honorable Mayor and Town Council
FROM: Molly Hood, Senior Planner *MH*
DATE: March 25, 2010
SUBJECT: NewPath Distributed Antenna System (SUP-10-4)

BACKGROUND

NewPath Networks recently submitted a Special Use Permit application to allow the installation of a Distributed Antenna System (DAS) in the Town of Paradise Valley right-of-way. A Distributed Antenna System consists of a fiber-optic backbone that connects a series of antenna nodes that wireless carriers may use to improve system capacity, coverage, voice quality, high speed data, and Internet access. The fiber connects to a "hub" which contains the carrier's base station equipment.

Newpath's proposal for Paradise Valley consists of the fiber optic cable and 42 signal antenna nodes located above ground on vertical structures such as street light poles, traffic signals, or faux cactus. The hub is located in the City of Scottsdale.

NewPath is proposing 42 antenna node locations throughout Paradise Valley's right-of-way including:

- 6 street light nodes
- 21 faux cactus nodes (24' high)
- 2 traffic signal nodes
- 13 stop sign or other street sign nodes (24' high)

This will be a Major Special Use Permit. Per the Town's new SUP ordinance, Major SUP Amendments shall go to the Town Council for a Statement of Direction. A Statement of Direction is intended to provide general guidelines or project parameters as the application progresses through the Planning Commission and Town Council review. A Statement of Direction is not a final decision and shall create no vested rights to the approval of a Special Use Permit. Nor shall the applicant rely on the matters addressed in the Statement of Direction as those that may become part of an approved Special Use Permit.

COUNCIL REVIEW:

The Town Council discussed the Statement of Direction at the March 11, 2010 Work Study Session. Based on the Council discussion, staff drafted the attached Statement of Direction. The Statement of Direction is on this evening's business agenda for action.

DOCUMENTATION ATTACHED

SUP-10-4 Statement of Direction

SUP-10-4
NewPath Networks

-Statement of Direction-

Whereas, on March 2, 2010, NewPath Networks, Inc. submitted a Special Use Permit application to allow utility poles in the Town of Paradise Valley right-of-way. The proposed Distributed Antenna System ("DAS") consists of a fiber-optic backbone that connects a series of antenna nodes.

Whereas, Section 1102.3 of the Town's Zoning Ordinance states the Town Council must issue a Statement of Direction for the Special Use Permit application within 45 days of the first staff presentation. In this case, the Statement of Direction must be issued on or before April 24, 2010.

The Statement of Direction is not a final decision of the Town Council and does not create any vested rights to the approval of a Special Use Permit. Any applicant for a Special Use Permit shall not rely upon the matters addressed in the Statement of Direction being the same as those that may be part of an approved Special Use Permit.

Therefore, the Town Council issues the following Statement of Direction for SUP-10-4, NewPath Networks:

- The Town encourages better wireless service within the Town of Paradise Valley.
- Existing vertical elements in the Town right-of-way such as street lights, traffic signals and street-signs shall be utilized for antenna installations provided the proposed additional height on the existing vertical element does not significantly interfere with view corridors for public property. Otherwise, the faux cactus option shall be used.
- The antenna heights proposed by NewPath Networks in the Special Use Permit application dated March 2, 2010 are acceptable but each proposed antenna node location needs to be assessed individually with site adjustments made as deemed necessary to best blend the proposed antenna node with the surrounding area. Existing view corridors for public property, the surrounding landscape, topography, proximity to existing residences, and speed limits, etc. shall be taken into consideration. In circumstances necessitating an adjustment, the Commission and staff shall adjust antenna location before height. The Council believes it is much easier to adjust the position of an antenna rather than the antenna height as antenna height adjustments may affect the entire DAS network.
- Antennas shall be situated in locations that maximize the effectiveness of the DAS and provide the most benefit for the community as a whole. Disputes regarding antenna locations shall be mitigated to the maximum extent possible, but all parties must understand that excessive negotiation and antenna shifting becomes counter-productive to the overall process. In a work study session, the

Council will settle any unresolved antenna location disputes that arise during the Planning Commission review/hearing process.

- The proposed antenna nodes shall blend with existing landscaping and in those locations where there is little to no landscaping present, additional landscaping to be installed by NewPath shall be required.
- The manufacturer and design (insert here once identified) of each antenna node shall be stipulated to ensure the highest quality and most aesthetically pleasing installation. Staff and the Planning Commission shall make a field trip to view existing NewPath installations in the City of Scottsdale to assist with their evaluation of the various antenna design alternatives.
- The Planning Commission and staff shall understand and respect that the financial and business decisions between the Town and NewPath fall under the Town Council's purview and are not related to the Commission's Special Use Permit discussion. The Planning Commission should not discuss right-of-way lease issues such as payments, maintenance, liability, etc.
- The NewPath DAS shall comply with all Federal Communications Commission (FCC) requirements for radiofrequency (RF) public exposure safety. NewPath shall submit documentation of compliance. Receipt of the compliance documentation shall negate the need for any discussions related to RF compliance.
- Antenna or system-wide malfunctions are not the concern of staff, the Planning Commission or Town Council with the exception of the 800MHz components. Any DAS malfunction is the sole responsibility and concern of NewPath Networks.
- The NewPath system shall be designed to accommodate a minimum of five carriers at build-out.
- The Council believes incorporating 800 MHz capability for public safety communication purposes into the NewPath Distributed Antenna System is feasible. Staff and the Commission should see that the system is designed accordingly.
- Neighborhood notification shall be maximized during the Special Use Permit process and throughout the construction process via mailings, postings, newspaper notices, neighborhood meetings, and one-on-one resident meetings when necessary. In addition, the NewPath application materials shall be made available on the Town's website.

As per Section 1102.3.C.3.c of the Zoning Ordinance, at any time during the review process, the Planning Commission may request clarification and/or expansion of this Statement of Direction based on additional information that has evolved.

2b



Memorandum

TO: Honorable Mayor and Town Council

FROM: George Burton, Planner *GB*

DATE: March 25, 2010

SUBJECT: Work Study Session- Ordinance 619, Proposed Amendments to Article XXIV, Walls and Fences

BACKGROUND

In January 2004, the Town adopted Ordinance No. 534, creating a new article, "Article XXIV – Walls and Fences" that provided regulations for the use, type, location, and installation of walls and fences while promoting public health, safety, convenience, and general welfare. The Walls and Fences regulations have been in effect for approximately six years. As part of a periodic review and update of the Town Code, it has been determined that amendments to Article XXIV are necessary to clarify existing language and to provide additional regulations. Staff recommends the revisions outlined below.

DISCUSSION:

Height and Setback Regulations

Currently, the code allows three different setbacks for fence walls on corner lots and properties adjoining major arterial streets. Regardless of height, the following applies to the side/rear yard setback for corner lots and the front yard setback for properties adjoining a major arterial street:

- View fence at a ten (10) foot setback.
- Meandering wall with an average setback of fifteen (15) feet.
- All other walls at a setback of twenty (20) feet.

Staff is recommending that such properties be allowed to construct: 1) a 3 foot high wall at a 10 foot side/rear setback along all right-of-ways and 2) a 3 foot high wall at a 10 foot front yard setback along major arterial streets.

Stacking Requirements

An illustration has been added to Section 2405 to help clarify the minimum stacking requirements for fence walls.

Front Yard Setbacks for R-10 Zoning

The code states, "In R-10 Zoning Districts, the front yard setback along local, collector, or minor streets is minimum 20 feet, or as shown on the recorded plat, or as existing at the time of annexation." This statement is unclear as to which criteria takes precedence. Therefore, staff is recommending that the following language be added to this section of code:

The setbacks shown on the recorded plat take precedence. If there is no recorded plat, the applicant shall choose a setback of 20 feet or a setback as existing at time of annexation.

Retaining Walls

Code currently limits the height of retaining walls to 6 inches above the material it retains and a maximum height of 6 feet. Due to this conflicting information, staff recommends keeping the 6 foot maximum height limit and revising the code to restrict the amount of retaining wall fill to 6 inches below the top of retaining wall.

Staff also recommends language be added to the code to address the placement of fence walls on top of retaining wall fill provided they meet four criteria: 1) view fences placed on top of retaining wall fill must maintain a 5 foot separation from the top of the retaining wall; 2) all other fences placed on top of retaining wall fill must maintain a 10 foot separation from top of retaining wall; 3) the combined wall height shall not exceed 8 feet measured from the low side of the wall; and, 4) these separation requirements apply to any single lot.

Driveway Columns and Entry Gates

The setback requirements described in this section of code refer to R-43 and R-175 zoning districts. Staff recommends adding language to reference the setback requirements for R-10 and R-18A zoning.

Side or Rear Wall Connections

The code currently allows side or rear wall fence connections to existing non-conforming walls. Staff recommends adding language to clarify the rear or side wall connection must be made with the minimum amount of fencing needed to complete the link.

PUBLIC COMMENT:

Public notification was performed in accordance with the citizen review and public hearing process. Staff received no comments regarding the proposed changes to Article XXIV.

PLANNING COMMISSION DISCUSSION

The Planning Commission discussed the proposed amendments to Article XXIV at the January 5, 2010 work study session and the February 2, 2010 citizen review session. On February 16, 2010, the Planning Commission voted 4 to 0 to forward Ordinance #619 to the Town Council with a recommendation for approval.

DOCUMENTATION ATTACHED

Ordinance # 619

1 When recorded, return to:
2 Paradise Valley Town Attorney
3 6041 E. Lincoln Drive
4 Paradise Valley, AZ 85253
5
6
7

8
9 **ORDINANCE NUMBER 619**

10
11 **AN ORDINANCE OF THE TOWN OF PARADISE**
12 **VALLEY, ARIZONA AMENDING THE PARADISE**
13 **VALLEY ZONING ORDINANCE, ARTICLE XXIV,**
14 **WALLS AND FENCES**

15
16 **BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF**
17 **PARADISE VALLEY, ARIZONA:**

18
19 Section 1. Article XXIV, Walls and Fences, Section 2404, Table 2404 A, Section
20 2405, Section 2407, Section 2413 and Section 2415, are hereby amended (with deletions
21 shown as ~~strikethroughs~~ and additions shown in **bold type**):

22
23 Section 2404. Height and Setback Regulations:

24
25 a. Height Regulations

26
27 2. Adjoining Local, Collector, and Minor Arterial Streets.

28
29 The maximum height of a wall and view fence, including the berm, adjoining a local,
30 collector, and minor street shall not exceed six (6) feet, further provided that no portion of
31 the wall or view fence located between the ten- (10) foot and forty- (40) foot front yard
32 setback shall exceed three (3) feet, except for ~~a single~~ entry gates and columns as
33 permitted under Section 2413. See Table 2404A for additional criteria.

34
35 b. Setbacks Regulations

36
37 1. Adjoining Local, Collector, and Minor Arterial Streets.

38
39 Walls or view fences located in the front yard of a lot adjoining local, collector, or minor
40 arterial streets that exceed three feet in height shall be setback at least forty (40) feet from
41 the right-of-way property line. Walls or view fences located in the front yard of a lot
42 adjoining local, collector, or minor arterial streets that are three (3) feet in height or less
43 shall be setback at least ten (10) feet from the right-of-way property line, except for the
44 area allotted to an entry gate, as permitted under Section 2413, may be greater than the
45 three foot height limitation. **Walls located in the rear or side yard of a lot adjoining**
46 **local, collector, or minor arterial streets, three (3) feet in height or less, shall be**
47 **setback at least ten (10) feet from the right-of-way property line.** Walls located in the
48 rear or side yard of a lot adjoining local, collector, or minor arterial streets, ~~regardless of~~

1 ~~whether they~~ **that** exceed three (3) feet in height, shall be setback at least twenty (20) feet
2 from the right-of-way property line; however, a view fence may be constructed at a ten
3 (10) foot setback, or a meandering wall may be constructed at an average fifteen (15) foot
4 setback, provided they meet the criteria set forth in this article and Table 2404A. See
5 Table 2404A for additional criteria.

