



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

MARCH 24, 2011

CALL TO ORDER

Mayor LeMarr called to order the Town Council meeting of the Town of Paradise Valley, Arizona, held in the Boardroom, Hermosa Inn, 5532 N. Palo Cristi Rd., Paradise Valley, Arizona, on Thursday, March 24, 2011 at 9:00 AM.

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
Community Development Director Eva Cutro (present for the Action Item only)

ACTION ITEMS

Approval of Mountain View Medical Center Special Use Permit Amendment Statement of Direction

Councilmember Dembow recused himself from consideration of this item.

Ms. Cutro explained that Mountain View Medical Center submitted an intermediate Special Use Permit amendment application to operate a Medical Marijuana Dispensary. She said intermediate amendments require the Council to adopt a Statement of Direction and to consider final approval after the Planning Commission reviews it and makes its recommendation.

She said the dispensary will consist of seven employees and operate Monday through Friday. The facility will receive one delivery a day and will typically dispense the products to their patients on an appointment-only basis. The dispensary will have a single entrance for public access and will meet all State and Department of Health Services requirements.

She summarized the provisions of the Statement of Direction (SOD) including hours of operation; size of the facility; signage; prohibitions against home deliveries, free samples, cultivation and processing of marijuana on-site; and age restrictions.

The Council questioned whether the SOD limited other dispensaries from locating in the Town. Ms. Cutro stated that the ordinance governing Medical Marijuana Dispensaries limits the zoning to the Mountain View Medical Center based on spacing distances from schools and churches. The SOD makes it clear that there shall be only one dispensary at Mountain View Medical Center. Moreover, the Department of Health Services, which is the agency responsible for allocating the limited number of dispensary licenses, will grant only one license to a facility in Paradise Valley.

The Council expressed concern about traffic at the facility and the possibility that other related services may be provided. Ms. Cutro responded that the current SUP already prohibits uses other than medical facilities. Accordingly, it would not be possible to open a bookstore or coffee shop. Moreover, patients must obtain a recommendation from a physician and be registered with DHS in order to receive medical marijuana.

The Council questioned how the spacing standard was determined and whether that standard could be increased to one-mile from a school or church. Ms. Cutro responded that, based on Council direction; the spacing standard was developed to make it possible for at least one facility to be located in Town. If the spacing requirement was one-mile, no SUP properties would qualify. It was noted that the closest school to Mountain View Medical was Tesseract, 3,900 feet away.

The Council asked for more clarity in the SOD regarding the facility operator's qualifications and background. There was a desire to give the Council an opportunity to scrutinize the tenant beyond a simple felony check. Cameron Carter and Adam Trenk, Attorneys with the Rose Law Group representing the applicant, stated that the final DHS rules will not be released until March 28. The applicant did not want to select a tenant until after the rules were finalized. Staff agreed that the Planning Commission would be directed to include SUP stipulations regarding the tenant's background and qualifications.

Ms. Cutro concluded that the Planning Commission should complete their review of the Zoning Ordinance on Medical Marijuana Dispensaries and the SUP application by April 28. Some Councilmembers stated a preference to adopt the ordinance prior to considering the SUP application. Mr. Miller advised that the accelerated schedule is necessary to meet the State's application deadline. He said the Ordinance could be adopted with an emergency clause to make it go into effect immediately.

Motion – Vice Mayor Hamway moved to approve the Mountain View Medical Center Special Use Permit Amendment Statement of Direction dated March 24, 2011 as follows:

SUP-11-1
Mountain View Medical Center

-Statement of Direction-
March 24, 2011

On March 11, 2011 Mountain View Medical Center submitted an intermediate Special Use Permit amendment application requesting to operate a medical marijuana dispensary located in Building A.

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.

This 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 (SUP). Any applicant for a Special Use Permit shall not rely upon the matters addressed in this Statement of Direction being the same as those that may be part of an approved Special Use Permit or SUP amendment.

Therefore, the Town Council issues the following Statement of Direction for SUP-11-1, Mountain View Medical Center's intermediate SUP amendment application for the approval of a new use, a medical marijuana dispensary:

- Only one (1) medical marijuana dispensary shall be allowed.
- The total square footage for the medical marijuana dispensary shall not exceed 2,736 square feet and the dispensary shall be located only in the southern portion of Building A, as identified on the attached Site Plan prepared by Rose Law Group and the Floor Plan prepared by Knoell & Quidort Architects.
- There shall be no external signage for the medical marijuana dispensary that is visible from Tatum Boulevard or Shea Boulevard. Signage shall be permitted on Building A at the entrance to the medical marijuana dispensary, but such sign shall be no larger than the signs for other tenants of the building or for similar buildings at Mountain View Medical Center and shall contain no symbols or slang for the word "marijuana" or its components.
- Drive-through services shall be prohibited at the medical marijuana dispensary.
- The medical marijuana dispensary employees shall be prohibited from making home deliveries of marijuana.
- The medical marijuana dispensary shall be prohibited from offering free samples of their merchandise.

