

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, April 8, 2010
3:00 pm**

**Meeting Location:
Town Hall 6401 E. Lincoln Drive
Boardroom**

AMENDED 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 Arizona American Rate Consolidation** **45 minutes**
Staff Contact: Andrew M. Miller, Town Attorney, 480-348-3691
- b. Discussion of Campus Master Plan** **45 minutes**
Staff Contact: William C. Mead, Town Engineer, 480-348-3529
Staff Contact: Jeanette Wiesenhofer, Municipal Court Director
- c. Discussion of CARFAX Proposal** **15 minutes**
Staff Contact: John Bennett, Police Chief, 480-948-7418

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 contract negotiations for prosecution services as authorized by and A.R.S. §38-431.03.A.4.**

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 25, 2010

b. Renewal of Maintenance Agreement for Avaya Telephone System

Recommendation: Authorize the Town Manager to renew a four-year service agreement with Avaya for telephone and voicemail system maintenance and support in the amount of \$43,728 for the term of the agreement, or \$10,932 annually.

Staff Contact: David Andrews, Budget & Finance Director, 480-348-3555

c. 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.

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

11. PUBLIC HEARINGS

a. Consideration of Ordinance Number 619 Amending Zoning Article XXIV Walls and Fences

Recommendation: Refer Ordinance Number 619 back to the Planning Commission in order to review and discuss additional amendments to Ordinance Number 619 that will require perimeter walls to be constructed prior to the start of construction on a new or substantially remodeled home.

Staff Contact: Eva Cutro, Planning & Building Director, 480-348-3522

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

None

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.

Memorandum

TO: Honorable Mayor and Town Council
FROM: Andrew Miller, Town Attorney *Am*
DATE: April 8, 2010
SUBJECT: Arizona American Rate Consolidation

BACKGROUND

Prior Town Council Actions

The Council adopted Resolution #1214 on March 3, 2010, authorizing the filing of a motion to intervene on behalf of the Town in Arizona Corporation Commission (the "ACC") Docket No. SW-01303A-09-0343 ("Rate Case 08-0343") so that the Town could participate in discussions in that rate case regarding an ACC staff proposal regarding consolidation of separate water rate districts in the Arizona-American Water Company ("Arizona American") system, particularly including the Paradise Valley Water District ("PV District"). The Town's motion to intervene was filed and granted on March 4, 2010.

Prior to the adoption of Resolution #1214, the Town Council had adopted Resolution #1185 on March 12, 2009, authorizing the Town to file as an intervener in a prior Arizona-American water rate case that directly involved rate changes specific to the PV District, that case being ACC Docket No. W-01303A-08-0227 (the "PV Rate Case"). Regarding the issue of consolidation of the Arizona-American water rate districts in Arizona, Resolution #1185 stated as follows:

"Consolidation of Arizona-American Water Systems – The Town takes no position on the question of consolidation of Arizona-American Water rate districts raised by Commissioner Mayes in her letter to the parties to the docket dated November 10, 2008. The Town can foresee some benefits and some detriments to the Town's residential and commercial users in the event of a consolidation, but it finds that there are too many variables involved in the determination of whether the Town's water users are in a better or worse position in the event of a consolidation."

Prior Arizona Corporation Commission Actions in Both Rate Cases

The PV Rate Case did not include any actions on the consolidation issue, however, the Judge's December 8, 2009 decision kept the case open for future consideration of "consolidation in the Company's next rate case with a separate docket in which a revenue-neutral change to rate design of all Arizona-American Water Company's water districts." That separate docket is Rate Case 08-0343. The ACC staff was also requested to file a proposal (the "ACC Staff Proposal") on rate district consolidation in Rate Case 08-0343, and a revised briefing schedule was ordered such that interveners, such as the Town, would have to file their briefs regarding the rate consolidation issue by the time of the hearing in Rate Case 08-0343, that date being May 19, 2010. Additionally, pursuant to a recent order of the Judge, Arizona-American has been required to send a notice to every customer in its system that a staff proposal for consolidation will be made in Rate Case 08-0343, that notice having been mailed on March 25, 2010. Such notice may lead

to individual residents contacting Council Members to ask what is happening regarding their water rates.

Recent ACC Staff Proposal and Recommendation on Consolidation

The ACC Staff Proposal in Rate Case 08-0343 was through the submitted direct testimony of Jeffrey Michlik (filed on March 29, 2010) and Elijah Abinah (filed on March 30, 2010). The substance of the testimony is that the ACC staff recommends that the ACC not implement rate consolidation at this time. Mr. Michlik testifies that "Staff recommends individual or stand-alone rates for all of the Company's Districts..." A more detailed response from Mr. Abinah, the Assistant Director of the ACC's Utilities Division, regarding the consolidation question is as follows:

"Q. What is staff's recommendation in this proceeding for the water system?"

A. As stated earlier, Staff supports the concept of rate consolidation and/or system interconnection where appropriate. In this instance Staff recommends that the Commission maintain the status quo by adopting a stand alone rate design. However if the Commission is inclined to implement rate consolidation in this instant case, Staff recommends that the Commission consider rate consolidation on a regional bases or combination of district/system as follows. The Commission could order Arizona American to consolidate the rates of the following systems/districts (Scenario Three in Mr. Michlik's testimony):

- Sun City and Sun City West system/district
- Paradise Valley, Anthem and Agua Fria system/district
- Mohave, Lake Havasu and Tubac system/district.

Q. What is Staff's rationale for this recommendation?

A. As stated earlier, Staff supports the concept of rate consolidation and/or system interconnection where and when it is technically and financially feasible. As noted, the Company, for ratemaking purposes, has 13 systems/districts, consisting of eight was and five wastewater districts.

This combination consolidates the rates of the rural or outlying systems (Mohave, Lake Havasu, and Tubac); the Maricopa County systems (Paradise Valley, Anthem, and Agua Fria, excluding the Sun Cities); and the Sun City and Sun City West systems.

Also, Staff believes that the Commission should proceed with caution and be mindful of any unintended consequences of rate consolidation and/or system interconnection."

The relevant portions of the testimony of Mr. Michlik and Mr. Abinah are attached hereto as background information. It should be noted that Mr. Michlik, a utilities analyst with the ACC, prepared schedules that not only combined all 8 of the Arizona American water districts into one

rate model, but also schedules that had the 3 groupings noted in Mr. Abinah's testimony, particularly the grouping of the PV District with Anthem and Agua Fria for consolidation purposes. At this time, there is no way of predicting what the ACC itself may do; and lobbying of individual members of the ACC is prohibited during the pendency of a docketed matter. Given that Mr. Abinah's recommendation that the ACC maintain the status quo is followed quickly by his statement "However if the Commission is inclined to implement rate consolidation in this instant case..." it may be assumed that there is some genuine interest by the ACC in implementing a consolidation plan quickly. It should also be noted that Mr. Abinah's testimony states that in general ACC staff supports the concept of rate consolidation "where and when it makes sense and where it is technically and financially feasible."

Finally, Mr. Abinah's testimony identifies a number of criteria that the ACC staff believes should be considered in recommending rate consolidation, including:

- **Interconnection** – staff does not believe that a physical interconnection between systems is required before districts can be consolidated
- **Public Safety** – combining smaller troubled water districts with larger ones will help fund the substantial investments needed to alleviate health or public safety issues in the smaller districts
- **Proximity and Location** – proximity of districts may help psychologically in getting people to accept single tariffs, but it is not a requirement
- **Economies of Scale/Rate Case Expense** – both the Company and ACC staff could process one large case more efficiently and cheaply than multiple separate cases for each separate water district
- **Price Shock/Mitigation** – spreading out the costs for future water system upgrades over multiple districts will lessen the rate shock when those improvements are only applied in just one district, although there will be price shock during the transition to consolidation
- **Public Policy** - consolidation may help further certain public policy goals, including water conservation (through increasing block tariffs in the consolidated rate structure) and switching from use of groundwater to use of surface water, as well as opportunities to help smaller troubled water districts, minimize price shock when one district needs new facilities or major upgrades, and improving low income tariffs through statewide application

Mr. Abinah recommends that the ACC establish a set of criteria for considering rate consolidation as ACC staff does not believe that rate consolidation is possible for all systems and districts.