6
7 2. Adjoining Major Arterial Streets.
8

9 Walls **exceeding three (3) feet in height that** adjoining major arterial streets shall be
10 setback at least twenty (20) feet from the right-of-way property line; however, a view
11 fence may be constructed at a ten (10) foot setback or a meandering wall may be
12 constructed at an average fifteen (15) foot setback provided they meet the criteria set forth
13 in this article and Table 2404 A. **Walls three (3) feet in height or less may be**
14 **constructed at the ten (10) foot setback. See Table 2404A for additional criteria.**
15
16

TABLE 2404A – ALL RESIDENTIAL DISTRICTS SETBACK AND HEIGHT REGULATIONS FOR WALLS / VIEW FENCES

FRONT YARD ALONG RIGHTS-OF-WAY			
STREET TYPE	TYPE OF WALL OR FENCE	SETBACK FROM PROPERTY LINE, FEET	MAXIMUM HEIGHT, FEET
Major	View Fence	10, Minimum	**8, including berm
	Meandering Wall	15, Average	**8, including berm
	All Others	20, Minimum	**8, including berm
	Any	10, Minimum	3
Local, Collector, Minor	Any	10, Minimum	3
	Any	*40, Minimum	6
SIDE OR REAR YARD ALONG RIGHTS-OF-WAY			
Major	View Fence	10, Minimum	**8, including berm
	Meandering Wall	15, Average	**8, including berm
	All Others	20, Minimum	**8, including berm
	Any	10, Minimum	3
Local, Collector, Minor	View Fence	10, Minimum	6
	Meandering Wall	15, Average	6
	All Others	20, Minimum	6
	Any	10, Minimum	3
SIDE OR REAR YARD INTERIOR (not along any right-of-way)			
Not applicable	Any	None Required	6
SIDE OR REAR YARD INTERIOR (adjoining non-residential property other than a right-of-way)			
Not applicable	Any	None Required	**8, including berm

* In R-18A Zoning Districts, the front yard setback along local, collector, or minor streets is minimum 35 feet.

In R-10 Zoning Districts, the front yard setback along local, collector, or minor streets is minimum 20 feet, or as shown on the recorded plat, or as existing at the time of annexation. **The setbacks shown on the recorded plat take precedence. If there is no recorded plat, the applicant shall choose a setback of 20 feet or a setback as existing at time of annexation.**

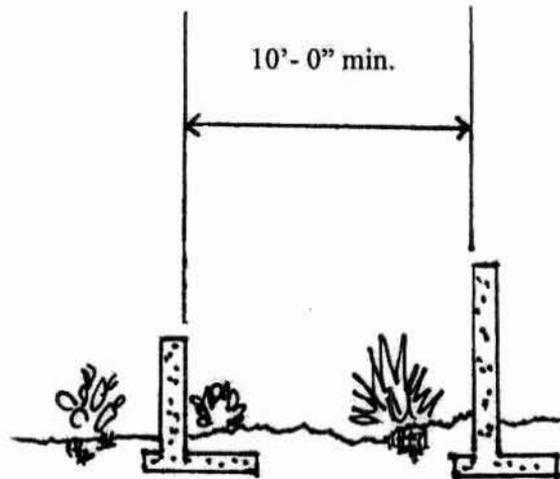
** Refer to Section 2404(a) for details

Note: All fence walls shall be in compliance with Section 2405 and all provisions set forth in this Article.

1 Section 2405 Stacking:

2
3 Stacking of no more than two (2) walls on any single lot may be permitted, provided there
4 shall be a minimum of 10-foot separation between the walls, and the space between the
5 walls shall include appropriate and adequate vegetation to substantially minimize the
6 visual impact of the combined walls. The landscaped area shall be maintained at all times
7 in conformance with the Town's Landscape Guidelines (see **Figure 2405**).
8

9 **FIGURE 2405 –STACKING OF WALLS**



11
12
13 Section 2407. Retaining Walls:

- 14
15 a. Retaining walls shall only be used for the purpose of containing fill
16 material or for minimizing cut or fill slopes. ~~The retaining wall may only~~
17 ~~extend six (6) inches above the material it is retaining.~~ **The retained material**
18 **shall be restricted to at least six (6) inches below the top of the retaining**
19 **wall.**
- 20
21 b. The maximum height of any retaining wall shall not be more than six (6)
22 feet. The height of a retaining wall is measured from the low side of natural
23 grade to the top of the wall whether the top is retaining earth or not.
- 24
25 c. A terraced combination of retaining walls may be allowed and shall
26 be measured as a single retaining wall; however, the combined walls shall be:
27 1) no more than eight (8) feet total vertical height; 2) terraced with a
28 minimum distance of ten (10) feet and a maximum separation of fifteen (15)
29 feet; and 3) contain appropriate vegetation between the walls so as to soften
30 the visual impact of the combined walls (see Figure 2407).
31

1 d. When a safety fence, on top of a retaining wall, is required by code,
2 it shall be a view fence (80% open), shall be finished to blend with
3 surrounding natural colors, and shall be the minimum height required by the
4 Town Code. **Building code requires a safety fence only when there is a**
5 **walking surface at the upper level.**
6

7 e. Where retaining walls are provided, they shall meet all of the
8 requirements of Section 2403 – Material and Texture of this Article.
9

10 f. **Where retaining walls are provided, they shall meet the setback**
11 **requirements of Section 2404 – Height and Setback Regulations.**
12

13 g. **Fence walls may be located on top of the retaining material**
14 **provided:**
15

- 16 1. **View fences placed on top of the retaining wall fill shall maintain**
17 **a minimum separation of five (5) feet from the top of the**
18 **retaining wall; and**
- 19 2. **All other fence walls placed on top of the retaining wall fill shall**
20 **maintain a minimum separation of ten (10) feet from the top of**
21 **the retaining wall; and**
- 22 3. **The combined walls shall be measured as one single wall and**
23 **shall be not exceed a total vertical height of eight (8) feet,**
24 **measured from the low side of natural grade to the top of the**
25 **wall. Exceptions may apply to pool barriers (the pool barrier**
26 **must be a view fence when the combined height exceeds 8 feet);**
27 **and**
- 28 4. **These separation requirements apply to any single lot and do not**
29 **apply to adjoining walls on neighboring properties.**
30

31 Section 2413. Driveway Columns and Entry Gates:
32

33 An increase in the height of the entry gates and associated columns at the driveway and
34 pedestrian entrances may be permitted, provided:
35

- 36 a. Columns and entry gates located between the ten- (10) foot and the forty- (40)
37 foot front yard setback may be allowed to exceed the three-foot maximum
38 height, but in no event shall the height of the gate and its associated columns
39 exceed six (6) feet. A transition maybe made from the top of the column to
40 the three (3)-foot high wall, but the length of the horizontal transition shall not
41 exceed the difference in the vertical height between the wall and the column
42 or gate, whichever is greater.
43
- 44 b. Columns and entry gates at and beyond the forty- (40) foot front yard setback
45 may be allowed to exceed the six-foot maximum height, but in no event shall
46 the height of the gate and its associated columns exceed eight (8) feet. A

1 transition may be made from the top of the column to the six (6)-foot high
2 wall, but the length of the horizontal transition shall not exceed the difference
3 in the vertical height between the wall and the column or gate, whichever is
4 greater.

5
6 **c. Reference Table 2404A for R-18A Zoning District and R-10 Zoning**
7 **District front yard setback requirements.**

8
9 Section 2415. Nonconformity:

10
11 a. Wall and View Fence Height and Location.

12
13 With the exception of pre-existing subdivision walls and view fences, as defined in
14 Section 2408 (b), any wall or view fence that is non-conforming due to its height or
15 location within a required setback area shall be made to conform to the requirements of
16 this Article when:

- 17
18 1. Approvals are granted for lot splits and subdivisions;
19
20 2. Permits are issued for a new house; or
21
22 3. Permits are issued for structural additions, or remodels, alterations, or
23 repairs of an existing house, covered by a single or multiple building
24 permits within a thirty six (36) month period that together involves
25 structural addition of or demolition of more than fifty (50) percent of the
26 original square footage of the main house.
27 4. Permits are issued for alterations, repairs, or additions to such wall or
28 view fence, covered by a single or multiple building permits within a
29 thirty six (36) month period that together involves structural addition of or
30 demolition of more than fifty (50) percent of the lineal feet of the wall or
31 view fence.

32
33 c. Side or Rear Wall Connections.

34
35 Side or rear wall or view fence connections to existing non-conforming walls and view
36 fences and pre-existing subdivision walls and view fences may be placed within the
37 twenty (20) foot setback area. **The side or rear wall connection shall be made with the**
38 **minimum amount of encroachment necessary to connect the new fence wall and the**
39 **existing fence wall.**

40
41 Section 2. If any section, subsection, sentence, clause, phrase or portion of this
42 ordinance or any part of these amendments to the Town Code adopted herein by reference
43 is for any reason held to be invalid or unconstitutional by the decision of any court of
44 competent jurisdiction, such decision shall not affect the validity of the remaining portions
45 thereof.

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Section 3. This ordinance shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the Town of Paradise Valley, Arizona, this ___ day of MONTH, 2010.

Vernon B. Parker, Mayor

SIGNED AND ATTESTED TO THIS _____ DAY OF _____ 2010

ATTEST:

Duncan Miller, Town Clerk

APPROVED AS TO FORM:

Andrew M. Miller, Town Attorney

MEMORANDUM

TO: Mayor & Town Council

FROM: Lenore Lancaster, Management Services Director

DATE: March 25, 2010

SUBJECT: Alarm Permits

The Town recently sent out alarm permit applications to residents on various alarm systems. Council has expressed concern about these permits.

The introduction of alarm permits for Town residents was first discussed on the October 22, 2009 work/study session. The costs of sending out the alarm permits were subsequently discussed on the November 5, 2009 work/study session.

Since there were two work/study sessions on proposed changes to the Town Code for alarms, the ordinance and resolution for those changes were placed on the consent agenda on the November 19, 2009 Council Meeting.

Currently there is a bill in the Legislature (HB2446) relating to the regulation of companies that install alarms and/or monitor alarms. The provisions in this bill require companies to maintain records that include:

- The name of the owner or occupant of the premises,
- The name and telephone number of the subscriber,
- A primary person and at least one alternate responsible person for responding to the premises if the alarm is activated.

