



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

**SEPTEMBER 16, 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, September 16, 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  
Council Member Vernon B. Parker  
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  
Assistant Chief Larry Scott  
Municipal Court Director Jeanette Wiesenhofer  
Town Engineer William C. Mead  
Judge Larry King

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**Discussion of Financial Forecast and Revenue Options**

Mr. Bacon reminded Council that financial projections for the Town indicate that future recurring annual operating deficits will be at least \$460,000, and that there is a lack of recurring revenue sources for debt service and capital improvements projects (CIP). He stated that the Town needs at least \$2.5 million to \$3 million in additional revenues to adequately fund the current operating budget, provide ongoing funding for debt service, and fund a modest CIP.

On July 9, Council discussed various revenue options and narrowed the list to four possibilities. Staff was directed to conduct further research on those options and report back today. Mr. Bacon recommended that Council select two options and schedule a public meeting in November or December for consideration and adoption.

Mr. Andrews described the assumptions he used to project future revenue. He said construction related revenues are down approximately \$1.1 million this fiscal year from the 12 year average. It is anticipated that there will be no significant commercial construction in Town for years and limited residential construction due to the excess in supply. He said state shared revenue will decrease or remain stagnant because of the state's reliance on the construction industry and because the revenue is disbursed based on the Town's population.

Mr. Andrews stated that Council previously considered four revenue options:

- Sales tax rate increase of 0.35%
- Sales tax rate increase of 0.6%
- Repeal of franchise fee credit against sales tax for utilities
- Establishment of a fire services fee

He said the sales tax rate were increased by .35%, the Town's rate would be 2.0% which is below the 2.11% average rate for the nine other East Valley cities and towns. The increase would generate approximately \$1,226,000 annually. If the Town increases the rate 0.6% the total sales tax rate would be 2.25%, which is equal to the statewide average. This rate would generate approximately \$2,102,000 annually.

He explained that the Town currently collects a 2% franchise fee from APS and grants an offsetting credit against local sales tax. If the Town repeals the credit, it would generate approximately \$532,000 to \$726,000 annually, depending on the tax rate.

Mr. Andrews discussed the possibility of establishing a fire services fee. He said fire service expenditures equal about \$2,158,000 in operational costs and \$1 million in debt service annually. The Town could consider assessing a flat fee per household or business, assess a flat rate plus variable rates, assess a variable rate, or allocate cost based on square footage. He noted that it would be beneficial to pursue adoption of state legislation addressing billings and collection of fees for this service.

The Council discussed setting up a working group to consider the fire service fee and provide feedback to staff in developing a recommendation. The group would include Mayor LeMarr, Council Member Trueblood, Council Member Parker, Town Manager Bacon, and Budget & Finance Director David Andrews. Staff was asked to present a recommendation at the first meeting in October.

By that meeting staff was also asked to provide data on the first quarter actual revenue and expenditures. Council was also for suggestions on what to eliminate in the operating budget if the sales tax was not increased.

### **Discussion of Photo Enforcement**

Mr. Bacon announced that the Town received a public records request from the print media for data related to the photo enforcement program. The request came in response to an initiative petition application seeking to prohibit the use of photo radar in the Town. He said the Mayor also appeared on KAET's *Horizon* last week to speak about photo radar. He explained that the purpose of this presentation was to share the data given to the media with the Council.

Chief Bennett briefed Council on the Town's photo enforcement program. He said the Town first deployed photo radar in 1987 and it has been in continuous use since then. The Town has three fixed photo radar installations (located at Lincoln Dr and Tatum Blvd, Lincoln Dr and Mockingbird, and Tatum Blvd and McDonald Dr) and two mobile vans. He said the Town is compliant with state law requiring signage of all fixed photo radar locations. State law also requires signage for all mobile photo radar units when the posted speed limit is in excess of 40 miles an hour. He noted that since the posted speed limits in Paradise Valley are 40 mile per hour or less, the Town does not post signs for mobile units.