Future Activities and Timeline

The rebuttal by Arizona American to the testimony of the ACC's staff members is due to be filed on April 5th. A copy of that testimony will be forwarded to the Council Members once it is available (as well as to the Water Utility Committee). To date, Arizona American has not proposed consolidation in any of its filed testimony in either of the two rate cases.

The Water Utility Committee will meet on April 6th to make a recommendation to the Council on whether the Town should change its position, as previously expressed in Resolution #1185,

regarding consolidation of the PV District with other Arizona American water districts. Once that recommendation is made, it will be forwarded to the Council as well.

Should the Council discussion at its April 8th Work Study Session and executive session result in a desire by the Council to change the Town's position on consolidation, a resolution should be adopted by the Council that modifies the position stated in Resolution #1185. That new resolution should be adopted at the Council's April 22nd regular meeting. The ACC Hearing regarding the rate consolidation issue (as part of Rate Case 08-0343) is scheduled for May 18th, 2010.

ISSUES

What should the Town's position be on the consolidation of the PV District with other Arizona American water districts for the purpose of setting future water rates?

What criteria does the Town find relevant to the decision on whether rate consolidation should be pursued by Arizona American or the ACC?

Attachments:

Relevant portions of the testimony of Jeffrey Michlik dated 3/29/10

Relevant portions of the testimony of Elijah Abinah dated 3/30/10

BEFORE THE ARIZONA CORPORATION COMMISSION

KRISTIN K. MAYES
Chairman
GARY PIERCE
Commissioner
PAUL NEWMAN
Commissioner
SANDRA D. KENNEDY
Commissioner
BOB STUMP
Commissioner

IN THE MATTER OF THE APPLICATION OF)
ARIZONA-AMERICAN WATER COMPANY,)
AN ARIZONA CORPORATION, FOR A)
DETERMINATION OF THE CURRENT FAIR)
VALUE OF ITS UTILITY PLANT AND)
PROPERTY AND FOR INCREASE IN ITS)
RATES AND CHARGES BASED THEREON)
FOR UTILITY SERVICES BY ITS ANTHEM)
WATER DISTRICT AND ITS SUN CITY)
WATER DISTRICT.)

DOCKET NO. W-01303A-09-0343

IN THE MATTER OF THE APPLICATION OF)
ARIZONA-AMERICAN WATER COMPANY,)
AN ARIZONA CORPORATION, FOR A)
DETERMINATION OF THE CURRENT FAIR)
VALUE OF ITS UTILITY PLANT AND)
PROPERTY AND FOR INCREASE IN ITS)
RATES AND CHARGES BASED THEREON)
FOR UTILITY SERVICES BY ITS)
ANTHEM/AGUA FRIA WASTEWATER)
DISTRICT, ITS SUN CITY WASTEWATER)
DISTRICT AND ITS SUN CITY WEST)
WASTEWATER DISTRICT.)

DOCKET NO. SW-01303A-09-0343

(RATE DESIGN)

DIRECT TESTIMONY

OF

ELIJAH O. ABINAH

ASSISTANT DIRECTOR

UTILITES DIVISION

ARIZONA CORPORATION COMMISSION

MARCH 30, 2010

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1 **INTRODUCTION**

2 **Q. Please state your name and business address.**

3 A. My name is Elijah O. Abinah. My business address is 1200 West Washington Street,
4 Phoenix, Arizona, 85007.

5
6 **Q. Where are you employed and in what capacity?**

7 A. I am employed by the Utilities Division ("Staff") of the Arizona Corporation Commission
8 ("ACC" or "Commission") as the Assistant Director.

9
10 **Q. How long have you been employed with the Utilities Division?**

11 A. I have been employed with the Utilities Division since January 2003.

12
13 **Q. Please describe your educational background and professional experience.**

14 A. I received a Bachelor of Science degree in Accounting from the University of Central
15 Oklahoma in Edmond, Oklahoma. I also received a Master of Management degree from
16 Southern Nazarene University in Bethany, Oklahoma. Prior to my employment with the
17 ACC, I was employed by the Oklahoma Corporation Commission for approximately eight
18 and a half years in various capacities in the Telecommunications Division.

19
20 **Q. What are your current responsibilities?**

21 A. As the Assistant Director, I review submissions that are filed with the Commission and
22 make policy recommendations to the Director regarding those filings.

23
24 **Q. What is the purpose of your testimony?**

25 A. The purpose of my testimony is to address the issue of rate consolidation or system
26 interconnections.

1 Q. Can you please provide a brief background?

2 A. Yes. Commission Decision No. 71470 issued on December 8, 2009, in Docket No.
3 W-01303A-08-0227, states the following:

4 While the Commission will defer addressing consolidation in the
5 instant case, we believe this issue is of critical importance and that
6 unnecessary delay does not allow customers to benefit from
7 administrative expediency, economies of scale and other
8 efficiencies which would otherwise occur through consolidation.
9 Accordingly, we will require Commission Staff to propose at least
10 one consolidation proposal in the Company's next rate case which
11 will allow parties and the public ample opportunity to have notice
12 of this issue and participate in that discussion.

13 Decision 71470 at 51:9-14 (issued Dec. 8, 2009)

14
15 116. The rate designs adopted herein are just and reasonable. This
16 docket should remain open for the limited purpose of consolidation
17 in the company's next rate case with a separate docket in which a
18 revenue-neutral change to rate design of all the Company's water
19 districts or other appropriate proposals or all the Company's water
20 and wastewater districts or other appropriate proposals may be
21 considered simultaneously, after appropriate public notice, with
22 appropriate opportunity for informed public comment and
23 participation.

24 Decision 71470, Finding of Fact 116, at 71:26-72:4

25

26

1 IT IS FURTHER ORDERED that this docket shall remain open for
2 the limited purpose of consolidation in the Company's next rate
3 case with a separate docket in which a revenue-neutral change to
4 rate design of all Arizona-American Water Company's water
5 districts or other appropriate proposals or all Arizona-American's
6 water and wastewater districts or other appropriate proposals may
7 be considered simultaneously, after appropriate public notice, with
8 appropriate opportunity for informed public comment and
9 participation.

10 Decision 71470 at 78:14-19

11
12 My Testimony addresses the above.

13
14 **RATE CONSOLIDATION/SYSTEM INTERCONNECTION**

15 **Q. Does Staff support the concept of rate consolidation and/or system interconnection?**

16 A. Yes, in appropriate circumstances. Staff believes where and when it makes sense and
17 where it is technically and financially feasible, rate consolidation and/or system
18 interconnections should be seriously considered by the Commission.

19
20 **Q. Can you please define rate consolidation and system interconnection?**

21 A. Rate consolidation also known as Single Tariff Prices ("STP") is "the use of a unified rate
22 structure for multiple utility systems that are owned and operated by a single utility, but
23 that may or may not be contiguous or physically interconnected." Whereas, system
24 interconnection is when two or more systems or districts owned and operated by a single
25 utility are physically connected or tied together. When a system or district is
26 interconnected, in most instances, they share storage tanks, pipelines, etc.

1 Q. When a company is physically interconnected, is it appropriate to have a STP?

2 A. Usually yes. Staff believes that, when a company is physically interconnected an STP is
3 most likely appropriate due to the sharing of facilities and personnel.
4

5 Q. Does a utility have to interconnect in order to have a rate consolidation or STP?

6 A. No. Staff believes that in some instances physical interconnection is not technically or
7 financially feasible, while rate consolidation may be.
8

9 Q. What criteria should be considered in recommending rate consolidation?

10 A. Staff believes that the following criteria should be utilized at the minimum:
11

12 • Public health and safety – These issues come into play with small, troubled water
13 systems that are not currently a part of a larger system. Small troubled systems often
14 need substantial investment to alleviate health or public safety issues such as water
15 quality. Upgrades to such systems can be significant and substantial, since this may be
16 spread over only a few customers, rates will move up drastically. For example, if a
17 small, 300 customer system needed to make an investment of \$1.0 million each
18 customer would face an increase of roughly a \$50 per month, just to meet the revenue
19 requirement for this investment. If on the other hand, we had a consolidated tariff and
20 could spread that same revenue requirement over 100,000 customers, each customer
21 would face an increase of only \$0.15 per month.
22

23 • Proximity and location – Proximity may help psychologically getting people to accept
24 single tariffs, but it certainly is not a requirement. Physical interconnection should be
25 required when systems/districts are closer and it is technically and financially feasible.