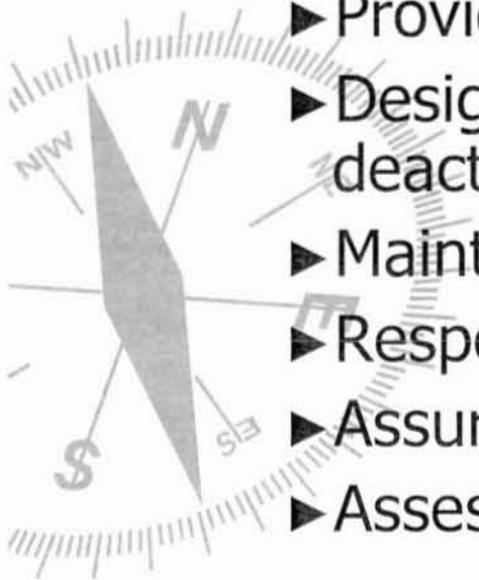
This information is similar to what the Town is requiring on its permit application

Attached are copies of documents previously provided to Council or shown as a PowerPoint during the work/study sessions:

- Three slides from the October 22 work/study PowerPoint
- Memo for the November 5 work/study (see page 2)
- Action Report and Resolution Number 1206

Permit Changes

- ▶ Implement Annual Alarm User Permit
 - All residents with alarm systems
 - Provisions
 - ▶ Apply for permit within 5 days of installation
 - ▶ Provide monitoring company contact information
 - ▶ Designate at least 2 responsible parties for deactivation
 - ▶ Maintain system by annual inspection by company
 - ▶ Respond within 30 minutes
 - ▶ Assure audible alarms deactivate within 10 minutes
 - ▶ Assess \$50 fee for alarms without a User permit



Permit Changes

▶ Adjust Alarm Business Permit

- Reciprocal permitting with City of Phoenix
- Provisions

- ▶ Provide date of service, owner, alarm user, and contact information within 10 days of install
- ▶ Provide Alarm User permit application to resident
- ▶ Provide the Town customer list
- ▶ Configure audible alarms to deactivate within 10 minutes
- ▶ Assess \$100 fee for operating without a Alarm Business permit



Permit Changes

Fee	Current	Proposed
Alarm User Permit	N/A	\$20 / \$50*
Alarm Business Permit	\$25	\$30 / \$100*
		* No permit fee



To: Honorable Mayor and Members of the Town Council

From: Carl D. Hollish, Information Technology Manager *CDH*
 James C. Bacon, Town Manager *JCB*
 Lenore P. Lancaster, Management Services Director

Date: 05-Nov-09

Subject: Work/Study Review of Town Alarm Monitoring Expenses

At the Oct 22nd Work/Study discussion on Alarms, Council had questions as to expenses of the Town Alarm Monitoring (TAM) service, and the estimated expenses of the Alarm changes introduced at the last Work/Study including the addition of subscribers.

Alarm Services

Alarm Services is setup as an enterprise fund within the Town's budget to offer monitoring of resident alarm systems. The fund provides for the salary and benefits of the Alarm Support Specialist, and includes an allocation from Management Services and Wastewater Utility Service for alarm billing and accounting services.

FUND BALANCE	FY 2007/08 Actual	FY 2008/09 Actual	FY 2009/10 Budget
Total Revenues	218,940	216,460	215,832
Salaries	51,636	56,139	56,674
Benefits	14,192	18,121	18,002
Operating Expenses	31,614	28,838	27,200
Administrative Allocation	35,306	26,238	25,000
Total Expenses	132,748	129,336	126,876
Net Income	86,192	87,124	88,956

After covering total expenses, the net income from the Alarm Services fund was transferred to Debt Service.

TAM Subscriber Increase

An increase in subscribers to the Town Alarm Monitoring service presents additional expenses in both mailing and bank processing fees incurred by the Town. Additional costs in mailing will only occur if new subscribers are not current Scottsdale sewer customers, otherwise the alarm charges will simply be added to existing mailings. The annual expense for mailing 100 additional TAM subscriber statements (non-Scottsdale sewer) is estimated to be \$200. Payment processing for these additional 100 TAM subscribers is estimated to be \$300. No additional staffing is required.

If any of the potential 100 new subscribers opt for the radio/digital backup level of service, the Town would incur a monthly \$3.95 digital service fee payable to a third party vendor. This expense is more than offset by the \$10 per month TAM add-on rate for backup service billed by the Town.

The Town faces no hardware capacity issues in encouraging additional subscriber growth; the existing Alarm Monitoring system can accommodate an additional 300 subscribers and the corresponding signal traffic without upgrade.

In fielding alarm activations and cancellations, the Police dispatch center will be impacted by additional TAM subscribers. Historically, Town-monitored alarm accounts comprise 6.7% of all Police calls for service (CFS), amounting to less than 3 calls per monitored residence in a year. The addition of 100 TAM subscribers would generate an estimated 300 additional CFS per year. Command staff commits that Police department dispatchers and officers can easily meet this demand with existing resources and schedules, and can absorb a 10% increase in CFS (or 1,900 calls) without affecting service quality.

Alarm User Permit

To minimize the impact on existing staff, the processing of annual Alarm User permits will be outsourced to the same third party mailing company used for utility billing. A database and a master merge document will be sent to the vendor, who will be responsible for printing, stuffing, and bulk mailing an anticipated 3,350 Alarm User permit applications. The database of alarm users exists now, having been created from false alarm records entered in the Police CAD/Records software since its implementation in Feb 2002. The final number of permit applications to be mailed will fluctuate based on additional systems triggering false alarms. The permit application will be completed by the resident, and will be returned with payment to the Town using a self-addressed envelope included in the mailing. The total expense for processing Alarm User permits is estimated to be \$2,100.

TOWN OF PARADISE VALLEY
COUNCIL ACTION REPORT

TO: Mayor and Town Council
FROM: Carl D. Hollish, Information Technology Manager
SUBJECT: Approval of Resolution Number 1206 and Ordinance Number 618
Amending Town Code Regarding Alarm Systems
DATE: November 19, 2009

RECOMMENDATION

It is recommended that the Town Council approve Resolution Number 1206 and Ordinance Number 618 amending the Town Code by reference by deleting Article 9-3; creating Article 4-3 Alarm Systems; and amending Section 8-2-10(C).

DISCUSSION

Town Code regarding Alarm Systems was first implemented in April 1983, and has been modified over the years. The current procedure of sending warning letters to alarm users after the 2nd false alarm, and initiating a fine assessment after the 4th false alarm, was implemented at that time. The false alarm assessment, review, and collection procedures are cumbersome and dated. This ordinance streamlines the assessment procedure, providing for a warning letter after the 2nd false alarm, and initiating fine assessment at subsequent false alarms. Alarm users retain the right to dispute false alarms and assessments.

Surrounding municipalities have mandated the licensing of alarm system users in their jurisdictions for many years. Adoption of this ordinance will require all alarm users within the Town to apply for a user permit which will renew annually, and will provide Town responders information not currently available to them, such as alarm system addresses, resident contact information, and point of contact information for the alarm business responsible for the system.

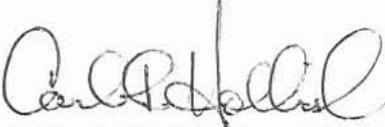
This ordinance also refines the responsibilities of both alarm businesses and alarm users, bringing them up to date.

COMMUNITY IMPACT

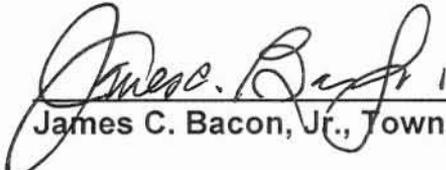
The proposed ordinance streamlines false alarm procedures, allowing staff to identify and assess false alarms earlier than existing Town Code allows. An annual alarm user permit, required for all residents operating an alarm system, is also implemented with this ordinance. In combination, these actions will reduce the impact of false alarms and minimize unnecessary use of public safety resources.

FISCAL IMPACT

This ordinance will result in a net income increase of \$64,900 after expenses.



Carl D. Hollish, IT Manager



James C. Bacon, Jr., Town Manager

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RESOLUTION NUMBER 1206

**A RESOLUTION OF THE MAYOR AND COUNCIL OF
THE TOWN OF PARADISE VALLEY, ARIZONA
DECLARING AS A PUBLIC RECORD THAT
CERTAIN DOCUMENT FILED WITH THE TOWN
CLERK AND ENTITLED "ALARM SYSTEMS."**

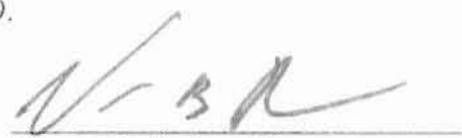
WHEREAS, A.R.S. §9-801 et. seq. provides for the adoption by reference of public records, and;

WHEREAS, Attached hereto, pursuant to Ordinance Number 618, is that certain document known as "Alarm Systems".

NOW THEREFORE BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF PARADISE VALLEY, ARIZONA AS FOLLOWS:

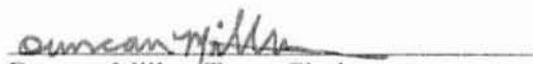
The above referenced document is hereby declared to be a public record within the meaning of A.R.S. §9-801, and three (3) copies thereof shall be kept on file in the office of the Town Clerk and available for public use and inspection during normal business hours.

PASSED AND ADOPTED by the Mayor and Council of the Town of Paradise Valley, Arizona this 19th day of November, 2009.



Vernon B. Parker, Mayor

ATTEST:



Duncan Miller, Town Clerk

APPROVED AS TO FORM



Andrew M. Miller, Town Attorney

**Attachment to Resolution 1206
Alarm Systems**

The Town of Paradise Valley has amended Chapter 4, Business, Chapter 8, Safety, Health, Sanitation, and Nuisance, and Chapter 9, Law Enforcement of the Town of Paradise Valley Town Code with new text shown in **Bold** and deleted text shown as ~~Strikethrough~~.

Section 1. Section 9-3, Alarm Systems, is hereby deleted in its entirety.

~~Article 9-3~~ **ALARM SYSTEMS**⁹⁸⁻¹¹³⁻¹²⁹⁻³⁸⁴

- ~~9-3-1~~ Purpose
- ~~9-3-2~~ Definitions
- ~~9-3-3~~ Administration by Police Department
- ~~9-3-4~~ Alarm Business Duties
- ~~9-3-5~~ Alarm Subscriber Duties
- ~~9-3-6~~ Proprietor Alarm Responsibilities
- ~~9-3-7~~ Permits and Exemptions
- ~~9-3-8~~ Suspension or Revocation of Permits; Appeal
- ~~9-3-9~~ Prohibitions
- ~~9-3-10~~ Warning Notice
- ~~9-3-11~~ Police Review of False Alarm
- ~~9-3-12~~ Appeal Procedures
- ~~9-3-13~~ Alarm System Operation Prohibitions
- ~~9-3-14~~ Grace Period
- ~~9-3-15~~ Regulations and Prohibitions³⁸⁴
- ~~9-3-16~~ Confidentiality

Section 2. Section 4-3, Alarm Systems, is hereby added as follows:

Article 4-3 Alarm Systems

- 4-3-1 Purpose**
- 4-3-2 Definitions**
- 4-3-3 Effective Date**
- 4-3-4 Applicability**
- 4-3-5 Administration**
- 4-3-6 Notices**
- 4-3-7 Limitation of Liability**
- 4-3-8 Alarm Business Responsibilities**
- 4-3-9 Alarm Business License Required**
- 4-3-10 Alarm Business License Application; Fees**

Attachment to Resolution 1206
Alarm Systems

- 1 4-3-11 Alarm Business License Term; Renewal
- 2 4-3-12 Failure to Obtain Alarm Business License
- 3 4-3-13 Changes in Alarm Business License
- 4 4-3-14 Alarm Business Display of License
- 5 4-3-15 Notification of Public Safety Personnel; Response
- 6 4-3-16 Suspension or Revocation of License
- 7 4-3-17 Alarm User Responsibilities
- 8 4-3-18 Alarm User Permit Required
- 9 4-3-19 Alarm User Permit Application; Fees
- 10 4-3-20 Alarm User Permit Term; Renewal
- 11 4-3-21 Alarm User Permit Number; Availability
- 12 4-3-22 Failure to Obtain Alarm User Permit
- 13 4-3-23 False Alarm Warning
- 14 4-3-24 False Alarm Fines
- 15 4-3-25 False Alarm Dispute and Review
- 16 4-3-26 Appeal Procedures
- 17 4-3-27 Decision of the Town Manager
- 18 4-3-28 Offenses; Penalty
- 19 4-3-29 Confidentiality

21 Section 4-3-1 Purpose

22 Alarm systems that are improperly installed, maintained, or operated result in false alarms that
23 waste public safety resources, to the detriment of the community at large. This Article is
24 intended to regulate the activities and responsibilities of those persons who purchase, lease, or
25 rent and those persons who own or conduct the business of selling, leasing, renting, maintaining,
26 or monitoring alarm systems, devices, or services. It is further intended to encourage the
27 improvement in reliability of these systems, devices, and services, and to insure that Town Police
28 personnel will not be unduly diverted from responding to actual criminal activity as a result of
29 false alarms.