He said the Town has 344 designated locations for the mobile units which rotate on a 12 week cycle. He listed the 30 locations where the mobile units are most frequently located in the 12 week cycle. Mr. Bacon announced that the PowerPoint Presentation listing the locations would be posted on the Town's website.

Chief Bennett argued that photo enforcement keeps the streets safer, allows the Police Department to focus on patrolling residential areas, and serves as an effective deterrent for motorists who otherwise speed or run red lights. He presented data on traffic accidents, crime statistics, and photo enforcement citations issued over the last 10 years.

Responding to a question from the Council, Chief Bennett stated that the Town's photo enforcement vendor, Redflex Traffic Systems, develops the mobile unit deployment schedule. The Police Department then modifies the schedule based on complaints received from residents about excessive speeding in their neighborhood.

Responding to a question from the Council, Chief Bennett stated that the Town owns the fixed photo enforcement equipment and one of the two vans. Redflex owns the second van.

Municipal Court Director Jeanette Wiesenhofer briefed Council on the Court data provided to the media.

She said photo enforcement violations are issued for violations of two state laws:

- A.R.S. § 28-710(A) – speed not reasonable and prudent
- A.R.S. §28-645(a)(3)(a) – entering an intersection on a red light.

She presented data on the number of case filings over the last three years and a comparison of the number of citations issued by officers and issued by photo enforcement. She also provided a breakdown of the number of photo enforcement citations issued to Paradise Valley residents and non-residents for the last three years.

She detailed the breakdown in how fines collector for each ticket is disbursed. In summary, a \$205 ticket for exceeding the speed limit by 11-15mph is disbursed as follows:

\$ 46.07 – Town’s General Fund  
\$ 34.47 – Redflex Fee  
\$ 20.00 – Court Enhancement Fee  
\$104.46 – State Surcharge

Similarly, she described the breakdown for red light violations:

\$ 70.53 – Town’s General Fund  
\$ 34.47 – Redflex fee  
\$ 20.00 – Court Enhancement Fee  
\$125.00 – State Surcharge  
\$250.00 Total

Finally, she summarized the revenue and expenditures from all citations filed in the Paradise Valley Municipal Court. This number includes officer issued and photo enforcement issued citations for Fiscal Year 2009/2010.

Revenue = \$1,736,762.49  
Expenditures = \$1,590,850.15  
Revenue over expenses = \$145,912.34

Responding to a question from Council, Chief Bennett stated that the streaming video cameras only record 6 seconds before and after violation. He confirmed that the Police Department does not monitor or record any live video feeds from photo enforcement devices.

Responding to a question from Council, Ms. Wiesenhofer confirmed that approximately 45% of photo enforcement citations are paid.

Council asked the following questions:

- What is the length of the yellow lights? Answer: Yellow lights are set for four seconds or more depending on the volume of traffic through the intersection.

- Where did we gather the information on traffic volumes in Town? Answer: That information is provided by the Maricopa Association of Governments in its capacity as the transit authority for Maricopa County. The latest data is from 2007.
- Has a motorist ever filed a notice of claim about an accident caused by “flash blindness”? Answer: No.
- Are photo enforcement tickets issued to police or emergency vehicles? Answer: Emergency vehicles sometimes get “flashed” when they are responding to calls for help but the tickets are voided.
- Do photo enforcement citations ever result in the issuance of secondary citations such as failure to wear a seat belt? Answer: No
- Are vehicles registered to LLC’s exempt from photo enforcement citations? Answer: Photo enforcement citations are not issued to vehicles registered in the name of an LLC.
- Can people who receive citations issued by photo enforcement go before a judge? Answer: Yes.
- Are photo enforcement tickets reviewed by a police officer? Answer: Redflex is deputized to act as an agent for the PVPD. The agent reviews and signs each citation issued.
- Who audits and calibrates the equipment? Answer: Redflex calibrates the equipment.
- Can you receive multiple tickets for the same speeding violation? Answer: No.
- Are photo enforcement citations civil or criminal? Answer: Civil.
- Is it true that the use of photo enforcement allows officers focus on drunk drivers and investigating crimes against persons? Answer: Yes. It would take 4.77 officers to patrol the intersection of Lincoln Dr and Mockingbird Ln 24 hours a day. Moreover, it is not possible for an officer to issue the same number of citations as a photo enforcement system. This makes photo enforcement a more effective speeding deterrent.

