



**TOWN COUNCIL MEETING
6401 E. LINCOLN DRIVE
PARADISE VALLEY, ARIZONA 85253
SUMMARIZED MINUTES**

JULY 8, 2010

CALL TO ORDER

Mayor LeMarr called to order the Town Council meeting of the Town of Paradise Valley, Arizona, held at Town Hall 6401 E. Lincoln Drive, on Thursday, July 8, 2010 at 4:00 PM.

COUNCIL MEMBERS PRESENT

Mayor Scott P. LeMarr
Vice Mayor Mary Hamway
Council Member Michael Collins
Council Member Paul E. Dembow
Council Member Pam Kirby arrived at 4:22 p.m.
Council Member Vernon B. Parker arrived at 4:40 p.m.
Council Member Lisa Trueblood

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
Budget & Finance Director David Andrews
Community Development Director Eva Cutro
Senior Planner Molly Hood
Financial Services Manager Lenore Lancaster

Discussion of Town's 50th Anniversary

Mr. Bacon introduced Catherine Kaufman, Chair of the Historical Advisory Committee. She introduced other Committee members including Kathryn Gasser, Patricia Livi, Maureen Strom, Beth Wickstrom, Jini Simpson, and Natalie Montenegrino. She presented a proposal to update a promotional and historical video about the Town called "A New Kind of Paradise" as part of the Town's 50th Anniversary. The goal is to have the video prepared by October. The only costs would be those associated with the actual reproduction of the DVD. Council supported the proposal and suggested that copies of the video should be made available for sale and posted to the website.

In addition to the video, Council directed the Historical Advisory Committee to develop suggestions for a formal 50th Anniversary event including a recommended budget.

Discussion of General Plan Review Process

Mr. Bacon presented a proposal to update the General Plan. He said the current General Plan was adopted in March 2003. State law requires the General Plan to be updated every ten years. The review and approval process involves continuous public participation from all geographic, ethnic, and economic areas of the Town. The process requires at least one Planning Commission public hearing and at least one Town Council public hearing. The recommendation was to submit the General Plan to the voters for ratification at the next regularly scheduled municipal election, or March 13, 2012. There was Council consensus to attempt to meet that deadline even though the General Plan does not have to be readopted until November of 2013.

He said the 2003 General Plan addressed the following 5 Growing Smarter Law elements and addresses issues of local importance:

- Land Use & Growth Element
- Circulation Element
- Open Space and Environmental Planning Element
- Water Resources Element
- Public Facilities/Services & Cost of Development

He said the new General Plan should conform with Growing Smarter legislation but from a different approach that focuses on the Town's economy and demographics. He said two groups will be formed to assist with development of the plan: a General Plan Advisory Committee and a Visioning Committee. Membership on the committees would be appointed in the same manner as other committees.

The General Plan Advisory Committee would include Planning Commissioners, Council Members and residents. Its mission would be to develop the General Plan. The Visioning Committee would identify and assess changes in the Town's economics and demographics which may affect the provision of government services. It would also make recommendations and share information with the General Plan Advisory Committee, Planning Commission, and Town Council.

He suggested that the committees be formed by the Fall and any RFPs for consultants be issued as necessary.

Responding to a question from the Council, the Town Clerk stated that the Ordinance adopting the General Plan must occur at least 120 days prior to the election.

There was consensus to proceed with the creation of the two committees.

Discussion of Sewer User Fee Adjustment

Ms. Lancaster presented the proposed process and procedures for adjusting sewer rates. She reviewed the Town's Financial Policy which requires that enterprise fund rate structures must be reviewed annually to ensure they are adequate for the funds to remain separately self-supporting.

She said the policy on sewer rates requires:

- At a minimum, residents should pay the City of Scottsdale residential sewer household charge
- Sewer rates should encourage water conservation
- Rate structure should be simple to bill, understand and explain to customers
- Rates should be based on actual direct and indirect costs
- Rates should not deplete capital reserves except for capital sewer line replacement

She said rates are calculated based on 90% of average monthly water consumption for preceding consecutive months of December, January, February and March, excluding the month of greatest consumption.

She presented four different adjustment alternatives. Staff's recommendation and Council's preference was alternative 3. This option would increase the residential minimum rate by 2% to \$63.26 and increase the variable rate by 2% to \$.87 per thousand gallons. Commercial rates would increase 2%.