30 Section 4-3-2 Definitions

31 The following words, terms and phrases, when used in this Article, shall have the meanings
32 ascribed to them in this section, except where the context clearly indicates a different meaning:

33 *Activate or activation* means setting off or triggering an alarm system, whether intentionally or
34 unintentionally, rather than placing an alarm system in a state of readiness, as upon the
35 completion of installation or when arming the alarm system.

36 *Act of God* means an unusual, extraordinary, sudden, and unexpected manifestation of the forces
37 of nature, causing collateral damage, which cannot be prevented by reasonable care, skill, or
38 foresight.

Attachment to Resolution 1206
Alarm Systems

1 **Agent** means an individual designated by a publicly traded corporation to act on behalf of the
2 corporation under this Article. An agent shall be a bona fide resident of Arizona and a citizen or
3 legal resident of the United States.

4 **Alarm agent** means any person, whether an employee, independent contractor, or otherwise, who
5 acts on behalf of an alarm business and installs or services any alarm system on any premises.
6 An alarm agent does not include a person who buys, installs and services an alarm system only
7 on the person's own premises, or the premises of the person's employer.

8 **Alarm business** means a business, all or a part of which sells, leases, installs, services and/or
9 monitors any alarm system on any premises within the Town except as follows: an alarm
10 business does not include a business or entity that owns, operates, services, monitors or responds
11 to alarm systems only in premises owned, operated or affiliated with that business or entity. An
12 alarm business includes a monitoring agency and authorized alarm agents.

13 **Alarm Subscriber** means any person, firm, partnership, corporation or business who (which)
14 leases, rents or purchases any monitored alarm system, device or service from an alarm business
15 or who (which) leases or rents an audible alarm system or device.

16 **Alarm system** means any mechanical, electrical or other device, including but not limited to
17 those used to detect smoke, fire, hazardous materials, or unauthorized entry into a premises, or to
18 alert others of a fire, medical or other emergency, or commission of an unlawful act against a
19 person or within a premises, and which may emit an audible alarm or transmit a signal when
20 activated. For purposes of this Article, alarm systems include silent, panic, holdup, duress,
21 robbery, burglary, automatic dialing device, and audible alarm systems.

22 **Alarm user** means any person who purchases, leases, contracts for, or otherwise obtains for use
23 an alarm system and who is responsible for the premises where an alarm system is located.

24 **Audible alarm** means a device designed to generate an audible sound when an alarm system has
25 been activated.

26 **Automatic dialing device** means any electrical, electronic, mechanical, or other device capable
27 of being programmed to send a prerecorded voice message or other signal when activated, over a
28 telephone line or other communication system to notify or cause to be notified, public safety
29 personnel. Automatic dialing devices include direct dialing devices.

30 **Common cause** means a reason that an alarm system generates a series of false alarms, all of
31 which occur in a seventy-two (72) hour period, which could not be reasonably corrected before
32 subsequent activations within the seventy-two (72) hour period.

33 **Controlling person** means:

34 A. A sole proprietor;

Attachment to Resolution 1206
Alarm Systems

- 1 B. All general partners of an applicant or licensee, if the applicant or licensee is a partnership;
- 2 C. All officers, if the applicant or licensee is not a publicly traded corporation;
- 3 D. An agent of a publicly traded corporation, and
- 4 E. All on-site managers of an applicant or licensee who direct the daily operation of the
- 5 applicant or licensee, whether or not an on-site manager has any ownership interest in the
- 6 applicant or licensee.

7 **Director** means the director whose responsibilities include licensing and revenue functions, or

8 the director's designee.

9 **False alarm** means an activation of an alarm system that results in a public safety personnel

10 dispatch to premises where the alarm system is activated, with no evidence at the premises of a

11 crime or emergency, as emergency is determined by public safety personnel. An activation

12 resulting in a criminal report will not be counted as a false alarm.

13 **Final notice** means a letter sent to advise of a past due amount, which also advises of pending

14 collection activity with a private collection service unless arrangements are made within ten (10)

15 days of receipt.

16 **Monitored alarm system** means an alarm system that transmits signals to an alarm business or

17 monitoring agency to alert public safety personnel.

18 **Monitoring agency** means any person or organization that is legally or contractually responsible

19 for monitoring one (1) or more alarm systems located in the Town.

20 **Permit holder** means an alarm user holding a valid alarm user permit.

21 **Police** means the Town of Paradise Valley Police Department.

22 **Premise(s)** means the land, building, facility and/or area intended to be protected by an alarm

23 system.

24 **Public safety personnel** means a Town representative who is a member of the police or fire

25 department.

26 **Reciprocal alarm business license ordinance** means an ordinance adopted by a jurisdiction with

27 which the Town has agreed in writing to share licensing requirements for alarm businesses and

28 alarm agents.

29 **Responsible representative** means a person to be notified when an alarm system is activated, as

30 designated by an alarm user.

Attachment to Resolution 1206
Alarm Systems

1 ***Service charge*** means a charge assessed against an alarm user or an alarm company for not
2 having a valid permit or license in effect at the time of alarm activation.

3 ***Town representative*** means an employee of the Town, or an independent contractor acting on its
4 behalf, who is responsible for the administration and/or enforcement of this Article.

5 ***Verify or verification*** means to attempt by an alarm company to contact the premises and/or
6 alarm user by telephone and/or other electronic means, to determine whether an alarm system
7 activation is a false alarm.

8 Section 4-3-3 Effective Date

9 The effective date of this Article shall be January 1, 2010.

10

11 Section 4-3-4 Applicability

12 This Article shall apply to all alarm systems in the Town except:

- 13 A. Audible alarms installed in or used in motorized transportation, including but not limited
14 to motor vehicles and boats;
- 15 B. Telephone call diverters and systems designed to report environmental and other
16 occurrences that are not intended to alert public safety personnel;
- 17 C. Water flow alarms;
- 18 D. Manually-activated emergency medical and check welfare alarm systems; and
- 19 E. Stand-alone, battery-operated smoke alarms that are not wired or otherwise connected to
20 an alarm system.

21 Section 4-3-5 Administration

22 The administration of this Article, including the duty of prescribing forms, is vested in the
23 Management Services Director, who may delegate responsibility for the enforcement of its terms
24 to a designee. License and permit applications shall be submitted to the director, who has the
25 authority to issue, deny, or revoke a license or permit in accordance with this Article.

26 Section 4-3-6 Notices

- 27 A. All notices under this Article shall be in writing. The director may require any notice to
28 be given on a form prescribed by the director.

Attachment to Resolution 1206
Alarm Systems

- 1 B. Except for final notices, notices from the Town shall be sent by regular mail to the last
2 address recorded with the Town. In addition, notices may also be electronically-
3 delivered. When the director reasonably believes that the address of record is incorrect,
4 the director may mail the notice to any reasonably current address known to the director,
5 including, but not limited to, Town permits, the address on a criminal citation, police
6 record, or other report.
- 7 C. Final notices shall be mailed, posted with the United States Postal Service, by certified
8 mail, restricted delivery to the addressee only, return receipt requested.
- 9 D. Notices that are mailed are deemed given upon the earlier of:
- 10 1. The date received, or
- 11 2. Five (5) business days from the date of notice.
- 12 E. Notices that are electronically-delivered are deemed given on the date delivered.
- 13 F. Compliance with the mailing provisions of this section constitutes valid notice. The
14 Town is not required to prove actual receipt of notice or actual knowledge of a denial or
15 revocation.

16 Section 4-3-7 Limitation of Liability

- 17 A. The Town is not liable for any failure or neglect:
- 18 1. To respond appropriately upon receipt of an alarm system activation, or
- 19 2. On the part of any person or business whether or not licensed under this
20 Article.
- 21 B. If the Town revokes an alarm user permit, the Town is not liable for the effects of:
- 22 1. The revocation, or
- 23 2. Notice of any kind to third parties.

24 Section 4-3-8 Alarm Business Responsibilities

- 25 A. Within ten (10) business days after installation or entering into a service agreement, each
26 alarm business shall give written notice to the director of the date of the installation or
27 service agreement, the name and telephone number of the alarm user and the address of
28 the premises where the alarm system is installed.
- 29 B. Upon completing an alarm system installation or entering into a service agreement, the
30 alarm business shall inspect and test all equipment and take corrective action to prevent
31 false alarms.

Attachment to Resolution 1206
Alarm Systems

- 1 C. Immediately after installing an alarm system or entering into a service agreement, the
2 alarm business shall provide the alarm user with an alarm user permit application and
3 complete operating instructions, (including specific written instructions, or a videotape
4 presentation of the same) regarding the importance of securing all points of entry, such as
5 doors and windows; how to minimize and prevent false alarms; and how to prearrange
6 alarm system tests.
- 7 D. An alarm business which sells, leases, services and/or monitors an alarm system shall
8 conspicuously place on the outside of the premises a sign or decal identifying the name of
9 the alarm business and the telephone number to call when the alarm system has been
10 activated. The alarm business shall update the name of the alarm business and telephone
11 number shown, to reflect accurate, current information within ten (10) business days of
12 any change.
- 13 E. Any alarm business that has a service agreement with an alarm user shall provide service
14 to the alarm system within seventy-two (72) hours of being notified that the alarm system
15 needs service. Any alarm business that has a service agreement with an alarm user shall
16 maintain a twenty-four (24) hours a day, seven (7) days a week notification system for
17 service requests.
- 18 F. Before servicing an alarm system, the alarm business shall set the alarm system in test
19 mode. The alarm business shall disconnect audible alarm sounding devices from the
20 alarm system before servicing the alarm system, except when the sounding devices are
21 being serviced or tested.
- 22 G. Except for fire alarms, the alarm business shall inactivate any audible alarm within ten
23 (10) minutes of its activation.
- 24 H. The alarm business shall provide an alarm user with a written report each time the alarm
25 business performs any type of service to or inspection of the alarm system. The report
26 shall describe the reasons for the service or inspection, any problems diagnosed and
27 actions taken.
- 28 I. Alarm businesses that install, service, or monitor alarm systems shall maintain the
29 following records, as applicable, for inspection by Town representatives for two (2) years
30 from the time the service is performed:
- 31 1. The name and address of the owner or occupant of the premises, the name and
32 telephone number of the alarm user, and at least two (2) responsible
33 representatives designated by the alarm user to respond to the premises when
34 the alarm system is activated.
 - 35 2. The alarm user permit number of each alarm system installed, serviced or
36 monitored.
 - 37 3. Documentation certifying that each alarm user for which an installation has
38 been completed has received the instruction required by subsection (c), above.

Attachment to Resolution 1206
Alarm Systems

- 1 4. Documentation of each alarm system activation.
- 2 5. Documentation of all telephone calls made to verify an alarm system activation,
3 including:
- 4 i. The date and time the alarm business received notification of an alarm
5 system activation.
- 6 ii. The person's name who received the notification and made the phone
7 calls to verify the activations.
- 8 iii. The date and times the verification calls were made.
- 9 iv. The names and telephone numbers to whom the verification calls were
10 made.
- 11 v. The results of each verification call, including the names of the
12 persons answering the calls.
- 13 6. A record of all actions taken to correct and prevent false alarms.
- 14 7. A record of all actions taken to notify an alarm user of each activation of the
15 alarm system, including when notification was sent, to whom, and by what
16 method.
- 17 J. Alarm businesses shall notify the alarm user of each activation of the alarm system within
18 seventy-two (72) hours of the activation.
- 19 K. The alarm business shall produce its records for inspection by a Town representative
20 upon request during normal business hours.
- 21 L. Within ten (10) business days of the change in service, the alarm business shall notify the
22 director that the alarm business has ceased to lease, service or monitor an alarm system,
23 or that the service is being provided by another alarm business.
- 24 M. Within ten (10) business days of an alarm agent change, the alarm business shall notify
25 the director when the alarm business has gained or lost an alarm agent, including the
26 alarm agent's name, licensing jurisdiction and license number.
- 27 N. As part of its initial alarm business license application, or license renewal, the alarm
28 business shall provide the director a listing of its customers residing within the Town,
29 including resident name, address, and contact information, preferably in electronic
30 format.