**Motion and vote** – Council Member Hamway moved to go into executive session at 5:21 p.m. Kirby seconded the motion which passed by a vote of 7-0.

### **EXECUTIVE SESSION**

- a. Discussion of **Town Manager performance review** as authorized by A.R.S. §38-431.03.A.1.
- b. Legal advice from Counsel regarding **initiative and referendum processes** as authorized by A.R.S. §38-431.03.A.3.
- c. Discussion and consultation with Town representatives regarding sale or lease of **property in the vicinity of Scottsdale Road and Doubletree Ranch Road** as authorized by A.R.S. §38-431.03.A.7 and legal advice from Town Attorney as authorized by A.R.S. §38-431.03.A.3.
- d. Discussion and consultation with the Town Attorney regarding pending or potential litigation regarding **Arizona American rate case filings related to new or proposed contractual obligations** as authorized by A.R.S. §38-431.03.A.4.

**RECONVENE FOR REGULAR BUSINESS MEETING**

**CALL TO ORDER**

Mayor LeMarr reconvened the meeting of the Town Council at 6:46 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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Community Development Director Eva Cutro  
Budget & Finance Director David Andrews

**PLEDGE OF ALLEGIANCE**

Council Member Parker led the Pledge of Allegiance.

**PRESENTATIONS**

There were no presentations.

**CALL TO THE PUBLIC**

Ryan Denke spoke in opposition to the Town's photo enforcement program. He urged the Council to prohibit the use of photo radar or allow the matter to be placed on the ballot for voters to decide.

**MAYOR / COUNCIL / MANAGER REPORT**

There were no reports.

**CONSENT AGENDA**

- a. Minutes of Town Council Meeting September 2, 2010**
- b. Approval of Special Event Liquor License for The Beer for Brains Foundation**  
*Recommendation:* Approve the Special Event Liquor License for The Beer for Brains 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  
*Staff Contact:* Duncan Miller, Town Clerk, 480-348-3610
- c. Adoption of Resolution Number 1225; Amending the Commencement Dates for the Terms of the Water Utility Committee Members**  
*Recommendation:* Adopt Resolution Number 1225  
*Staff Contact:* Andrew M. Miller, Town Attorney, 480-348-3691

Mr. Bacon summarized the items on the Consent Agenda.

Mr. Miller recommended an amendment to Resolution Number 1225 Subsection E to clarify that the Chairman is selected by the Committee for a two-year term.

**Motion and vote** – Vice Mayor Hamway moved to approve the Consent Agenda as submitted with an amendment to Resolution Number 1225 Subsection E, line 12, to read, “The Committee shall select a Chairman at its first meeting after October 1 of each even-numbered year...”. Council Member Parker seconded the motion which passed by a vote of 7-0.

**PUBLIC HEARINGS**

There were no public hearings.

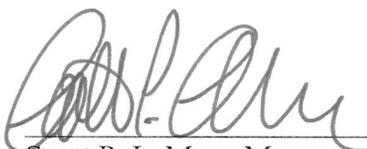
**ACTION ITEMS**

There were no Action Items.

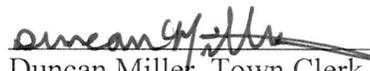
ADJOURNMENT

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

Mayor LeMarr adjourned the meeting at 6:54 p.m.

  
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Scott P. LeMarr, Mayor

ATTEST:

  
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Duncan Miller, Town Clerk