The notice of intent to raise rates will be scheduled for adoption on September 2 and the public hearing will be held on October 28. The rate increase would take effect on December 1, 2010.

Discussion of Financial Forecast

Mr. Andrews stated that the Town has sound financial policies and cash reserves. The Town is projected to start this current fiscal year with about \$25 million in reserves. After debt service and capital payments are made the reserves are projected to be down to around \$22 million. The Council has also taken responsible steps to cut the operating budget over the last two years by \$6.4 million and eliminating 24 positions (29%). These cuts were made while maintaining acceptable service levels.

He said, although current projections indicate that revenue sources are sufficient to cover operating expenses for the current fiscal year, in Fiscal Year 2011-12 and beyond revenue sources are not sufficient to cover operating expenses. Additionally, there is no money to fund debt service or capital projects out of currently identified revenues.

Mr. Andrews stated that the Town receives revenues primarily from three sources: intergovernmental payments; bed and sales taxes from resorts; and construction taxes. These sources make up about 70% of the Town's operating revenue.

Specifically, currently budgeted General Fund and HURF revenues are made up of the following:

- Local Sales Taxes - \$8.2M
 - Resorts - \$4.7M
 - Construction - \$1.8M
 - All Other - \$1.7M
- State Shared Revenues - \$3.7M
- Construction-related Revenues – \$1.0M in permit fees plus the construction sales tax
- All Other - \$2.9M
- Total - \$15.8M

Mr. Andrews presented four financial projection scenarios ranging from status quo to deflation to aggressive inflationary growth. He described how those four models would impact future revenue, expenditures, and operating budget deficits through 2016.

He stated his assumption model allows for flexibility. He offered to run other scenarios based on Council feedback.

He concluded that operating deficits are projected to be between \$460,000 and \$1.5 million. The Town lacks recurring revenue sources for debt service and capital projects. He said staff believes the Town should identify \$2.5 million to \$3 million in additional revenues to adequately fund the current operating budget and provide ongoing funding for debt service and capital improvement projects.

Mr. Bacon announced that the Council would discuss additional revenue sources at a workshop on July 9. He recommended that the new revenue source(s) should be adopted by December 2010.

Motion and vote – Vice Mayor Hamway moved to go into executive session at 5:15 p.m. Council Member Trueblood seconded the motion which passed by a vote of 7-0.

EXECUTIVE SESSION

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

RECONVENE FOR REGULAR BUSINESS MEETING

CALL TO ORDER

Mayor LeMarr reconvened the meeting of the Town Council at 6:06 P.M.

COUNCIL MEMBERS PRESENT

Mayor Scott P. LeMarr
Vice Mayor Mary Hamway
Council Member Michael Collins
Council Member Paul E. Dembow
Council Member Pam Kirby
Council Member Vernon B. Parker
Council Member Lisa Trueblood

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Senior Planner Molly Hood

PLEDGE OF ALLEGIANCE

Council Member Trueblood led the Pledge of Allegiance.

PRESENTATIONS

There were no presentations.

CALL TO THE PUBLIC

Resident Susan Speirs recited portions from the Historical Advisory Committee's video called, "Another Kind of Paradise". She encouraged the Town to uphold the laws regarding noise and residential zoning.

MAYOR / COUNCIL / MANAGER REPORT

There were no reports.

CONSENT AGENDA

- a. Minutes of Town Council Meeting June 24, 2010**
- b. Cancellation of July 22, August 12, and August 26, 2010 Meetings; and Reschedule September 9 Meeting to September 2, 2010**
Recommendation: Cancel the regularly scheduled meetings of July 22, August 12, and August 26; and reschedule the September 9 meeting to September 2.
- c. Approval of Property, Liability, and Excess Land Use Liability Insurance Coverage and Workers Compensation Insurance**
Recommendation: Approve property, liability, and excess land use liability insurance coverage and workers compensation insurance.
- d. Adoption of Resolution Number 1220; Specifying the Length of Terms for Members of the Water Utility Committee and Selection of a Chair**
Recommendation: Adopt Resolution Number 1220, which will clarify the terms and appointment provisions for the members of the Water Utility Committee and its Chairman.
- e. Adoption of Resolution Number 1222; Adopting the Maricopa County Community Wildfire Protection Plan**
Recommendation: Adopt Resolution Number 1222; the Maricopa County Community Wildfire Protection Plan.
- f. Adoption of Resolution Number 1223; Adopting the Campus Master Plan**
Recommendation: Approve Resolution Number 1223.
- g. Authorization to Execute a Lease between the Town and AT&T for a Communications Facility**
Recommendation: Authorize the Town Manager to execute a lease between the Town and AT&T for the use of a 1,680 sq.ft area within the Public Works yard for a communication facility.
- h. Approval of Purchase of Two 2011 Chevrolet Tahoes for the Police Department**
Recommendation: Approve the purchase of two 2011 Chevrolet Tahoes for the Police Department from Courtesy Chevrolet in an amount not to exceed \$66,000.