31 Section 4-3-9 Alarm Business License Required

- 32 A. A person or business desiring to engage in the activities of an alarm business in the Town
33 shall obtain a license in accordance with this Article. An alarm business shall obtain a

Attachment to Resolution 1206
Alarm Systems

1 separate license for each business name under which the alarm business conducts
2 business or advertises.

3 B. The license(s) required by this Article shall be in addition to any other applicable licenses
4 or permits required by the Town, county, state or federal government. Persons engaging
5 in activities described in this Article shall comply with all other ordinances and laws,
6 including Town of Paradise Valley Code and Zoning Ordinance, as required to engage in
7 the activities to be licensed. Failure of an applicant or licensee to meet the requirements
8 of this subsection shall be grounds for denial or revocation of a license.

9 C. Alarm business licenses are not transferable between businesses or persons.

10 Section 4-3-10 Alarm Business License Application: Fees

11 A. Each applicant shall file an application for an alarm business license, or license renewal,
12 with the director, upon forms prescribed by the director. The application shall be signed
13 prior to submittal.

14 B. Each initial application and renewal shall be accompanied by the fee set forth in §1.6.2 of
15 the Town of Paradise Valley Master Fee Schedule. Each renewal shall also be
16 accompanied by payment in full of all outstanding service charges for the previous permit
17 period. No alarm business license will be renewed without full payment of all fines and
18 service charges, none of which shall be refundable, prorated, or transferable.

19 C. With the application, an applicant shall also provide proof that the applicant complies
20 with the licensing requirements of the State of Arizona Registrar of Contractors.
21 Applicants whose sole business is operating a monitoring agency are not required to
22 possess any state registrar of contractor licenses.

23 D. An alarm business license shall be issued only if the applicant:

24 1. Has a primary alarm business license, valid at the time of application,
25 issued by the City of Phoenix or, alternatively, the City of Scottsdale, and

26 2. Meets all the requirements for a reciprocal alarm business license under
27 this Article.

28 3. If the primary alarm business license under which a reciprocal alarm
29 business is issued expires or is cancelled, suspended or revoked, the
30 reciprocal alarm business license in this Town shall be cancelled or
31 revoked (in cases of suspension or revocation) on the date the primary
32 alarm business license expires or the cancellation, suspension or
33 revocation is final.

Attachment to Resolution 1206
Alarm Systems

1 E. Reciprocal alarm business licensees shall operate in accordance with this Article.

2 Section 4-3-11 Alarm Business License Term: Renewal

3 A. The alarm business licenses issued under this Article are effective January 1st of each
4 year, and shall be valid for a period of one (1) year.

5 B. Alarm business licenses permits are renewable annually, in accordance with this Article.

6 C. If an alarm business fails to renew the alarm business license within thirty (30) calendar
7 days after its expiration, or within such time determined by the director, the alarm
8 business license is cancelled. If the alarm business wishes to reapply for an alarm
9 business license for the same alarm system at the same premises, the alarm business shall
10 apply for a new alarm business license.

11 Section 4-3-12 Failure to Obtain Alarm Business License

12 A. If alarm business, including system installation or active signal monitoring, is being
13 conducted in the Town by an alarm business without an active alarm business license, the
14 alarm business shall be assessed a service charge in accordance with §1.6.2 of the Town
15 of Paradise Valley Master Fee Schedule.

16 B. Any alarm business conducting business without having first obtained an alarm business
17 permit as required by this Article shall be notified, in writing, by the Town that:

18 1. The use is in violation of this Article.

19 2. Application for an alarm user permit must be submitted to the director not later than ten
20 (10) business days from the date of the notice.

21 3. Service charges shall continue to accrue, until the director receives the alarm business
22 license application with full payment of service charges and application fees.

23 Section 4-3-13 Changes in Alarm Business Licenses

24 A. An applicant or licensee shall give written notice to the director of all changes to the
25 information submitted in connection with any license application or renewal, within
26 ten (10) business days of the change.

27 B. To cancel a primary alarm business license in the Town, the alarm business shall
28 notify in writing the director and all jurisdictions issuing reciprocal alarm business
29 licenses. To cancel a reciprocal alarm business license in the Town, the alarm

Attachment to Resolution 1206
Alarm Systems

1 business shall notify the director. Each cancellation notice shall include the effective
2 date of cancellation.

3 Section 4-3-14 Alarm Business Display of License

4 The alarm business license shall be conspicuously displayed at the central business office of the
5 alarm business.

6 Section 4-3-15 Notification of Public Safety Personnel; Response

7 A. Except when the type of alarm system activated may make verification inappropriate
8 (including robbery, fire, duress, and panic alarm signals), an alarm business shall
9 verify the alarm system activation first, at the premises, and if no one at the premises
10 is able to inform the alarm business about the activation, second, with the alarm user.
11 The verification shall be made before requesting public safety personnel dispatch.

12 B. When an alarm business notifies public safety personnel of an alarm system
13 activation, the alarm business shall provide the following information:

14 1. The name and address of the alarm user.

15 2. The specific location in the premises, identifying the nearest room and its
16 relationship to north, where the alarm system was activated.

17 3. The estimated time of arrival of the alarm user, responsible representative, or
18 alarm agent if requested by public safety personnel, including the name of the
19 person responding and a description of the person or vehicle responding.

20 C. When requested to do so by public safety personnel, an alarm business shall arrange
21 for the alarm user, alarm user's responsible representative, or alarm agent to go to the
22 premises of an activated alarm system within thirty (30) minutes of the request to
23 assist public safety personnel in determining the reason for the activation, resetting
24 the alarm system, and securing the premises.

25 D. An alarm user, responsible representative, or alarm agent shall respond to the scene of
26 an alarm system activation as expeditiously as safety permits, without unnecessary or
27 unreasonable delay.

28 Section 4-3-16 Suspension or Revocation of License

29 A. The director may suspend or revoke an alarm business license on any of the following
30 grounds:

Attachment to Resolution 1206
Alarm Systems

- 1 1. Failure of the licensee to comply with the requirements of this Article.
- 2 2. Conviction of the licensee of any of his (its) officers of a felony.
- 3 3. When any of its officers, agents, or directors has knowingly made any false,
4 misleading or fraudulent statement of a material fact in any report or record
5 required pursuant to this Article.

6 B. The suspension or revocation may be appealed to the Town Manager in accordance
7 with the provisions of this Article.

8

9 Section 4-3-17 Alarm User Responsibilities

10 All persons operating an alarm system within the Town of Paradise Valley shall:

- 11 A. Apply for an alarm user permit from the Town no later than five (5) business days after
12 the alarm user's alarm system is placed into operation.
- 13 B. Maintain the alarm system in good working order and take all reasonable and practicable
14 steps to prevent false alarms. The alarm system shall be inspected once a year by a
15 licensed alarm business, to ensure the alarm system is in proper working order.
- 16 C. Choose at least two (2) reliable and trustworthy responsible representatives, and provide
17 each responsible representative with access to the premises and the code to reset the
18 alarm system.
- 19 D. Respond or arrange for response to the premises of an activated alarm system by an alarm
20 agent or responsible representative within thirty (30) minutes of any public safety
21 personnel request.
- 22 E. Except for a fire alarm system, assure that any audible alarm is deactivated within ten
23 (10) minutes of activation.
- 24 F. Within ten (10) business days of any change, give written notice of changes in:
 - 25 1. alarm user contact information
 - 26 2. responsible representatives contact information
 - 27 3. alarm business, contact information, or status of service
- 28 G. Waive liability against the Town arising out of the use of the alarm system.

Attachment to Resolution 1206
Alarm Systems

1 H. Within ten (10) business days of the date of the service agreement, give written notice to
2 the director of the name, business location, mailing address and telephone number of the
3 alarm business providing monitoring.

4 Section 4-3-18 Alarm User Permit Required

5 A. No alarm user within the Town shall place an alarm system into operation without
6 obtaining an alarm user permit in accordance with this Article. An alarm user permit is
7 required for each unique premises address, where one or more alarm system(s) is placed
8 into operation.

9 B. Alarm user permits are not transferable between premises or persons.

10 Section 4-3-19 Alarm User Permit Application: Fees

11 A. Application for an alarm user permit, or permit renewal, shall be made to the director,
12 upon forms prescribed by the director. The application shall be signed prior to
13 submittal.

14 B. Each initial application and renewal for an alarm user permit shall be accompanied
15 by the fee set forth in §1.6.2 of the Town of Paradise Valley Master Fee Schedule.
16 Each renewal shall also be accompanied by payment in full of all outstanding false
17 alarm fines and service charges for the previous permit period. No alarm user permit
18 will be renewed without full payment of all fines and service charges, none of which
19 shall be refundable, prorated, or transferable.

20 Section 4-3-20 Alarm User Permit Term: Renewal

21 A. The alarm user permits issued under this Article are effective March 1st of each year,
22 and shall be valid for a period of one (1) year.

23 B. Alarm user permits are renewable annually, in accordance with this Article.

24 C. If an alarm user fails to renew the alarm user permit within thirty (30) calendar days
25 after its expiration, or within such time determined by the director, the alarm user
26 permit is cancelled. If the alarm user wishes to reapply for an alarm user permit for
27 the same alarm system at the same premises, the alarm user shall apply for a new
28 alarm user permit.

29 Section 4-3-21 Alarm User Permit Number Availability

30 The alarm user permit number or copy of the alarm user permit application shall be retained by
31 the alarm user prior to submittal to the Town.

Attachment to Resolution 1206
Alarm Systems

1 Section 4-3-22 Failure to Obtain Alarm User Permit

2 A. If an alarm system is operated without an alarm user permit, the alarm user shall be
3 assessed a service charge in accordance with §1.6.2 of the Town of Paradise Valley
4 Master Fee Schedule. Any service charge imposed under this subsection is in
5 addition to any false alarm fines imposed under §4-3-24 False Alarm Fines, and shall
6 be cumulative with them.

7 B. Any alarm user whose alarm system is activated without having first obtained an
8 alarm user permit as required by this Article shall be notified, in writing, by the Town
9 that:

10 1. The use is in violation of this Article.

11 2. Application for an alarm user permit must be submitted to the director not later
12 than ten (10) business days from the date of the notice.

13 3. Service charges shall continue to accrue, in addition to any false alarm fines, until
14 the director receives the alarm user permit application with full payment of
15 service charges, application fees, and false alarm fines.

16 Section 4-3-23 False Alarm Warnings

17 A. When an alarm system subject to an active alarm user permit generates two (2) false
18 alarm within the false alarm activation period, the director shall send a warning letter that
19 an additional false alarm within said period will be assessed, as set forth in §1.6.3 of the
20 Town of Paradise Valley Master Fee Schedule.

21 B. An alarm user without an active alarm user permit forfeits any such warning, and any
22 false alarms will be immediate assessed, as set forth in §1.6.3 of the Town of Paradise
23 Valley Master Fee Schedule.

24 Section 4-3-24 False Alarm Fines

25 A. Except as otherwise provided in this Article, false alarm fines shall be assessed against
26 alarm users, for each permit period, per §1.6.3 of the Town of Paradise Valley Master
27 Fee Schedule.