1 • Economies of scale/rate case expense – One area where there would be significant
2 economies of scale would be in the preparation of rate cases. Preparing, analyzing and
3 litigating the consolidated cases could be much more efficient than processing with
4 individual cases. Issues which have caused delays and added costs such as allocating
5 shared plant or other costs between districts could disappear as there would be only a
6 single number for rate base or expenses.

7
8 • Price shock/mitigation – Price shock is an issue during the transition period and, in
9 reality, is relative to the prices people pay now. It is also important to remember that
10 there will be communities that clearly benefit from this and others that do not.

11
12 For example, if Sun City and Sun City West consolidate, the average price would be
13 roughly \$20 per month. For Sun City customers, this would amount to an increase of
14 roughly \$7 per month which is substantial but not insurmountable. On a relative basis
15 however, this is a 54 percent increase and this figure is bound to garner unfavorable
16 publicity. For the Sun City West residents, this would represent a decrease from
17 current rates and a significant decrease from the proposed average rate of \$35 per
18 month demonstrating the clear benefit these residents would experience.

19
20 • Public policy – Public policy will be a key part of tariff consolidation. There are
21 several examples of public policy driving regulatory decisions that differ from a purely
22 theoretical view on regulatory practices. Public policy on water conservation is one of
23 the key drivers behind the increasing block tariffs used to promote conservation even
24 though, in a traditional “cost of service” model, one might expect to see the opposite.
25 Public policy is also behind the push to switch water use from non-renewable ground
26 water to renewable sources like surface water even though ground water may be less

1 expensive in the short term. The key public benefits related to tariff consolidation
2 include:

- 3 1. The opportunity for efficient consolidation of small troubled water
4 companies, some of which may be some distance from other companys'
5 current footprint.
6 2. The ability to minimize severe price shocks experienced by one or two
7 communities as a new facility or major upgrade is undertaken.
8 3. Improving the effectiveness of certain key programs such as low income
9 tariffs by including resources from across the state.

- 10
11 • Other jurisdictions/municipalities – Staff believes that the Commission should
12 examine how and if this issue is being addressed by other jurisdictions.
13

14 **Q. Should the Commission establish, at a minimum, a set of criteria in considering rate
15 consolidation and/or system interconnection?**

16 **A.** Yes. Staff believes that, at a minimum, the Commission should establish certain criteria
17 for rate consolidation and/or system interconnection.
18

19 **Q. Does Staff believe that rate consolidation and/or system interconnection is possible
20 for all systems/districts?**

21 **A.** No. Sometimes rate consolidation and/or system interconnection is not technically or
22 financially feasible.
23

24 **Q. Did Arizona-American Water Company ("Company") propose consolidation in its
25 Direct Testimony?**

26 **A.** No. In its Direct Testimony, the Company did not propose any rate consolidation.

1 Q. What is Staff's recommendation in this proceeding for the water systems?

2 A. As stated earlier, Staff supports the concept of rate consolidation and/or system
3 interconnection where appropriate. In this instance Staff recommends that the
4 Commission maintain the status quo by adopting a stand alone rate design. However if
5 the Commission is inclined to implement rate consolidation in this instant case, Staff
6 recommends that the Commission consider rate consolidation on a regional bases or
7 combination of district/system as follows. The Commission could order Arizona
8 American to consolidate the rates of the following systems/districts (Scenario Three in Mr.
9 Michlik's testimony):

- 10 • Sun City and Sun City West system/district.
- 11 • Paradise Valley, Anthem and Agua Fria system/district.
- 12 • Mohave, Lake Havasu and Tubac system/district.

13
14 Q. What is Staff's rationale for this recommendation?

15 A. As stated earlier, Staff supports the concept of rate consolidation and/or system
16 interconnection where and when it is technically and financially feasible. As noted, the
17 Company, for ratemaking purposes, has 13 systems/districts, consisting of eight water and
18 five wastewater districts.

19
20 This combination consolidates the rates of the rural or outlying systems (Mohave, Lake
21 Havasu, and Tubac); the Maricopa County systems (Paradise valley, Anthem, and Agua
22 Fria, excluding the Sun Cities); and the Sun City and Sun City West systems.

23
24 Also, Staff believes that the Commission should proceed with caution and be mindful of
25 any unintended consequences of rate consolidation and/or system interconnection.

26

1 Q. What is Staff's recommendation in this proceeding for the wastewater systems?

2 A. In this instance Staff recommends that the Commission maintain the status quo by
3 adopting a stand alone rate design. However if the Commission is inclined to implement
4 rate consolidation in this instant case, Staff recommends that the Commission consider
5 rate consolidation as follows (Scenario Two in Mr. Michlik's testimony):

- 6 • Sun City and Sun City West system/district.
- 7 • Mohave, Anthem and Agua Fria system/district.

8
9 Q. Can you please list these districts?

10 A. Yes:

- 11
- 12 • Agua Fria Water district
- 13 • Agua Fria Wastewater district
- 14 • Sun City Water
- 15 • Sun City Wastewater
- 16 • Sun City West Water
- 17 • Sun City West Wastewater
- 18 • Anthem Water
- 19 • Anthem Wastewater
- 20 • Mohave Water district
- 21 • Mohave Wastewater district
- 22 • Paradise Valley Water
- 23 • Tubac Water district
- 24 • Havasu Water

25
26 Q. Does this conclude your Surrebuttal Testimony?

27 A. Yes it does.

BEFORE THE ARIZONA CORPORATION COMMISSION

KRISTIN K. MAYES
Chairman
GARY PIERCE
Commissioner
PAUL NEWMAN
Commissioner
SANDRA D. KENNEDY
Commissioner
BOB STUMP
Commissioner

IN THE MATTER OF THE APPLICATION OF)
ARIZONA-AMERICAN WATER COMPANY,)
AN ARIZONA CORPORATION, FOR A)
DETERMINATION OF THE CURRENT FAIR)
VALUE OF ITS UTILITY PLANT AND)
PROPERTY AND FOR INCREASE IN ITS)
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DOCKET NO. W-01303A-09-0343

IN THE MATTER OF THE APPLICATION OF)
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DISTRICT, ITS SUN CITY WASTEWATER)
DISTRICT AND ITS SUN CITY WEST)
WASTEWATER DISTRICT.)

DOCKET NO. SW-01303A-09-0343

(RATE DESIGN)

DIRECT TESTIMONY OF

JEFFREY M. MICHLIK

PUBLIC UTILITIES ANALYST V

UTILITIES DIVISION

ARIZONA CORPORATION COMMISSION

MARCH 29, 2010

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Anthem Water District

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Typical Residential Bill Analysis.....	JMM-2

Sun City Water District

Rate Design	JMM-1
Typical Residential Bill Analysis.....	JMM-2

Wastewater Districts

Anthem/Agua Fria Wastewater District

Rate Design	JMM-1
Typical Residential Bill Analysis.....	JMM-2

Sun City Wastewater District

Rate Design	JMM-1
Typical Residential Bill Analysis.....	JMM-2

Sun City West Wastewater District

Rate Design	JMM-1
Typical Residential Bill Analysis.....	JMM-2

Consolidated Water Scenario One

Statewide Consolidation of All Water Districts

Rate Design	JMM-3
Typical Residential Bill Analysis.....	JMM-4

Consolidated Wastewater Scenario One

Statewide Consolidation of All Wastewater Districts

Rate Design	JMM-3
Typical Residential Bill Analysis.....	JMM-4

Consolidated Water Scenario Two

Statewide Consolidation of All Water Districts Except Sun City and Sun City West

Rate Design	JMM-5
Typical Residential Bill Analysis.....	JMM-6

Consolidation of Sun City and Sun City West Water Districts

Rate Design	JMM-5
Typical Residential Bill Analysis.....	JMM-6

Consolidated Wastewater Scenario Two

Statewide Consolidation of All Wastewater Districts Except Sun City and Sun City West

Rate Design	JMM-5
Typical Residential Bill Analysis.....	JMM-6

Consolidation of Sun City and Sun City West Wastewater Districts

Rate Design	JMM-5
Typical Residential Bill Analysis.....	JMM-6

Consolidated Water Scenario Three

Consolidation of Sun City and Sun City West Water Districts

Rate Design	JMM-7
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Consolidation of Agua Fria, Anthem, and Paradise Valley Water Districts

Rate Design	JMM-7
Typical Residential Bill Analysis.....	JMM-8

Consolidation of Tubac, Mohave, and Havasu Water Districts

Rate Design	JMM-7
Typical Residential Bill Analysis.....	JMM-8

1 **INTRODUCTION**

2 **Q. Please state your name, title, and business address.**

3 A. My name is Jeffrey M. Michlik. I am a Public Utilities Analyst V employed by the
4 Arizona Corporation Commission (“ACC” or “Commission”) in the Utilities Division
5 (“Staff”). My business address is 1200 West Washington Street, Phoenix, Arizona 85007.