Mr. Bacon summarized the items on the Consent Agenda.

Responding to a question from Council Member Dembow regarding vehicle replacement schedules, Mr. Cooper stated that there are a number of criteria used to determine when to replace vehicles including age, mileage, maintenance, and operational costs.

Motion and vote – Vice Mayor Hamway moved to approve the Consent Agenda as submitted. Council Member Kirby seconded the motion which passed by a vote of 7-0.

PUBLIC HEARINGS

Consideration of Ordinance Number 625 Issuing a Special Use Permit to the Town of Paradise Valley and Amending the Zoning Ordinance and Amending the Zoning Map to Allow for the Installation of New or Modified Utility Poles (for Distributed Antenna System) in Town Right-of-Way

Senior Planner Molly Hood presented a proposal submitted by NewPath Networks to allow for 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. The antennas are located on existing vertical structures such as street lights, traffic signals, street signs or on faux cactus. The nodes can accommodate multiple carriers in multiple frequency bands.

She noted that the Town cannot prevent DAS from locating in the Town's right-of-way based on perceived health concerns. However, the Town may regulate the placement and aesthetics of the nodes. The Town will receive compensation for NewPaths's use of the Town's ROW but compensation, schedule, and maintenance issues will be addressed in a separate license agreement.

She said NewPath's proposal is to install a total of 42 nodes; including 2 traffic signal nodes, 3 street light nodes, and 37 faux cactus nodes. She summarized that a total of 16 public meetings were held on the NewPath project. The Planning Commission held 4 work sessions and 2 public hearings on the application.

During the Commission review process, the positions of several of the nodes were adjusted for any of the following reasons:

- At the request of a property owner;
- To move nodes as far away from street as possible;
- To move nodes to areas with more landscaping;
- To move nodes to locations with less visible impact on surrounding area.

On June 15th, the Commission voted 6-0 to forward the application to Council with a recommendation for approval.

She noted that 37 of the nodes will be faux Saguaro cactus. The applicant and Commission collaborated on the design features and agreed on the following features:

- Height -24'
- Wind load – 90 mph

- Top & Bottom Tapers
- Rib Configuration
- Access Panels/Mounting hardware
- Paint design
- Internal antenna mount locations

Ms. Hood stated that the applicant submitted a radio frequency (RF) report by Dr. Jerry Bushber, Ph.D. The Town's independent RF consultant, Christine Malone of CompCom, reviewed the report. The report concludes that the RF levels will be below the FCC maximum permissible exposure levels.

Commissioner Dolf Strom reported on the Planning Commission's recommendation. He discussed the RF study in detail. He said the Commission was satisfied with the report and its findings. He stated that the Commission recommended a "caution label" be installed flush on the fault lid.

Public hearing: Mayor LeMarr opened the public hearing.

Jim Austin asked about the exact location of the node on 60th Street and Lincoln. Ms. Hood responded that the node is on the south side of the street.

Mary Frances Austin asked the Council to pay particular attention to the esthetics of the nodes.

Jordan Rose spoke on behalf of Kurt and Nicole Wood. The Wood's had been opposed but after meeting with NewPath and the Town the node location was adjusted and the Woods are no longer in opposition.

Liz Clendenin asked about how much revenue the Town expected to receive from use of the ROW. Mayor LeMarr responded that the business agreement between the Town and the applicant has not been completed. He said the agreement will be system-wide and include fees for nodes and fiber. Ms. Clendenin also asked that street cuts to lay the fiber be limited.