28 B. If (1) an alarm user installs a new alarm system consisting of a new control panel and all
29 other new components, and (2) the director receives the alarm user's permit application
30 within five (5) business days after the new alarm system is placed into operation, then no
31 service charges shall be assessed for alarm system activations which occur within the first
32 thirty (30) calendar days following the installation of the new alarm system.

Attachment to Resolution 1206
Alarm Systems

- 1 C. No activations shall be counted and no service charges shall be assessed for an alarm
2 system activation that results in the police preparing a departmental criminal report or the
3 fire department preparing a run report with evidence of fire or other emergency.
- 4 D. All false alarm assessments and service charges shall become due and payable when a
5 statement of charges is mailed to the alarm user and shall become delinquent thirty (30)
6 days after being mailed.

7 Section 4-3-25 False Alarm Dispute and Review

- 8 A. An alarm user may submit a written dispute of false alarm(s) reported in a False Alarm
9 Warning letter sent by the Town.
- 10 B. Upon receipt of a False Alarm Assessment, where false alarm fines are indicated due, an
11 alarm user may submit a written dispute of false alarm(s) reported within ten (10) days of
12 the date of the assessment. Disputes to a False Alarm Assessment received after thirty
13 (30) days are late, and the rights of dispute and review are waived.
- 14 C. The review request shall include:
- 15 1. A statement of the grounds in subsection (c) below that justify waiver of the
16 activation or service charge,
- 17 2. What actions have been taken to eliminate false alarms in the future, and
- 18 3. Copies of any documentation such as inspection and service reports the permit holder
19 intends to rely upon.
- 20 D. Grounds for waiver are an act of God or common cause, or an alarm system activation for
21 which the police prepare a departmental criminal report or the fire department prepares a
22 run report with evidence of fire or other emergency.
- 23 E. If the activation or service charge results from a common cause, the director may waive
24 all but one activation or service charge if the director finds:
- 25 1. There have been actions taken to eliminate the common cause, and
- 26 2. There are no additional activations of the alarm system from the common cause.
- 27 F. The director shall give written notice to the alarm user of the director's findings. If good
28 cause for relief has been shown, the activation or service charge shall be waived. If the
29 alarm user is still responsible for false alarm fines or service charge(s), the director shall

Attachment to Resolution 1206
Alarm Systems

1 give written notice to the alarm user with ten (10) days of receipt of dispute letter, and
2 indicate that the service charge(s) are due and payable on receipt of the notice.

3 Section 4-3-26 Appeal Procedures

4 A. An alarm user aggrieved by the decision resulting from a false alarm or service charge
5 dispute may appeal to the Town Manager by written request within ten (10) working days
6 of the director's decision. The request shall be filed with the director or his designee.

7 B. The request for an appeal shall set forth the specific objections to the decision of the
8 director which form the basis of the appeal.

9 C. The Town Manager shall set a time and place for the hearing as soon as practicable.

10 D. The hearing shall be informal and shall proceed as determined by the Town Manager,
11 who may determine the length of the hearing, the manner of presenting evidence, and the
12 order of evidence. No formal rules of evidence shall be required in conducting the
13 hearing.

14 E. The alarm user and the Town may present witnesses and written evidence subject to any
15 limitation imposed by the Town Manager. The burden of proof to show that the
16 activation or service charge should be waived is on the alarm user.

17 Section 4-3-27 Decision of Town Manager

18 A. The Town Manager's decision shall be based upon the evidence presented and rendered
19 within ten (10) business days of the hearing.

20 B. If the Town Manager affirms the false alarm assessments or service charges, the Town
21 Manager shall give written notice to the alarm user, including, if applicable, the amount
22 due and the due date, which shall not be later than ten (10) days after the date of the
23 notice.

24 C. If the Town Manager finds that grounds exist for waiving the false alarm assessments or
25 service charges, the Town Manager shall give written notice to the alarm user of any
26 amount due and the due date, which shall not be later than ten (10) days after the date of
27 the notice.

28 D. The decision of the Town Manager shall be final.

29 Section 4-3-28 Offenses; Penalty

30 A. It shall be unlawful for any person to:

Attachment to Resolution 1206
Alarm Systems

- 1 1. Engage in the activities of an alarm business without being licensed as required
2 under this Article.

- 3 2. Hire, use or contract with an unlicensed alarm business or unlicensed alarm agent
4 for alarm system services.

- 5 3. Intentionally, knowingly or recklessly activate any alarm system, except to warn
6 of a criminal act or other emergency.

- 7 4. Place into operation, monitor, or use an alarm system without first obtaining an
8 alarm user permit.

- 9 5. Place into operation, monitor, or use an alarm system that is known to be
10 defective or contains defective components such as depleted batteries.

- 11 6. Place into operation, monitor, or use a single-action non-recessed button to
12 activate a panic, holdup or other alarm system.

- 13 7. Install, place into operation, monitor, or use any security device or system that
14 emits any medium that could obscure the premises.

- 15 8. Use an alarm system during the period an alarm user permit is revoked.

- 16 B. It shall be unlawful for an alarm agent, while servicing an alarm system at a premises,
17 to activate an alarm system negligently which results in the arrival of public safety
18 personnel.

- 19 C. It shall be unlawful for an alarm user or an alarm user's responsible representative to
20 fail to arrive at the premises where an alarm system has been activated, within thirty
21 (30) minutes of activation, after being requested to do so by public safety personnel.

- 22 D. The revocation of a license or permit, or pending revocation proceedings, shall not be
23 a defense to prosecution under this Article.

- 24 E. Violators of the terms of this Article are subject to the provisions set forth in Article
25 1-9 of the Town of Paradise Valley Code.

26 Section 4-3-29 Confidentiality

- 27 A. Except as otherwise provided by law and as provided in (b) below, information
28 furnished and secured pursuant to this Article shall be confidential and shall not be
29 subject to public inspection.

Attachment to Resolution 1206
Alarm Systems

1 B. Town representatives may disclose:

- 2 1. The name, address, contact information, and any delinquent alarm user permit
3 fees, false alarm assessments, and service charges related to an alarm system to a
4 private collection service under written agreement with the Town, and
- 5 2. The name, address, contact information, and permit number of an alarm user to
6 the alarm business responsible for monitoring the premises' alarm system.
- 7 3. Information regarding an alarm user and the alarm user's alarm system to law
8 enforcement agencies for law enforcement purposes.

9 **Section 3** Chapter 8, Safety, Health, Sanitation, and Nuisance, Section 8-10-2(C)
10 "Declaration of Certain Acts Constituting Disturbing, Excess, or Offensive Noses" is hereby
11 amended as follows with deleted text shown as ~~striketrough~~ and added text in **bold**:

12
13 C. Burglar alarms

14
15 1. Prohibitions.

16
17 Audible burglar alarms for structures or motor vehicles are prohibited unless the
18 operation of such burglar alarms can be terminated within ~~20 minutes~~ **10 minutes**
19 of being activated, and remain silent unless another security breach occurs.

20
21 2. Emergency disconnections.

22
23 Notwithstanding the requirements of this provision, any member of the Police
24 Department of the Town of Paradise Valley shall have the right to take such steps
25 as may be reasonable and necessary to disconnect any such alarm installed in any
26 building, dwelling, or motor vehicle at any time during the period of its activation.

27
28 1. Emergency Contact Information.

29
30 On or after thirty (30) days from the effective date of this article, any building or
31 dwelling upon which an audible, unmonitored burglar alarm has been installed
32 shall prominently display the telephone number at which communication may be
33 made with the owner of such building or dwelling.

34



TOWN COUNCIL MEETING
6401 E. LINCOLN DRIVE
PARADISE VALLEY, ARIZONA 85253
SUMMARIZED MINUTES
March 11, 2010

CALL TO ORDER

Mayor Parker called to order the Town Council meeting of the Town of Paradise Valley, Arizona, held at Town Hall 6401 E. Lincoln Drive, on Thursday, March 11, 2010 at 3:00 PM.

COUNCIL MEMBERS PRESENT

Mayor Vernon B. Parker
Vice Mayor Virginia "Jini" Simpson
Council Member Bernie Barry
Council Member Ron Clarke
Council Member Mary Hamway
Council Member Pam Kirby
Council Member Scott LeMarr

STAFF MEMBERS PRESENT

Town Manager James C. Bacon, Jr.
Town Attorney Andrew Miller
Town Clerk Duncan Miller
Town Engineer William C. Mead
Police Chief John Bennett
Planning & Building Director Eva Cutro
Management Services Director Lenore Lancaster
Planner George Burton
Public Works Director Andrew Cooper
Budget & Finance Director David Andrews
Senior Planner Molly Hood
Deputy Town Attorney Steven Zraick
Planner George Burton

ALSO PRESENT

Presiding Judge Ty Taber
Municipal Court Director Jeanette Wiesenhofer
Planning Commissioner Dolf Strom
Planning Commissioner Michael Collins
Planning Commissioner Jim Baker
Council Candidate Paul Dembow
Council Candidate Russ Mosser

Discussion of NewPath Network

Mr. Bacon announced that NewPath Networks filed a Special Use Permit (SUP) application earlier this month. He said this topic is before the Council today to obtain feedback and direction on the drafting of a Statement of Direction.

Ms. Hood reported that NewPath filed a Special Use Permit application on March 2, 2010 for a Distributed Antenna System (DAS). These systems have a fiber optic backbone that connects a series of antenna nodes. Wireless carriers use DAS to improve coverage, capacity, voice quality, high speed data, and internet access.

She noted that this is the first SUP application that will be considered under the new SUP ordinance. This new SUP process requires a 'Statement of Direction' from the Town Council. The Statement provides general project guidelines or parameters. It is not a final decision and does not create vested rights to approval of the SUP.

She said that the applicant has conducted individual site assessments to determine the best antenna placements and has taken into consideration view corridors, surrounding landscape and proximity to residences. She said 42 node sites are proposed including 6 street light nodes; 21 faux cactus nodes; 2 traffic signal nodes; and 13 stop sign/street sign nodes. She noted that antenna node height affects the number of antenna nodes. The lower the heights the more nodes would be necessary.

Responding to a question from Council, Stephen Garcia of NewPath Networks stated that the NewPath DAS system is designed for, and can accommodate, all telecommunications providers and public safety frequencies. To date, only AT&T and T-Mobile have entered into agreements to use their nodes but other are not prohibited from joining the system.

Responding to a question regarding the Wireless Ordinance, Mr. Miller responded that the Code prohibits the applicant from locating DAS facilities on private property including HOA common areas. However, some HOAs have private road SUP's which could be amended to allow for DAS installations.

Council asked that the following information be provided prior to final approval: business plan, disaster recover plan, alternative stealth designs, trenching depth and trenching schedule, and residential construction notification plan.

Council also directed that detailed information on the proposed node sites be posted on the Town's website. Council also expressed a preference that the applicant meet one-on-one with neighbors who will be most impacted by the installations instead of expecting all affected people to attend a public meeting.

Planning Commissioner Dolf Strom suggested that the Statement of Direction should include; criteria on how to resolve conflicts with neighbors requesting that the site be moved; maintenance on faux cactus; and a response plan if a node is knocked down or damaged.

Mr. Bacon clarified that, in addition to the SUP approval process, the Town will also enter into an agreement with NewPath Networks to resolve other issues.

Council agreed that the draft Statement of Direction should be scheduled for review on March 25, 2010 and included the following:

- Proposed antenna node heights
- Preferred antenna node designs
- Siting Guidelines – avoid view corridors, blend with surrounding landscape

It was agreed that height should be the priority since a change in height would affect all other node locations and the number of nodes.