6
7 **Q. Briefly describe your responsibilities as a Public Utilities Analyst V.**

8 A. In my capacity as a Public Utilities Analyst V, I analyze and examine accounting,
9 financial, statistical and other information and prepare reports based on my analyses that
10 present Staff’s recommendations to the Commission on utility revenue requirements, rate
11 design and other matters. I also provide expert testimony on these same issues.

12
13 **Q. Please describe your educational background and professional experience.**

14 A. In 2000, I graduated from Idaho State University, receiving a Bachelor of Business
15 Administration Degree in Accounting and Finance, and I am a Certified Public
16 Accountant with the Arizona State Board of Accountancy. I have attended the National
17 Association of Regulatory Utility Commissioners’ (“NARUC”) Utility Rate School,
18 which presents general regulatory and business issues.

19
20 I joined the Commission as a Public Utilities Analyst in May of 2006. Prior to
21 employment with the Commission, I worked four years for the Arizona Office of the
22 Auditor General as a Staff Auditor, and one year in public accounting as a Senior Auditor.

23
24 **Q. What is the scope of your testimony in this case?**

25 A. I am presenting Staff’s analysis and recommendations regarding Arizona-American Water
26 Company’s (“Company” or “Arizona-American”) applications for permanent increases in

1 its rates and charges in its Anthem Water District, Sun City Water District, Anthem/Agua
2 Fria Wastewater District, Sun City Wastewater District, and its Sun City West Wastewater
3 District. I am presenting testimony and schedules addressing rate design.

4
5 Additionally, Staff is presenting rate consolidation scenarios of the Company's various
6 Districts as instructed in Decision No. 71410.

7
8 **Q. What is the basis of your testimony in this case?**

9 **A.** Based on the adjustments and revenue requirements recommended by Staff, I will present
10 Staff's recommended rate designs.

11
12 **BACKGROUND**

13 **Q. Please describe the Company and background of the current rate case.**

14 **A.** Arizona-American is a certificated Arizona public service corporation with headquarters
15 located in Phoenix, Arizona. The Company supplies water and wastewater services to
16 customers throughout Arizona. On July 2, 2009, the Company filed an application for a
17 rate increase for its Anthem Water District, Sun City Water District, Anthem/Agua Fria
18 Wastewater District, Sun City Wastewater District, and Sun City West Wastewater
19 District. The Company used a test year ending December 31, 2008.

20
21 In addition, Decision No. 71410 in the Company's last rate case ordered:

22
23 This docket shall remain open for the limited purpose of consolidation in
24 the Company's next rate case with a separate docket in which a revenue-
25 neutral change to rate design of all Arizona-American Water Company's
26 water districts or other appropriate proposals or all Arizona-American's
27 water and wastewater districts or other appropriate proposals may be

1 considered simultaneously, after appropriate public notice, with
2 appropriate opportunity for informed public comment and participation.¹

3 In addition, the Decision states:

4
5 We will require Commission Staff to propose at least one consolidation
6 proposal in the Company's next rate case which will allow parties and the
7 public ample opportunity to have notice of this issue and participate in that
8 discussion.²

9
10 **Q. Has Staff prepared at least one consolidation scenario?**

11 A. Yes, Staff is presenting several alternative rate consolidation scenarios.

12
13 **RATE DESIGN**

14 **Q. What is Staff's recommendation?**

15 A. Staff recommends individual or stand-alone rates for all of the Company's Districts, as
16 denoted in Schedules JMM-1 and JMM-2.

17
18 **Q. Is Staff presenting a consolidated rate design as required by Decision No. 71410?**

19 A. Yes. While Staff's recommendation is for stand-alone rates for all of the Company's
20 Districts, Staff has prepared several rate consolidation scenarios.

21
22 **Q. Has the Company put forth a consolidated rate design proposal at this point?**

23 A. No. However, the Company has developed a rate consolidation model and made it
24 available to interested parties in this case. Staff used this model to develop its various
25 consolidated rate design scenarios. Company witness Townsley also addressed rate
26 consolidation in his testimony.

¹ Decision No. 71410 at 78:14-19 (Docket No. W-01303A-08-0227 et al., issued December 8, 2009)

² *Id.* at 51:9-14.

1 **Q. Have you prepared schedules summarizing the present, Company-proposed, and**
2 **Staff-recommended rates and charges?**

3 A. Yes. Staff has presented its recommended stand-alone rates in the attached Schedules
4 JMM-1 and JMM-2. A summary of the present, Company-proposed, and Staff-
5 recommended rates is presented in the following section.
6

7 **ANTHEM WATER DISTRICT**

8 **Q. Would you please summarize the present rate design for the Anthem Water District?**

9 A. The present monthly minimum charges by meter size are as follows: 5/8 x 3/4-inch
10 \$17.53; 3/4-inch \$17.53; 1-inch \$42.88; 1 1/2-inch \$86.41; 2-inch \$138.30; 3-inch
11 \$276.78; 4-inch \$432.63; 6-inch \$865.27; and 8-inch \$1,334.57. No gallons are included
12 in the monthly minimum charge. The residential water commodity rate for the 5/8 x 3/4-
13 inch and 3/4-inch customer is \$1.5400 per thousand gallons for zero to 4,000 gallons,
14 \$2.4100 per thousand gallons for 4,001 to 10,000 gallons, and \$3.08 per thousand gallons
15 for any consumption over 10,000 gallons. The larger residential, commercial, industrial,
16 and construction commodity break-over points vary by meter size, but are \$2.4100 per
17 thousand gallons for the first tier and \$3.0800 per thousand gallons for any consumption
18 over the first tier. The present rate design also has a commodity charge for irrigation and
19 wholesale customers. The monthly charge for fire sprinkler service varies by meter size.
20

21 **Q. Would you please summarize the Company's proposed rate design for the Anthem**
22 **Water District?**

23 A. The Company's proposed monthly minimum charges by meter size are as follows: 5/8 x
24 3/4-inch \$35.13; 3/4-inch \$35.13; 1-inch \$85.93; 1 1/2-inch \$173.15; 2-inch \$277.13; 3-
25 inch \$554.63; 4-inch \$866.93; 6-inch \$1,733.87; and 8-inch \$2,674.28. Zero gallons are
26 included in the monthly minimum charge. The Company proposes a 3-tier inverted

1 \$31.94, under Staff's recommended rates. A typical bill analysis is provided on Schedule
2 JMM-2.

3
4 **CONSOLIDATION WATER SCENARIOS**

5 **Q. Are there some water customers that could not be consolidated together into a**
6 **general rate class?**

7 A. Yes. Certain classes of customers are unique to specific systems or may have special
8 contracts that apply to their rates. Therefore, for all consolidated water scenarios the
9 following rate class customers could not be consolidated:

10
11 Agua Fria Water District

12 C2M3 Arizona Water Contract

13 C5M1 Aqua Fria - OWU PI Surprise

14
15 Sun City West Water District

16 A5M1 Sun City Public Interruptible - Peoria

17
18 Anthem Water District

19 E7M2 Anthem Wholesale (Phoenix) OWU

20
21 Mohave Water District

22 G1M2A Bullhead Residential Apt 5/8" Meter

23 G1M2B Bullhead Residential Apt 1" Meter

24 G1M2C Bullhead Residential Apt 1.5" Meter

25 G1M2D Bullhead Residential Apt 2" Meter

26 G1M2F Bullhead Residential Apt 4" Meter

1 G1M2G Bullhead Residential Apt 6" Meter

2
3 Havasu Water District

4 H1M3D Havasu Residential Apt 2" Meter

5 H1M3F Havasu Residential Apt 4" Meter

6 H1M3H Havasu Residential Apt 4" Meter - Valley Manor

7 H1M3J Havasu Residential Apt 4" Meter - Kenjen RV

8 H1M3K Havasu Residential Apt 4" Meter - HV Falls RV

9 H1M3L Havasu Residential Apt 1" Meter - LH RV

10 H1M3M Havasu Residential Apt 1" Meter - D Hills RV

11 H1M3P Havasu Residential Apt 6" Meter - Hav Resrt

12
13 Paradise Water District

14 P2PVC Paradise Valley Country Club 6"

15
16 **CONSOLIDATION WASTEWATER SCENARIOS**

17 **Q. Are there some wastewater customers that could not be consolidated together into a**
18 **general rate class?**

