



**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 EHENY 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**

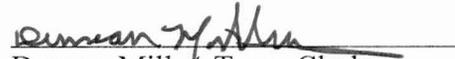
**Motion and vote** – Vice Mayor Simpson moved to adjourn. Councilmember Hamway seconded the motion which passed by a vote of 7-0

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



\_\_\_\_\_  
Vernon B. Parker, Mayor

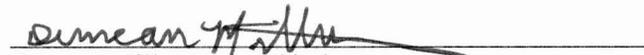
ATTEST:

  
\_\_\_\_\_  
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 11<sup>th</sup> day March 2010. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 25 day of March, 2010.

  
\_\_\_\_\_  
Duncan Miller, Town Clerk