Discussion of Capital Projects

Mr. Bacon made the following proposal for capital expenditures in Fiscal Year 2010-2011:

1. Replace two police patrol vehicles at a cost of \$64,000. This expenditure would be funded using current revenue and budgeted as an operational expense.
2. Replacement of computer equipment at a cost of \$115,355. This recommendation is based on a four year replacement schedule for computers and servers. This expenditure would also come out of the operating budget.
3. Municipal Court design at a cost of \$250,000 using non-discretionary court enhancement funds. Some members of Council favored using an architectural request for proposal process similar to the one used for the design of the two fire stations.
4. APS Utility Undergrounding District 32 at a total cost of \$984,821. This expenditure will be funded using the capital project fund balance
5. APS Utility Undergrounding District 6 design. The total cost for this district is estimated at \$1,767,433 but will not be budgeted until FY 2012

There was Council Consensus to proceed as recommended.

Discussion of Residential Alarm User Permit

Mr. Bacon reported that since the Council's approval of amendments to the Alarm section of the Town Code and associated fees in November of 2009, questions have been raised about the residential alarm user permit and \$20 fee. He stated that the residential permit applies to all properties with an alarm, both monitored and unmonitored. He said Phoenix, Scottsdale, Tempe, and other Valley municipalities also require this type of permit. The permit information is used

by the police department to contact property owners when their alarm is sounding. It is also useful in preventing or reducing false alarms.

He reviewed that the Council discussed changes to the Alarm Code at two work sessions in the Fall and adopted Ordinance 618 on November 19. On March 1, 2010 the Town mailed 3,419 letters and permit applications to alarm users and posted information about the new requirement on the Town's website. As of March 11, a total of 958 applications were returned with payment and 465 letters were returned as undeliverable.

There was Council discussion about revisiting the ordinance. It was suggested that either the alarm user permit not be required for those on the Town's alarm monitoring system or that the alarm user permit requirement be completely repealed.

Council asked that this topic be scheduled for another work session.

Motion and vote - Councilmember Clarke moved to go into executive session. Vice Mayor Simpson seconded the motion which passed unanimously at 4:51 pm.

EXECUTIVE SESSION

- a. Discussion and consultation with the Town Attorney regarding pending or potential litigation as authorized by A.R.S. §38-431.03.A.4 and discussion of legal advice from the Town Attorney as authorized by A.R.S. §38-431.03.A.3 regarding **Special Use Permit restrictions and zoning regulations related to the school property located at 6050 N. Invergordon Road**
- b. Discussion and consultation with Town Attorney regarding pending or contemplated litigation as authorized by and A.R.S. §38-431.03.A.4 and discussion of legal advice as authorized by A.R.S. §38-431.03.A.3 related to **Arizona Corporation Commission Docket No. W-01303A-08-0227 and Docket No. SW-01303A-09-0343 regarding Arizona American Water rate consolidation.**
- c. Discussion of **Town Manager performance review** as authorized by A.R.S. §38-431.03.A.1.

RECONVENE FOR REGULAR BUSINESS MEETING

CALL TO ORDER

Mayor Parker reconvened the meeting of the Town Council at 5:37 P.M.

COUNCIL MEMBERS PRESENT

Mayor Vernon B. Parker
Vice Mayor Virginia "Jini" Simpson
Council Member Bernie Barry
Council Member Ron Clarke
Council Member Mary Hamway
Council Member Pam Kirby
Council Member Scott LeMarr

STAFF MEMBERS PRESENT

Town Manager James C. Bacon., Jr
Town Attorney Andrew Miller
Town Clerk Duncan Miller
Police Chief John Bennett
Public Works Director Andrew Cooper, Jr.
Town Engineer William C. Mead
Planning & Building Director Eva Cutro
Management Services Director Lenore P. Lancaster

PLEDGE OF ALLEGIANCE

Mayor Parker led the Pledge of Allegiance.

PRESENTATIONS

There were no presentations.

CALL TO THE PUBLIC

There were public comments.

MAYOR / COUNCIL / MANAGER REPORT

There were no reports.

CONSENT AGENDA

- a. Minutes of Town Council Meeting February 25, 2010**
- b. Minutes of Town Council Special Meeting March 2, 2010**
- c. Report on Investments**
- d. Approval of Special Event Liquor License for Cystic Fibrosis Foundation**
Recommendation: Approve the Special Event Liquor License application for the Cystic Fibrosis Foundation subject to the stipulations in the Action Report.
- e. Adoption of Resolution Number 1214; Authorization to Intervene in Arizona Corporation Commission Docket No. SW-01202A-09-0343 Regarding Arizona American Water Rate Consolidation**
Recommendation: Adopt Resolution Number 1214.

Mr. Bacon summarized the items on the Consent Agenda.

Motion and vote – Councilmember LeMarr moved to approve the Consent Agenda as submitted. Councilmember Kirby seconded the motion which passed by a vote of 7-0.

PUBLIC HEARINGS

Consideration of Liquor License Person Transfer for Montelucia Resort and Spa

Mr. Bacon stated that the Montelucia Resort & Spa, located at 4949 E. Lincoln Drive, requests a liquor license person transfer from Patricia Ann Martin, agent, Montelucia Hotel, LLC, to Andrea Dahlman Lewkowitz, agent, EHN Y Montelucia Resort, LLC. He said staff reviewed the application and recommends forwarding it to the Arizona Department of Liquor Licenses and Control with a recommendation for approval.

Mr. Jerry Lewkowitz, attorney with Lewkowitz Law and representing the applicant/agent, stated that EHN Y Montelucia Resort LLC is the successor in interest in the real property that was foreclosed recently.

It was further clarified that the parent company of EHN Y Montelucia Resort is Eurohypo AG, New York Branch.

Mayor Parker opened the public hearing. There were no public comments.
Mayor Parker closed the public hearing.

Motion and vote – Vice Mayor Simpson moved to forward the EHN Y Montelucia Resort LLC liquor license application for Person Transfer and Interim Permit to the Arizona Department of Liquor Licenses & Control with a recommendation for approval. Councilmember LeMarr seconded the motion which passed by a vote of 7 – 0.

ACTION ITEMS

There were no action items.

ADJOURNMENT

Motion and vote – Vice Mayor Simpson moved to adjourn. Councilmember Hamway seconded the motion which passed by a vote of 7-0

Mayor Parker adjourned the meeting at 5:43 p.m.

ATTEST:

Vernon B. Parker, Mayor

Duncan Miller, Town Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the Paradise Valley Town Council held on then 11th day March 2010. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this _____ day of _____, 2010.

Duncan Miller, Town Clerk

**TOWN OF PARADISE VALLEY
COUNCIL ACTION REPORT**

TO:	MAYOR AND TOWN COUNCIL
THRU:	JAMES C. BACON, Jr., TOWN MANAGER
FROM:	ANDREW J. COOPER, Jr., PUBLIC WORKS DIRECTOR
SUBJECT:	APPROVAL OF POLICE DEPARTMENT VEHICLE PURCHASE
DATE:	March 25, 2010

RECOMMENDATION

It is recommended that the Town Council approves the purchase of a 2010 Chevrolet Tahoe for the Police Department. The new vehicle will be purchased from Courtesy Chevrolet in an amount not to exceed \$30,038.

FACTS

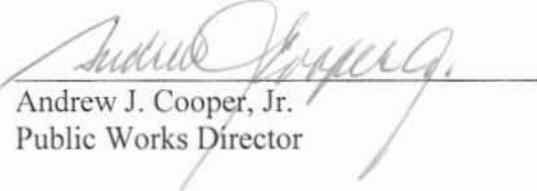
The new 2010 Chevrolet Tahoe will replace a 2004 Chevrolet Tahoe which currently serves as a patrol supervisor's vehicle. The 2004 Chevrolet Tahoe has been identified for replacement because of the following reasons:

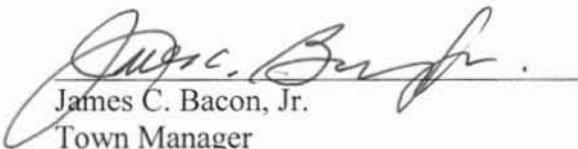
- The 2004 Chevrolet Tahoe has an odometer reading of 119,602 miles and will have an estimated 130,362 odometer miles if it is replaced in the fall of 2010. The vehicle has surpassed the vehicle replacement criteria is 100,000 miles.
- Presently the 2004 Chevrolet Tahoe requires fender body repairs, repainting of exterior body, graphics replacement, installation of side spotlight, and replacement of driver and rear seats. The cost estimate for the minor repairs of this vehicle is \$5,650, however it should be noted that the Town received \$3,750 for a 2003 Chevrolet Tahoe at an auction in 2009. It would not be fiscally prudent to invest additional monies in the 2004 Chevrolet Tahoe.
- The Town purchased the 2004 Chevrolet Tahoe for \$29,028 in January 2004. Year to date parts and labor costs for the vehicle are \$20,341, which represents 70% of the cost of the original purchase price. Future maintenance costs for patrol vehicles may be substantially reduced by replacing the 2004 Chevrolet Tahoe.

FISCAL IMPACT

The fiscal year 2009-10 Police Department's budget includes \$12,903 for capital lease payments based upon a cost of \$34,875 for one vehicle. Rather than lease purchase the vehicle, the Town will pay cash. An additional \$17,135 will be charged to the Police Department's budget for the purchase of the vehicle.

The Police Department patrol vehicle will be purchased through the Arizona State Vehicle Contract. The Town will take advantage of the prices quoted to the State through a competitive bid process.


Andrew J. Cooper, Jr.
Public Works Director


James C. Bacon, Jr.
Town Manager

**TOWN OF PARADISE VALLEY
COUNCIL ACTION REPORT**

TO:	Mayor and Town Council
FROM:	Duncan Miller, Town Clerk
SUBJECT:	Approval of Special Event Liquor License for Habitat For Humanity Central Arizona
DATE:	March 25, 2010

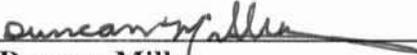
RECOMMENDATION:

It is recommended that Town Council approve the Special Event Liquor License application for Habitat For Humanity of Central Arizona subject to the following stipulations: only those people authorized by law be allowed to dispense and/or consume alcoholic beverages; consumption shall be limited to the premises as indicated in the application; and Section 10-7 Control of Excess Noise be observed.

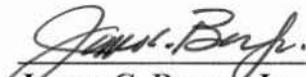
FACTS

The Central Arizona Chapter of Habitat For Humanity will be holding a fundraising event on Friday, April 16, 2010 from 6:00 pm to 10:00 pm at a private residence located at 7737 N Saguaro Dr in Paradise Valley. Alcohol will be served thus requiring them to obtain a special event liquor license.

State law requires that the Town approve special event liquor licenses before the Arizona Department of Liquor Licenses and Control can issue a license. Assistant Chief Larry Scott and Planning & Building Director Eva Cutro have reviewed the application and find no reason to oppose it as long as the stipulations listed above are observed.



Duncan Miller
Town Clerk



James C. Bacon, Jr.
Town Manager

TOWN OF PARADISE VALLEY COUNCIL ACTION REPORT

TO:	Mayor and Town Council
FROM:	Duncan Miller, Town Clerk
SUBJECT:	Approval of Special Event Liquor License for Montessori Academy
DATE:	March 25, 2010

RECOMMENDATION:

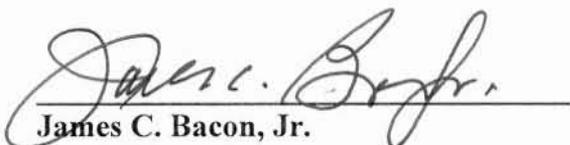
It is recommended that Town Council approve the Special Event Liquor License application for Montessori Academy, Inc subject to the following stipulations: only those people authorized by law be allowed to dispense and/or consume alcoholic beverages; consumption shall be limited to the premises as indicated in the application; and Section 10-7 Control of Excess Noise be observed.