Joy MacLean asked if multiple carriers will be located on the nodes and if there was a way to limit the number of DAS providers in Town. Mr. Miller responded that the SUP application provides for a maximum of 5 carriers to be co-located on the nodes. Furthermore, the Town's research indicates that DAS providers do not typically overlap.

Jerry Vandervoort spoke in favor of the application but said people have a right to be concerned about RF exposure. He encouraged the Council to clearly communicate the RF study findings.

Kim Macchiaroli encouraged Council to include requirements for node maintenance, repair, and possible removal of the nodes if the company fails. Mayor LeMarr responded that the business agreement has not been completed but it will include maintenance requirements and a bond.

Michael Ebertin asked if the RF study was based on 1 carrier or 5 carriers. He also stated that his wall is within 20 feet of a node. He asked if his dogs would be in danger. Mr. Strom responded that the study was based on 5 carriers at maximum operation output. He said at 20 feet, RF exposure would be around 1%.

Dr. Jerry Bushberg prepared the RF analysis on behalf of NewPath Networks. He concluded that RF exposure will be substantially lower than federal standards. The analysis is very conservative. It assumes that all currently licensed carriers are on the system and operating at full power. Responding to a question regarding the cumulative effect of RF exposure he stated that intensity decreases with distance. He said given the spacing of the nodes in Paradise Valley there would be no detectable cumulative impact. He said the study assumes the worst case cumulative scenario and the RF levels are still well below federal standards. He said mobile phones potentially cause greater risk because of their proximity to the body. Responding to a question about the possibility of a node emitting higher levels of RF over time he responded that the nodes are constantly monitored. Changes in levels would be detected and fixed because a node emitting too much power would negatively affect other nodes. Providers have an interest in maintaining proper levels.

James Mueller spoke in favor of the application. He said improved cell coverage improves safety for those with health concerns who might need to call paramedics. Students waiting at bus stops are also at risk with poor cell coverage.

Renee Fox spoke in favor of the application but asked that the node 209 could be moved to the golf course. Mayor LeMarr responded that the nodes must be located in the ROW and not on private property.

Alan Prince spoke in opposition to the application. He said he moved to Paradise Valley because all the utility facilities are underground. He did not believe the faux cactus were esthetically appealing.

Mayor LeMarr read email from Greg Hoyt, Chris Spinella, and Dick Johnes supporting the application.

The Town's RF and DAS consultant Christine Malone of CompCom addressed the Council. She stated that she had no outstanding questions or concerns about the project.

Lynne Legarde, attorney representing NewPath Networks, presented background information on the need for improved coverage in Paradise Valley. She assured Council that NewPath will make its system available to providers other than its anchor tenant AT&T. She summarized that the nodes meet and exceed federal RF standards. She said NewPath has offered to conduct pre and post RF studies at Paradise Valley properties.

Responding to a question from Council regarding NewPath's attempts to encourage other carriers to join the DAS, Ms. Legarde stated that Verizon and T-Mobile are already looking to

join their network in Scottsdale. She said NewPath will provide draft letters to residents who use carriers other than AT&T to encourage them to improve coverage and join the DAS system.

Council asked what AT&T customers can expect from this system. Stephen Garcia of NewPath Networks said the best way to quantify improvements in coverage is to conduct pre and post installation data from AT&T. This is being done in Scottsdale. He offered to provide that data to the Town.

Mr. Garcia further stated that when Verizon is able to offer service to iPhone users, Verizon will have the same challenges as AT&T with bandwidth. It is a data intensive mobile device. This could encourage Verizon to join the DAS network.

Mr. Garcia said NewPath will start installing facilities by the end of the year but fiber might take longer. It is estimated that it will take 90 to 120 days to install the 42 nodes and lay the fiber. He said the depth of the fiber install will be 24 to 36 inches based on Maricopa County standards.

Council asked if pre and post DAS installation property value studies been done. Mr. Garcia responded that a study was done in Thousand Oaks California and it found no impact.

Mayor LeMarr recessed the meeting at 8:21 p.m.
Mayor LeMarr reconvened the meeting at 8:30 p.m.

The Mayor re-opened the public hearing.

Residents Steve Stine, Sue Johnson, Jose Villa, and Manuel Rapkin addressed the Council regarding the location of node H678 near the corner of Desert Jewell Dr. and Arroyo Dr. Ms. Hood stated that node H678 moved multiple times during the review process. In the end, the Commission voted to locate the node on Arroyo Dr instead of at the terminus of Desert Jewel Dr. Mr. Villa stated that the recommended location blocks the view from his kitchen window.