19 **A.** Yes. Certain classes of customers are unique to specific systems or may have special
20 contracts that apply to their rates. Therefore, for all consolidated wastewater scenarios the
21 following rate class customers could not be consolidated:

22
23 Anthem/Agua Fria Wastewater District

24 E5M2 Anthem Wholesale (Phoenix) OWU

1 Sun City Wastewater District

2 A2MSP Sun City Sewer Paradise Park I/U

3

4 Mohave Wastewater District

5 P7A1 Mohave Sewer Effluent Sales

6

7 **CONSOLIDATED MODEL**

8 **Q. Did Staff use a computer model to present its various rate consolidation proposals?**

9 A. Yes.

10

11 **Q. Who developed the model that Staff used?**

12 A. The Company hired a consultant, Gannet Fleming, to develop a rate consolidation model
13 in Microsoft excel.

14

15 **Q. Have Staff, the Residential Utility Consumer Office and all other interveners been
16 offered access to the Company's consolidation model?**

17 A. Yes. The Company facilitated several workshops to demonstrate its model and has also
18 made its model available to everyone in the form of a compact disc.

19

20 **Q. Why did the Company make this model available to all parties?**

21 A. A shared model avoids the difficulties and expense involved with each party having to
22 develop its own consolidation model. In addition, a shared model allows for all parties to
23 present their rate designs in a consistent format, which makes comparisons of the various
24 proposals much easier.

1 **Q. Has Staff examined the Company's model and has Staff found it to be reliable?**

2 A. Yes. Staff performed a number of trials, testing the formula links and calculations
3 contained in the model. These trials appeared to yield the expected outputs. Staff will
4 continue to examine the model in more detail to ensure the accuracy of the data. Staff
5 appreciates the Company's assistance in developing this model and making it available for
6 use in this case.

7
8 **Q. Are there some assumptions that the Company has used in order to consolidate
9 customers' rates?**

10 A. Yes. As mentioned before, some rate class customers cannot be consolidated. Also, in
11 regards to the wastewater consolidated model, some residential customer classes had
12 volumetric charges in addition to a monthly minimum charge. In order to apply the same
13 rate structure to all consolidated customers, the volumetric charges were eliminated.

14
15 **Q. Are these assumptions acceptable to Staff?**

16 A. Yes.

17
18 **RATE CONSOLIDATION SCENARIO ONE**

19 **Q. Can you explain how Staff's consolidated schedules for Scenario One are organized?**

20 A. Yes. Scenario One represents Staff's total consolidation of all of the Company's
21 respective water and wastewater districts in Arizona, as shown on Schedules JMM-3.

22
23 **Q. Has Staff provided a typical bill analysis for residential customers under Scenario
24 One?**

25 A. Yes, the typical bill analyses are shown on Schedules JMM-4 for each district.

1 **Q. Which districts are included in Staff's Scenario One water district consolidation?**

2 A. Scenario One includes Sun City, Sun City West, Agua Fria, Anthem, Tubac, Mohave,
3 Havasu, and Paradise Valley water districts.

4
5 **Q. Which districts are included in Staff's Scenario One wastewater district
6 consolidation?**

7 A. Scenario One includes Sun City, Sun City West, Anthem/Agua Fria, and Mohave.
8

9 **RATE CONSOLIDATION SCENARIO TWO**

10 **Q. Can you explain how Staff's consolidated schedules for Scenario Two are organized?**

11 A. Yes. Scenario Two represents Staff's consolidation of the Company's Sun City and Sun
12 City West water and wastewater districts, and all remaining districts under a separate
13 consolidation proposal, as shown on Schedules JMM-5.

14
15 **Q. Has Staff provided a typical bill analysis for residential customers under Scenario
16 Two?**

17 A. Yes, the typical bill analyses are shown on Schedules JMM-6 for each district.
18

19 **Q. What districts are included in Staff's Scenario Two water district consolidations?**

20 A. Sun City and Sun City West were consolidated for purposes of rate design. Agua Fria,
21 Anthem, Tubac, Mohave, Havasu, and Paradise Valley districts were separately
22 consolidated for purposes of rate design.

1 Q. What districts are included in Staff's Scenario Two wastewater district
2 consolidations?

3 A. Sun City and Sun City West were consolidated together. Anthem/Agua Fria and Mohave
4 were separately consolidated.
5

6 **RATE CONSOLIDATION SCENARIO THREE**

7 Q. Did Staff propose a Scenario Three for the wastewater districts?

8 A. No. Scenario Three includes only the water districts.
9

10 Q. Can you explain how Staff's consolidated schedules for Scenario Three are
11 organized?

12 A. Yes. Scenario Three represents Staff's separate consolidation proposals for the
13 Company's 1) Sun City and Sun City West water districts; 2) the Agua Fria, Anthem, and
14 Paradise Valley water districts; and 3) the Tubac, Mohave, and Havasu water districts, as
15 shown on Schedules JMM-7.
16

17 Q. Has Staff provided a typical bill analysis for residential customers under Scenario
18 Three?

19 A. Yes, the typical bill analyses are shown on Schedules JMM-8 for each district.
20

21 Q. Is Staff recommending any of the three consolidation scenarios?

22 A. No. As stated previously, Staff is recommending individual or stand-alone rates for all of
23 the Company's districts. Mr. Elijah Abinah discusses this issue in more detail in his
24 testimony.
25

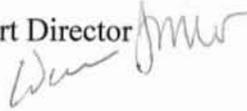
1 Q. Does this conclude your direct testimony?

2 A. Yes, it does.

MEMORANDUM

To: James C. Bacon, Jr., Town Manager

From: Jeanette Wiesenhofer, Municipal Court Director
William C. Mead, Town Engineer



Re: Discussion of Town Hall Campus Master Plan

Date: April 8, 2010

Background

For many years the Town has identified the need to construct a separate court building on the Town Hall campus. In 2001, Architecture Plus was contracted by the Town to prepare conceptual plans for a new court building to be located between the police building and the fire station. More recently, the Capital Projects budget included funds for the design of a new court building on a yet undetermined location. Because there are several locations on the Town Hall campus that could support a new court facility, it was appropriate to have an architect experienced in the design of courts perform a Campus Master Plan prior to proceeding with an actual building design. On May 14, 2009 the Town Council awarded a contract to Dick & Fritsche Design Group to prepare a Town of Paradise Valley Campus Master Plan, a site location study for a new court facility and a plan on how the current court office might be used by the Town when vacated by the court.

Discussion

For the past six months the project team consisting of Presiding Judge Ty Tabor, Associate Presiding Judge John Auran, Jim Bacon, Town Manager, Jeanette Wiesenhofer, Municipal Court Director, Bill Mead, Town Engineer, Andrew Cooper, Public Works Director, Elsa Lynch, prior Municipal Court Director, and Steve Zraick, Deputy Town Attorney worked closely with the architects in the preparation of a Town Hall Campus Master Plan. The attached study includes the proposed Campus Master Plan, recommended court facility location and probable use for current court office space. Highlights of the study include:

- A new proposed road alignment coming off of Casa Blanca Drive running westerly into the campus just south of the new fire station and connecting to the existing drive along the Police Building.
- New driveway entry from Invergordon Road into the Town Campus along with geometric improvements south of Town Hall to accommodate the proposed court facility building.
- The recommended new Court building location between Public Works building and Town Hall
- Potential use for new office space vacated by current Court staff for option A.

Architects from Dick & Fritsche Design Group will attend the work session and present their study to the Town Council.