FACTS

Montessori Academy, Inc will be holding a fundraising event on Saturday, March 27, 2010 from 6:00 pm to 10:00 pm at their campus located at 6050 N Invergordon Rd in Paradise Valley. Alcohol will be served thus requiring them to obtain a special event liquor license.

State law requires that the Town approve special event liquor licenses before the Arizona Department of Liquor Licenses and Control can issue a license. Assistant Chief Larry Scott and Planning & Building Director Eva Cutro have reviewed the application and find no reason to oppose it as long as the stipulations listed above are observed.


Duncan Miller
Town Clerk


James C. Bacon, Jr.
Town Manager

**TOWN OF PARADISE VALLEY
COUNCIL ACTION REPORT**

TO:	Mayor and Town Council
FROM:	Duncan Miller, Town Clerk
SUBJECT:	Adoption of Resolution Number 1212 Certifying the Primary Election Results
DATE:	March 25, 2010

RECOMMENDATION

It is recommended that the Town Council adopt Resolution Number 1212 certifying the results of the Primary Election held on March 9, 2010.

FACTS

State law requires that the Town Council meet to canvass the votes within 20 days of an election. The attached resolution certifies the election results, declares the winners, and serves as a permanent public record of the canvass.

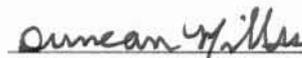
A total of 3,221 valid ballots were cast in the March 9, 2010 election to fill three seats on the Town Council and decided Proposition 402, regarding the direct election of the mayor. Turnout in this election was 32%. Since 2000, turnout in Paradise Valley has averaged 33%.

Voters approved Proposition 402 (direct election of the mayor) by a margin of 53%. However, none of the candidates received majority of the total votes cast thus requiring a runoff election to be held on May 18, 2010 with all six candidates on the ballot. The three candidates who receive the most votes will be elected.

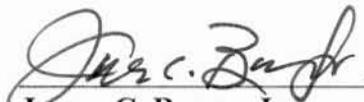
The Arizona Legislature called a Special Election on May 18 also to seek voter approval for Proposition 100, a temporary state sales tax. Consequently, the Town's runoff will be consolidated with the state election. This means the runoff election will be conducted as a polling place election, not a mail ballot election. Only voters who are on the Permanent Early Voter List (PEVL) will receive a ballot in the mail. Voters not on the PEVL may request an early ballot from the Recorder's Office before May 7, 2010. The Town plans to mail a notice to registered voters explaining the change from a mail ballot election to a polling place election along with information on how voters may request an early ballot by mail.

ATTACHMENTS

Resolution Number 1212



Duncan Miller
Town Clerk



James C. Bacon, Jr.
Town Manager

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RESOLUTION NUMBER 1212

**A RESOLUTION OF THE MAYOR AND
COUNCIL OF THE TOWN OF PARADISE
VALLEY, MARICOPA COUNTY, ARIZONA,
DECLARING AND ADOPTING THE RESULTS
OF THE PRIMARY ELECTION HELD FOR
TOWN COUNCIL ON MARCH 9, 2010**

WHEREAS, the Town of Paradise Valley, Maricopa County, Arizona, held a Primary Election on the 9th day of March, 2010 for the non-partisan at-large election of three Council Members; and for Proposition 402, regarding the direct election of the mayor; and,

WHEREAS, in accordance with Resolution Number 1060 the election was conducted by “all-mail ballot”; and,

WHEREAS, the election returns have been presented to, and have been canvassed by, the Town Council of the Town of Paradise Valley.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Town Council of the Town of Paradise Valley, Maricopa County, Arizona, as follows:

SECTION 1. That the total number of valid ballots cast at said primary election, as shown by the poll lists, was 3,221;

SECTION 2. That the total number of rejected ballots was 95;

SECTION 3. That the total number of votes cast for each candidate for Town Council was as follows:

1

<u>CANDIDATE</u>	<u>TOTAL VOTES RECEIVED</u>
Baker, Jim	896
Collins, Michael	1,534
Dembow, Paul	1,313
Fink, Larry	1,330
Mosser, Russ	1,134
Trueblood, Lisa	1,436
Write-in	21
Under Votes	1,978
Over Votes	21

2

3 SECTION 4. That it is hereby found, determined, and declared of record that no
4 candidates received a majority of the total number of valid votes cast;

5

6 SECTION 5. That it is hereby found, determined and declared of record, that the
7 following six candidates shall have their names placed on the General Election ballot
8 of the Town of Paradise Valley, Maricopa County, Arizona, to be held on the 18th
9 day of May 2010, and are hereby issued certificates of nomination:

10

CANDIDATE

Baker, Jim

Collins, Michael

Dembow, Paul

Fink, Larry

Mosser, Russ

Trueblood, Lisa

1

2 SECTION 6. That the total number of votes cast for Proposition 402, regarding
3 the direct election of the mayor was as follows:

4

5	YES	1,617
6	NO	1,434
7	Over Votes	1
8	Under Votes	169

9

10 SECTION 7. That it is hereby found, determined, and declared of record that
11 Proposition 402 was approved by a majority of the votes cast for said proposition;
12 Further, in accordance with Section 4 of Ordinance Number 606 as approved by the
13 Town Council on January 22, 2009, the Ordinance is hereby in full effect;

14

15 SECTION 8. That all orders or resolutions in conflict be and the same are, to the
16 extent of such conflict, hereby repealed, and that this resolution be in full force and
17 effect immediately upon its adoption.

1 PASSED AND ADOPTED by the Town Council of the Town of Paradise
2 Valley, Arizona, this 25th day of March 2010.

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Vernon B. Parker, Mayor

9 ATTEST:

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14 Duncan Miller, Town Clerk

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17 APPROVED AS TO FORM:

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21 Andrew M. Miller, Town Attorney

TOWN OF PARADISE VALLEY
TOWN COUNCIL ACTION REPORT

TO:	Honorable Mayor and Town Council
FROM:	Molly Hood, Senior Planner
SUBJECT:	NewPath Networks Special Use Permit (SUP-10-4) Statement of Direction
DATE:	March 25, 2010

RECOMMENDATION:

It is recommended the Town Council approve the NewPath Networks Statement of Direction dated March 25, 2010.

BACKGROUND

NewPath Networks recently submitted a Special Use Permit application to allow the installation of a Distributed Antenna System (DAS) in the Town of Paradise Valley right-of-way. A Distributed Antenna System consists of a fiber-optic backbone that connects a series of antenna nodes that wireless carriers may use to improve system capacity, coverage, voice quality, high speed data, and Internet access. The fiber connects to a "hub" which contains the carrier's base station equipment.

Newpath's proposal for Paradise Valley consists of the fiber optic cable and 42 signal antenna nodes located above ground on vertical structures such as street light poles, traffic signals, or faux cactus. The hub is located in the City of Scottsdale.

NewPath is proposing 42 antenna node locations throughout Paradise Valley's right-of-way including:

- 6 street light nodes
- 21 faux cactus nodes (24' high)
- 2 traffic signal nodes
- 13 stop sign or other street sign nodes (24' high)

This will be a Major Special Use Permit. Per the Town's new SUP ordinance, Major SUP Amendments shall go to the Town Council for a Statement of Direction. A Statement of Direction is intended to provide general guidelines or project parameters as the application progresses through the Planning Commission and Town Council review. A Statement of Direction is not a final decision and shall create no vested rights to the approval of a Special Use Permit. Nor shall the applicant rely on the matters addressed in the Statement of Direction as those that may become part of an approved Special Use Permit.

The Town Council discussed the Statement of Direction on March 11, 2010. Based on the Council discussion, staff drafted the attached Statement of Direction.


 Molly Hood, Senior Planner


 Jim Bacon, Town Manager

DOCUMENTATION ATTACHED

SUP-10-4
NewPath Networks

-Statement of Direction-

Whereas, on March 2, 2010, NewPath Networks, Inc. submitted a Special Use Permit application to allow utility poles in the Town of Paradise Valley right-of-way. The proposed Distributed Antenna System ("DAS") consists of a fiber-optic backbone that connects a series of antenna nodes.

Whereas, Section 1102.3 of the Town's Zoning Ordinance states the Town Council must issue a Statement of Direction for the Special Use Permit application within 45 days of the first staff presentation. In this case, the Statement of Direction must be issued on or before April 24, 2010.

The Statement of Direction is not a final decision of the Town Council and does not create any vested rights to the approval of a Special Use Permit. Any applicant for a Special Use Permit shall not rely upon the matters addressed in the Statement of Direction being the same as those that may be part of an approved Special Use Permit.

Therefore, the Town Council issues the following Statement of Direction for SUP-10-4, NewPath Networks:

- The Town encourages better wireless service within the Town of Paradise Valley.
- Existing vertical elements in the Town right-of-way such as street lights, traffic signals and street-signs shall be utilized for antenna installations provided the proposed additional height on the existing vertical element does not significantly interfere with view corridors for public property. Otherwise, the faux cactus option shall be used.
- The antenna heights proposed by NewPath Networks in the Special Use Permit application dated March 2, 2010 are acceptable but each proposed antenna node location needs to be assessed individually with site adjustments made as deemed necessary to best blend the proposed antenna node with the surrounding area. Existing view corridors for public property, the surrounding landscape, topography, proximity to existing residences, and speed limits, etc. shall be taken into consideration. In circumstances necessitating an adjustment, the Commission and staff shall adjust antenna location before height. The Council believes it is much easier to adjust the position of an antenna rather than the antenna height as antenna height adjustments may affect the entire DAS network.
- Antennas shall be situated in locations that maximize the effectiveness of the DAS and provide the most benefit for the community as a whole. Disputes regarding antenna locations shall be mitigated to the maximum extent possible, but all parties must understand that excessive negotiation and antenna shifting becomes counter-productive to the overall process. In a work study session, the

Council will settle any unresolved antenna location disputes that arise during the Planning Commission review/hearing process.

- The proposed antenna nodes shall blend with existing landscaping and in those locations where there is little to no landscaping present, additional landscaping to be installed by NewPath shall be required.
- The manufacturer and design (insert here once identified) of each antenna node shall be stipulated to ensure the highest quality and most aesthetically pleasing installation. Staff and the Planning Commission shall make a field trip to view existing NewPath installations in the City of Scottsdale to assist with their evaluation of the various antenna design alternatives.
- The Planning Commission and staff shall understand and respect that the financial and business decisions between the Town and NewPath fall under the Town Council's purview and are not related to the Commission's Special Use Permit discussion. The Planning Commission should not discuss right-of-way lease issues such as payments, maintenance, liability, etc.
- The NewPath DAS shall comply with all Federal Communications Commission (FCC) requirements for radiofrequency (RF) public exposure safety. NewPath shall submit documentation of compliance. Receipt of the compliance documentation shall negate the need for any discussions related to RF compliance.
- Antenna or system-wide malfunctions are not the concern of staff, the Planning Commission or Town Council with the exception of the 800MHz components. Any DAS malfunction is the sole responsibility and concern of NewPath Networks.
- The NewPath system shall be designed to accommodate a minimum of five carriers at build-out.
- The Council believes incorporating 800 MHz capability for public safety communication purposes into the NewPath Distributed Antenna System is feasible. Staff and the Commission should see that the system is designed accordingly.
- Neighborhood notification shall be maximized during the Special Use Permit process and throughout the construction process via mailings, postings, newspaper notices, neighborhood meetings, and one-on-one resident meetings when necessary. In addition, the NewPath application materials shall be made available on the Town's website.

As per Section 1102.3.C.3.c of the Zoning Ordinance, at any time during the review process, the Planning Commission may request clarification and/or expansion of this Statement of Direction based on additional information that has evolved.