Staff suggested adding a stipulation to relocate antenna node H678 south of the Commission approved location on the east side of Arroyo south of Desert Jewel up to the northern boundary of the wash delineation.

Resident Joy MacLean suggested that any future amendment to this SUP to increase the number of authorized carriers should be considered a major amendment instead of a minor amendment. Mr. Miller responded that the special use permit code determines if it is a major or minor amendment. He noted that if the number of carriers increases to more than 5, the amendment would require a public hearing process.

Mayor LeMarr closed the public hearing.

Council Member Kirby suggested that the Council delay the vote until after the summer and until the NewPath provides requested information on coverage expectations.

Ms Legarde responded that it has taken 16 public meetings and 2 years to get to this point. She requested that the Council vote to approve the application tonight so NewPath could proceed with construction designs.

Ms. Hood recommended that Council adopt Ordinance Number 625 issuing a Special Use Permit to the Town of Paradise Valley for a DAS system in the Town's right-of-way.

Motion and vote – Council Member Collins moved and Council Member Trueblood seconded a motion to Adopt Ordinance Number 625 issuing a Special Use Permit to the Town of Paradise Valley and amending the Zoning Ordinance and amending the Zoning Map to allow for the installation of new or modified utility poles (for distributed antenna system) in Town right-of-way subject to the following stipulations:

1. The Distributed Antenna System improvements shall be in substantial compliance with the following attached documents:
 - a. DAS Master Plan for Paradise Valley, AZ booklet dated June 24, 2010 with antenna node H238 relocated to the new proposed location on the North side of Northern Avenue, east of N. Mockingbird Lane as shown on the revised aerial, photo-simulation, and land-use plan dated July 6, 2010 and with antenna node H678 relocated south of Option A on the east side of Arroyo south of Desert Jewel up to the northern boundary of the wash delineation with additional redesign by the licensee.
 - b. Saguaro Cactus Standard Features submitted on June 15, 2010 with the Larson paint list attached for reference.
2. The Distributed Antenna System shall be limited to five (5) carriers and/or twelve (12) amplifiers unless a Minor Amendment to the Special Use Permit is granted, the RF Exposure Report is updated, and no changes are made to the approved antenna node equipment. Aesthetic changes to the approved antenna equipment or the addition of new antenna nodes shall require an Intermediate Amendment to the Special Use Permit.
3. The faux rocks installed in conjunction with the individual antenna nodes shall be painted to match the surrounding conditions.
4. The electrical disconnect installed in conjunction with the individual antenna nodes shall be painted to match the surrounding conditions and be located as low to the ground as possible.
5. The vaults installed in conjunction with the individual antenna nodes shall be flush with the ground.
6. Town of Paradise Valley staff shall inspect each node site in the field after antenna and fiber installation is complete to determine if landscaping, painting, and overall installation is adequate. Any licensee of the Town using the DAS shall make adjustments per Town staff's direction including but not limited to additional landscaping and paint adjustments.

7. The DAS shall meet the current FCC RF Guidelines and any amendments thereto. If FCC Guidelines are changed, then the DAS shall be brought into compliance with such revised guidelines within the time period provided by the FCC or if no time period is stated, then within sixty (60) days of the effective date of such guidelines.
8. Any licensee of the Town using the DAS shall install an 8" x 12" "RF Caution" metal plate on the vault hatch at each antenna location in substantial compliance with the template provided by Newpath Networks dated June 24, 2010.
9. No permits for any licensee of the Town using the DAS shall be issued for the fiber installation or antenna node installations until the Town Council approves a license agreement, or any equivalent thereof, for a licensee or other authorized user to utilize the DAS.

Roll Call Vote

<u>Council Member</u>	<u>Vote</u>
Collins	Yes
Dembow	Yes
Hamway	Yes
Kirby	Abstain (Yes)
LeMarr	Yes
Parker	Yes
Trueblood	Yes

Vote Summary 7-0

ACTION ITEMS

There were no action items.

ADJOURNMENT

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

Mayor LeMarr adjourned the meeting at 9:09 p.m.



Scott P. LeMarr, Mayor

ATTEST:


Duncan Miller, Town Clerk