MEMORANDUM

TO: Mayor and Town Council
FROM: John J. Bennett, Chief of Police
DATE: March 30, 2010
SUBJECT: WORK/STUDY SESSION DISCUSSION TOPIC

Online Accident Reports Using CARFAX

CARFAX, the leading provider of Vehicle History Reports, is offering two technology programs to assist Police Departments. CARFAX maintains an extensive database on virtually every used car and truck registered in North America. Carfax has access to seven billion records from more than 20,000 sources, including motor vehicle departments for all 50 U.S. states and all 10 Canadian provinces. The company's information sources include U.S. state title and registration records, auto and salvage auctions, Canadian motor vehicle records, rental and fleet vehicle companies, consumer protection agencies, state inspection stations, extended warranty companies, insurance companies, fire and police departments, manufacturers, inspection companies, service and repair facilities, dealers and import/export companies. Carfax has a large partner network including relationships with companies such as Edmunds, Kelley Blue Book, AAA, Carchex, AutoTrader and the NHTSA. This database has proven to be a valuable investigative tool in auto theft and title fraud cases. Access to this database, which normally has an associated fee, will be offered free of charge to the Police Department.

In addition, through its technology partner DocView, CARFAX is offering a program that will reduce the workload of our clerical staff by allowing online access to accident reports and still enable the Town to collect the report fees.

Currently, accident report requests are processed manually (one a time) by a police clerk. They must make a copy, provide the copy, collect the \$10 fee and forward the fee to Town Hall. The clerk also has to document that the request was granted and the fee was received. The vast majority of these requests are from insurance companies.

Using the DocView system, our clerk would simply fax the accident reports to their database. Persons or companies requesting the report would access DocView online and receive the report electronically. DocView charges \$16 for each report and \$10 is then credited to the Town's account. Once each month the Town receives a check from DocView. Their database keeps a record of each request as well as fees collected for audit purposes. The insurance companies prefer this system because it is more efficient.

The cost of producing and mailing a check for each request is more expensive than the additional \$6 they pay for the report. Although it will cost \$6 more for an individual to get their report online, they still have the option of coming to the Police Department and paying \$10. DocView sends \$.50 per report to the Arizona Association of Chiefs of Police (AACOP). These funds are used for training seminars which benefit police officers throughout the state.

The DocView service can also be added as a link on the Town website providing an enhanced service for those who prefer that option.

The police departments of Scottsdale, Mesa, Chandler, Gilbert, and Apache Junction are currently using the system. The Records Manager of Scottsdale Police Department has praised the system and noted that it has saved them many hours of clerk time.

I recommend this program be implemented and ask the Council to consider placing it on the business agenda for the May 13, 2010 meeting.



**TOWN COUNCIL MEETING
6401 E. LINCOLN DRIVE
PARADISE VALLEY, ARIZONA 85253
SUMMARIZED MINUTES
MARCH 25, 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 25, 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
Management Services Director Lenore Lancaster
Public Works Director Andrew Cooper
Budget & Finance Director David Andrews
Senior Planner Molly Hood
Planner George Burton

ALSO PRESENT

Planning Commissioner / Council Candidate Michael Collins
Planning Commissioner / Council Candidate Jim Baker
Council Candidate Paul Dembow
Council Candidate Larry Fink
Council Candidate Lisa Trueblood
Council Candidate Russ Mosser

Discussion of NewPath Networks Statement of Direction

Ms. Hood explained that NewPath Networks submitted a Special Use Permit application to allow the installation of a Distributed Antenna System (DAS) in the Town's right-of-way. A DAS 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. She said NewPath proposes to install 42 antenna nodes throughout the Town.

She said because this is a Major Special Use Permit application it requires a Statement of Direction from the Town Council to the Planning Commission. A Statement of Direction is intended to provide general guidelines or project parameters for the Planning Commission. It is not a final decision and does not create vested rights to the approval of a SUP. The Council also discussed the Statement of Direction on March 11, 2010 and provided the following feedback:

- Encourage public input
- Explain role of wireless consultant
- Prioritize design preference
- Adjust antenna location before height
- Sole authority & responsibility for r.o.w.
- Financial & business decisions by Council
- RF compliance
- 800MHz capability
- System malfunctions
- Commission review time

There was Council discussion about the consultant's role hired by the Town to review and advise on NewPath's application. Ms. Hood clarified that the consultant has already reviewed the application and provided input on everything but antennae heights. Once Council provides direction on heights and antennae preference, the consultant will advise on the remainder of NewPath's proposal. She said that the consultant will also brief the Planning Commission.

Council clarified that the consultant's role is to provide technical expertise, the Planning Commission's role is to review the zoning implications of the application and make recommendations about minor adjustments to node locations, and the Council's role is to approve node aesthetics and make all financial and business decisions.

Mr. Bacon added that the consultant is evaluating the map developed by NewPath, she is not developing a separate map. The consultant's review will be completed by the time the Planning Commission meets. He said the consultant's review and the Planning Commission's meeting schedule will allow adequate time for public comment prior to the end of Spring.

There was Council discussion about the 800 Mhz provision in the Statement of Direction. There was Council consensus that not enough information is known about the public safety

communications system requirements. They asked that all references to the proposed 800 Mhz capability be removed from the Statement. Council asked the Town Manager to schedule a work session on the public safety communications system and research if there are other DAS systems that have incorporated 800 Mhz capabilities.

Resident David Arkules spoke in favor of NewPath proposal. He asked that the Town give special attention to the esthetics of the equipment.

Steven Garcia, representing NewPath responded that there are multiple options for masking equipment with faux rocks and cacti.

Resident Tom Gates expressed concern about adding visual clutter to the Town.

Discussion of Amendments to Article XXIV, Walls & Fences

Mr. Burton described a list of proposed minor changes to the Walls & Fences Article of the Zoning Ordinance. He said the amendments do not make any substantive changes to the Code, but are necessary to clarify existing language and correct inconsistencies in how the Code is applied.

The proposed amendments included:

1. Modify regulations for 3 foot high walls.
2. Clarify language on front yard setbacks for R-10 Zoning.
3. Clarify stacking requirements.
4. Modify Section 2407 (Retaining Walls).
5. Clarify Setbacks for Driveway Columns/Entry Gates.
6. Clarify language regarding side/rear wall connections to non-conforming walls.

Responding to a question from the Council, Mr. Burton stated that none of the amendments are controversial. There were no public comments during the Planning Commission process and the Commission voted unanimously to forward the ordinance to Council with a recommendation for approval.

Responding to a question from the Council, Town Attorney Miller stated that the proposed changes will not cause Prop 207 concerns. The ordinance simply clarifies existing code sections and interpretive history.

There was Council discussion about requiring perimeter walls to be constructed before the main structure. The possible advantages would be that the construction site would be screened from the neighborhood and it might improve "track-out" on the streets. However, it may be difficult to enforce because not all houses have walls or developers may simply not include a wall plan with the original application and add one later. It would also be a change in policy from the Code adopted in 2004.

There was Council consensus to send Ordinance 619 back to the Planning Commission to consider an amendment to require construction of perimeter walls and installation of exterior landscaping prior to construction of the main structures.

Discussion of Residential Alarm User Permit

Mr. Bacon reviewed the legislative history behind the adoption of amendments to the Town's Alarm Code, specifically the requirement for all properties in Town with an alarm system to register with the Town. He said the Alarm User Permit is needed in order to obtain homeowner/emergency contact information accessible to dispatchers. He said not all monitoring companies have current information. This can cause problems and complaints from neighbors when audible alarms sound for long periods of time. The information is also useful to contact homeowners in non-emergency situations. Further it insures that only licensed companies have confidential information on residential alarms in Town.

Responding to a question from the Council, Mr. Bacon stated that the Town requires customers on the Town's Alarm Monitoring System to also submit an Alarm User Permit even though the Town already has the information in order to maintain a level playing field between public and private service providers.

Chief Bennett added that the requested information is helpful for officers responding to an alarm call. The more information officers have about the property the faster they can assess the situation. He stated in other communities, alarm user permits also ask for information on hazardous materials, firearms, and dogs on the property.

There was Council discussion that if the main purpose behind the Alarm User Permit was neighborhood complaints about alarm sirens, the Town should cite the homeowner under the nuisance noise ordinance and not require permits.

There was Council consensus to make the permit optional both for the Town's customers and customers monitored by private companies. Alarm owners who pay the \$20 permit fee would be allowed two false alarms with now charge. Otherwise the first false alarm would cost \$100.

Motion and vote – Councilmember Hamway moved to go into executive session at 4:23 p.m. Vice Mayor Simpson seconded the motion which passed by a vote of 7-0. 4:23

EXECUTIVE SESSION

- 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.

RECONVENE FOR REGULAR BUSINESS MEETING

CALL TO ORDER

Mayor Parker reconvened the meeting of the Town Council at 5:05 P.M.

COUNCIL MEMBERS PRESENT

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

Council Member Mary Hamway was not present.

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

The Mayor asked for unanimous consent to move public comments to the end of the meeting.

MAYOR / COUNCIL / MANAGER REPORT

There were no reports.

CONSENT AGENDA

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.

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 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.

d. Approval of Special Event Liquor License for Montessori Academy

Recommendation: Approve the Special Event Liquor License 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.

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.

Mr. Bacon summarized the items on the Consent Agenda.

Motion and vote – Councilmember LeMarr moved to approve the Consent Agenda as submitted. Vice Mayor Simpson seconded the motion which passed by a vote of 6-0.

PUBLIC HEARINGS

There were no public hearings.

ACTION ITEMS

Approval of NewPath Networks Special Use Permit Statement of Direction

Mr. Bacon stated that the Council discussed the NewPath Network's Statement of Direction at length in the work session. Based on Council direction, references to designing a system incorporating 800 Mhz was eliminated.

Responding to a question from Council regarding inclusion of a map showing DAS node locations, Ms. Hood stated that it was not necessary as the map is part of the SUP application. Moreover, the node locations cannot change significantly without completely changing the entire system.

Lynne Lagarde, attorney representing NewPath Networks, said she was pleased with the Statement of Direction. She noted that Paradise Valley is the first community to retain a consultant to advise on a NewPath application. She thanked the Council for its consideration and asked that the Town move as quickly as possible on this application.

Motion and vote – Councilmember LeMarr moved to approve the following NewPath Networks Statement of Direction which was seconded by Councilmember Clarke and passed by a vote of 6-0.

SUP-10-4

NewPath Networks

-Statement of Direction-

March 25, 2010

On March 2, 2010, with the Town's authorization, 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.

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.*

- *All DAS antennas and the associated fiber backbone shall be located in the Town right-of-way. The Town has the sole authority and responsibility over the right-of-way.*
- *The Town welcomes and encourages public input during the Special Use Permit review process. 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.*
- *The Town has retained a consultant to review the application and make recommendations to staff, the Planning Commission and Town Council. The consultant will evaluate the proposed DAS including but not limited to the number, placement, and height of antenna nodes, and RF compliance.*
- *Existing vertical elements in the Town right-of-way such as stand alone street lights and traffic signals shall be utilized for antenna installations to the greatest extent possible provided the proposed additional height on the existing vertical element does not significantly interfere with view corridors for public property. Otherwise, the faux cactus or another design alternative shall be used. The street-sign alternative should be absolutely minimized.*
- *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. The Town has the sole authority and responsibility over the right-of-way and the Town Council will ultimately approve each antenna location.*
- *The proposed antenna nodes shall blend with existing landscaping. In those locations where there is little to no landscaping present, additional landscaping shall be installed by NewPath so as to create a better blended antenna installation.*
- *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. 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 Planning Commission is expected to complete its review and hearing process within the 90 days provided in Section 2-5-2.D.1 of the Town Code. The 90 day review period shall expire July 6, 2010.*

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.

CALL TO THE PUBLIC

There were no public comments.

ADJOURNMENT

Motion and vote – Councilmember Clarke moved to adjourn. Vice Mayor Simpson seconded the motion which passed by a vote of 6-0

Mayor Parker adjourned the meeting at 5:15 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 25th 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

Draft

**TOWN OF PARADISE VALLEY
COUNCIL ACTION REPORT**

TO:	Mayor and Town Council
FROM:	Robert Kornovich, Information Technology Analyst
SUBJECT:	Renewal of Maintenance Agreement for Avaya Telephone System
DATE:	April 8, 2010

Recommendation

It is recommended that the Town Council authorize the Town Manager to renew a four-year service agreement with Avaya, for telephone and voicemail system maintenance and support in the amount of \$43,728 for the term of the agreement, or \$10,932 annually.

Background

In January 1998, the Town lease purchased replacement telephone equipment from Lucent Technologies, later becoming a part of Avaya, Inc. The comprehensive system consisted of a dedicated telephone switch, telephone handsets and voicemail system. At the time of purchase, a four-year service agreement was entered into to cover hardware failure and maintenance issues after the initial one-year warranty period. A subsequent three-year renewal agreement was approved in 2003, and a four-year agreement was approved in 2006, later modified to take advantage of a rate decrease of 19% per month. The 2006 agreement with the modified monthly cost will expire in June of 2010.

The system was successfully upgraded in FY2005-06 to update components and accommodate interfacing with Maricopa County's 9-1-1 system, and remains an excellent and reliable telecommunications platform. The voicemail component was upgraded in early 2009 to take advantage of improvements in technology. These updates extended the life of the Town's telephone system well in to FY2013-14, precluding any need to consider other telecommunication vendors or products.

By renewing the maintenance agreement for four years rather than for a shorter period of time, the Town takes advantage of a 5% savings per month. This new service agreement with Avaya represents an overall 3% per month increase over the current modified agreement.

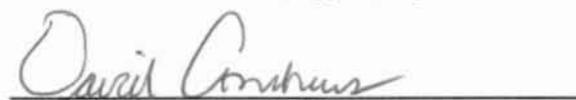
Community Impact

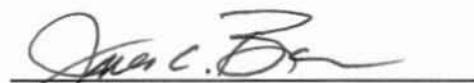
Telecommunications is a crucial and vital component of service to residents and the general public. This action will assure that the Town's telephone hardware is covered under a valid repair and maintenance agreement, ensuring reliable operation of its telephone and voicemail infrastructure.

Fiscal Impact

The Town has adequate funds in its budget for the payment of \$911 per month.


Robert Kornovich
Information Technology Analyst


David Andrews
Budget/Finance Director


James C. Bacon
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 Cystic Fibrosis Foundation
DATE:	April 8, 2010

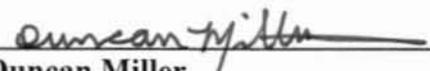
RECOMMENDATION:

It is recommended that Town Council approve the Special Event Liquor License application for the Cystic Fibrosis Foundation 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.

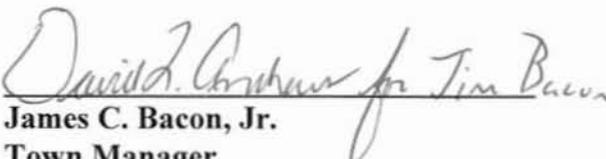
FACTS

The Cystic Fibrosis Foundation will be holding a fundraising event on Saturday, April 24, 2010 from 7:00 pm to 2:00 am at a private residence located at 6725 E Valley Vista Lane in Paradise Valley. Alcohol will be served at the event thus requiring them to obtain a special event liquor license.

State law requires the Town to approve special event liquor licenses before the State Liquor Board 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
TOWN COUNCIL ACTION REPORT**

TO:	Honorable Mayor & Town Council
FROM:	Andrew Miller, Town Attorney
SUBJECT:	Agreement for Contract Prosecution Services
DATE:	April 8, 2010

RECOMMENDATION:

A recommended action will be forwarded to the Council in an updated Action Report.

DISCUSSION:

The process of interviewing candidates for contract prosecution services starting in mid-May is almost completed. Requests for proposals (RFP) were sent out on in early March, with a response date for proposals of March 26, 2010. Twelve proposals were submitted by that date, out of which seven individuals/firms have been selected for interviews. Those interviews will be conducted on April 2 and April 5. After the completion of the interviews, a selection will be made by the interview committee, with a contract to then be submitted to the Council prior to the April 8 meeting date and time. The individuals/firms selected for the interviews have all provided information regarding their experiences in performing contract prosecution matters, with several having over 12 years of experience performing these services.

Based on the duties specified in the RFP, the contract prosecutor will be responsible for the following:

- Review, edit and approve responses to pretrial motions drafted by paralegal
- Review cases for plea offers and negotiate same with defense attorneys
- Attend court hearings to prosecute cases involving misdemeanor offenses (i.e. DUI), code violations (i.e. green pool), civil traffic (i.e. speeding), and juvenile offenses (i.e. minor – consumption of alcohol)
- Document case file with status of hearings/trials
- Discussions with defense attorneys, victims, and staff re legal issues surrounding above-referenced caseload, and give direction re same
- Review long form complaints submitted by PD and Code Compliance, and give direction on charges to be brought
- Give advice to PD and Code Compliance as to interpretation of statutes and ordinances and the gathering and presentation of evidence
- Interviews police officers and witnesses, as necessary, in preparation for hearings/trials

The fulltime paralegal in the Town Attorney's Office will handle most of the internal coordination of the case filings and will perform many functions that will help keep the costs for the contract prosecution services low. The paralegal will perform the following tasks related to the prosecution workflow:

- Receive notices of hearing and complaints from Court

- Set up case files and order MVD records, police reports, criminal histories, and driving histories
- Prepare criminal file cover sheet
- Review departmental reports for discovery, redact same, and prepare discovery packets to disclose to defense counsel in preparation of pretrial conferences
- Request any evidence from PD (i.e. DUI videos, photos, 911 CDs)
- Coordinate officer interviews
- Review case file for any prior conviction, investigate same through court databases, and order any necessary records
- File Allegation of Prior Convictions with Court
- Send victim rights letters out, and touch base with any victims re court dates, restitution issues
- Prepare and file any necessary motions to continue court dates
- Prepare and file any necessary responses to motions to dismiss, motion to suppress evidence, motions to compel discovery
- Prepare and issue Summons on cases where defendant has not received notice of citation; investigate and locate defendants whose whereabouts are unknown
- Arrange for process service
- Prepare plea agreements for pretrial conferences based on prosecutor's plea offer
- Investigate photo radar issues re non-driver
- Subpoena officers and civil witnesses for hearings and trials
- Trial preparation on any cases that are set for trial
- Review long form complaints submitted by PD or Code Compliance and draft applicable complaints
- Close out files that have reached a final resolution stage

For any motions of an unusual nature that might require more extensive research and drafting, the contract prosecutor will coordinate such research with the Town Attorney's Office paralegal, with primary research and initial drafting being first conducted by the paralegal and a review of such pleadings before final printing and signing to be done by the contract prosecutor. Typical requests for a review of code compliance submittals and questions re charging decisions will be handled jointly by the paralegal and the contract prosecutor. Unusual requests for advice or information that may require extensive research and possible drafting of changes to the Town Code will be handled by the Town Attorney.

As noted above, once the selection of the best proposal is made by the committee early next week, a contract will be executed and supplied to the Council regarding the successful individual/firm selected.

FISCAL IMPACT:

The cost of this agreement will be paid for in the current fiscal year through contingency funds. The contract services will be made part of the Town Attorney outside counsel budget as part of the Town Attorney Office's FY2010-11 budget

proposal. The cost of these services will be more than offset by the salary savings resulting from the elimination of the Deputy Town Attorney position in the proposed FY2010-11 budget.

COMMUNITY IMPACT:

None.

ATTACHMENTS:

None.



Andrew M. Miller, Town Attorney

TOWN OF PARADISE VALLEY TOWN COUNCIL ACTION REPORT

TO:	Honorable Mayor and Town Council
FROM:	George Burton, Planner
SUBJECT:	Public Hearing – Ordinance 619, Proposed Amendments to Article XXIV, Walls and Fences
DATE:	April 8, 2010

RECOMMENDATION

It is recommended that the Town Council adopt a motion to refer Ordinance #619 back to the Planning Commission in order to review and discuss additional amendments to Ordinance #619 that will require perimeter walls to be constructed prior to the start of construction on a new or substantially remodeled home.

DISCUSSION

The Town Council discussed the proposed amendments to Article XXIV, Walls and Fences, at the March 25, 2010 work study session. During this meeting, the consensus of the Town Council appeared to be that Ordinance #619 be referred back to the Planning Commission to discuss an additional amendment that will require a fence wall to be built prior to the construction of a new single family residence. The Council discussion included suggestions that the Commission address methods to have the wall plan allow for an opening as part of the wall plans that will be used for access to the enclosed yard areas during construction and closed once construction is no longer required. The Council wanted the Commission to obtain input from the building community as part of their analysis of the requested additional study on Ordinance #619.

FISCAL IMPACT

None.

COMMUNITY IMPACT

Further revisions to Ordinance #619 will result in new wall requirements that will result in safer and more aesthetic pleasing construction sites.

Attachments:

Ordinance 619



George Burton
Planner



Eva Cutro
Planning & Building Director

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~~
49 ~~whether they~~ **that** exceed three (3) feet in height, shall be setback at least twenty (20) feet
50 from the right-of-way property line; however, a view fence may be constructed at a ten

1 (10) foot setback, or a meandering wall may be constructed at an average fifteen (15) foot
2 setback, provided they meet the criteria set forth in this article and Table 2404A. See
3 Table 2404A for additional criteria.

4
5 2. Adjoining Major Arterial Streets.

6
7 Walls **exceeding three (3) feet in height that** adjoining major arterial streets shall be
8 setback at least twenty (20) feet from the right-of-way property line; however, a view
9 fence may be constructed at a ten (10) foot setback or a meandering wall may be
10 constructed at an average fifteen (15) foot setback provided they meet the criteria set forth
11 in this article and Table 2404 A. **Walls three (3) feet in height or less may be**
12 **constructed at the ten (10) foot setback. See Table 2404A for additional criteria.**

1
2

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

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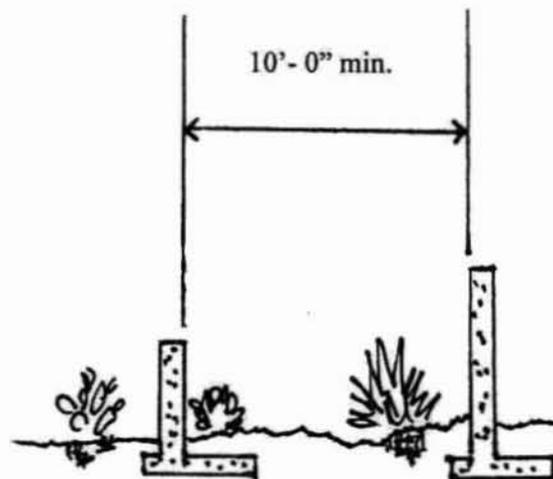
- * In R-18A Zoning Districts, the front yard setback along local, collector, or minor streets is minimum 35 feet.
- In R-10 Zoning Districts, the front yard setback along local, collector, or minor streets is minimum 20 feet, or as shown on the recorded plat, or as existing at the time of annexation. **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**



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
47 transition may be made from the top of the column to the six (6)-foot high
48 wall, but the length of the horizontal transition shall not exceed the difference

1 in the vertical height between the wall and the column or gate, whichever is
2 greater.

3
4 **c. Reference Table 2404A for R-18A Zoning District and R-10 Zoning**
5 **District front yard setback requirements.**

6
7 Section 2415. Nonconformity:

8
9 a. Wall and View Fence Height and Location.

10
11 With the exception of pre-existing subdivision walls and view fences, as defined in
12 Section 2408 (b), any wall or view fence that is non-conforming due to its height or
13 location within a required setback area shall be made to conform to the requirements of
14 this Article when:

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

27
28
29
30
31 c. Side or Rear Wall Connections.

32
33 Side or rear wall or view fence connections to existing non-conforming walls and view
34 fences and pre-existing subdivision walls and view fences may be placed within the
35 twenty (20) foot setback area. **The side or rear wall connection shall be made with the**
36 **minimum amount of encroachment necessary to connect the new fence wall and the**
37 **existing fence wall.**

38
39 Section 2. If any section, subsection, sentence, clause, phrase or portion of this
40 ordinance or any part of these amendments to the Town Code adopted herein by reference
41 is for any reason held to be invalid or unconstitutional by the decision of any court of
42 competent jurisdiction, such decision shall not affect the validity of the remaining portions
43 thereof.

44
45 Section 3. This ordinance shall become effective in the manner provided by law.
46

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

3
4
5

Vernon B. Parker, Mayor

6
7

8 SIGNED AND ATTESTED TO THIS _____ DAY OF _____ 2010

9

10 ATTEST:

11
12

13 _____
14 Duncan Miller, Town Clerk

15

16 APPROVED AS TO FORM:

17
18

19 _____
20 Andrew M. Miller, Town Attorney

21