- The medical marijuana dispensary shall not sell, dispense, lease or market any paraphernalia, products and sundries that are not directly and medically related to the use of medical marijuana.
- Cultivation, processing and infusing of marijuana shall be prohibited at the medical marijuana dispensary.
- No minors, under 21 years of age, are permitted within the medical marijuana dispensary unless accompanied by a parent or guardian.
- The medical marijuana dispensary's days and hours of operation shall be limited to Monday through Friday, 8:00 AM to 6:00 PM.
- If State law prohibits any medical marijuana dispensary within the Town, any approved intermediate SUP amendment to allow a medical marijuana dispensary at the Mountain View Medical Center, shall be immediately revoked by operation of law.
- All activity related to the medical marijuana dispensary shall be conducted in compliance with Arizona Revised Statutes, Title 36, A.R.S. § 36-2801 et seq.; DHS rules and regulations; and other implementing state statutes and administrative regulations.
- The intermediate SUP amendment for the medical marijuana dispensary shall not become effective until the owner of Mountain View Medical Center has completed all DHS requirements and obtained a license.
- Operation of a medical marijuana dispensary shall not be conducted by any person or entity convicted of a felony or misdemeanor or any person or entity that has any felony or misdemeanor charges filed and pending; and upon prior proof of adequate financial worth and experience to operate a medical marijuana dispensary. In furtherance of this limitation, at least four weeks prior to entering into a binding lease or rental agreement for any tenant who shall run and operate a medical marijuana dispensary at the Mountain View Medical Center site, the owner shall submit to the Town for prior review the following: (1) criminal background information on the prospective tenant and all employees to be hired by the tenant shall be provided to the Town Manager along with full releases from all such entities or persons so that the Town Police Department can conduct its own independent criminal history check prior to owner entering into any such lease; (2) audited financial statements evidencing that the entities or persons who will own or operate the medical marijuana dispensary have adequate assets, financing, and net worth to appropriately fund a safe and secure medical marijuana dispensary at the Mountain View Medical Center; and (3) a detailed operations plan submitted by the entities or persons who will own and operate the medical marijuana dispensary that evidences appropriate policies, protocols and operations procedures to ensure that the medical marijuana dispensary will run and operate in a safe and secure manner. The Town Manager shall have four weeks to review the submitted criminal background

information, financial statements, and operations plans referenced above and, in his sole discretion, either approve, disapprove, or request more detailed information regarding any prospective tenant who shall run and operate a medical marijuana dispensary at Mountain View Medical Center. Failure to submit all of the information, or the submittal of incomplete information, will delay the commencement of the Town Manager's four week period for review of the prospective tenant's submittals. Failure to submit all of the required information or to obtain the Town Manager's approval of the prospective tenant shall render the approved intermediate amendment for a medical marijuana dispensary void and no such use shall be allowed and shall no continue to be operated by the owner or any tenant at Mountain View Medical Center; and, upon notice to the owner and any tenant from the Town Manager, any such use or operation of a medical marijuana dispensary shall constitute an illegal use and be punishable as a violation of the Town Zoning Code, each day of such use or operation to be considered a separate offense, as well as being subject to an injunction to prevent the use or operation of a medical marijuana dispensary at Mountain View Medical Center.

- The Planning Commission is expected to complete its review and hearing process prior to April 28, 2011.

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.

Vote - Councilmember Trueblood seconded the motion which passed by a vote of 4-2.

<u>Yes</u>	<u>No</u>	<u>Recused</u>
LeMarr	Parker	Dembow
Hamway	Kirby	
Collins		
Trueblood		

WORK STUDY DISCUSSION ITEMS

Discussion of Councilmember Dembow's Request to Clarify the Visioning Committee Report and General Plan Advisory Committee Activities

The Council discussed the progress being made on the General Plan update. The Visioning Committee completed its work and transferred the Visioning Statements to the General Plan Advisory Committee (GPAC) two weeks ago. Councilmember Collins, Chair of GPAC, stated that the Statements were sent to GPAC members to review and verify that draft General Plan Elements align with the Statements. He said the Visioning Statements will appear in the General Plan verbatim and there is almost complete synchronicity between the recommendations of the Visioning Committee and the draft General Plan.

There was discussion that the reason why the Council created the two committees with overlapping members and timelines was to provide continuity. The Visioning Committee was to be the primary vehicle to obtain input from the community. GPAC would then take that information and use it to prepare the General Plan. Next, the Planning Commission would review the Plan, hold public hearings to receive more feedback, and finalize it. Finally, the Council would approve the Plan and refer it to the voters. It was envisioned that the process would be transparent and invite input and discussion throughout the entire development.

There was interest among the Councilmembers that if any changes to the Visioning Statements were made during the next steps in the process that the Council should be given the opportunity to discuss them before the document was finalized. Councilmember Collins stated that the draft would be released to the public in April before it goes to Planning Commission in June. It was suggested that the Council review the draft before it goes to the Commission.

Discussion of Town Manager's Recommended Budget for FY 2011-2012

Mayor LeMarr announced that today's budget meeting would focus on the operating budget and expenditures. The meeting on April 14 would be a conversation about the capital improvement program budget and revenue options to deal with the structural deficit.

Mr. Bacon explained that the Town is facing both cyclical and structural deficits. He said budget reductions can address the cyclical deficit. However, the structural deficit cannot be addressed unless the new programs which created the structural deficit are eliminated.

He said the cyclical deficit results from two factors. First is the significant drop in building activity and intergovernmental revenues. The second factor is the persistent increase in costs for employee benefits, especially pension costs.

The structural deficit results from the acceptance of fire protection as a town service without identifying a new revenue source to fund it. The second reason has been the Town's reliance on reserves to fund capital improvement projects.

He said the FY 2011-12 recommended budget addresses the cyclical deficit. He said the meeting on April 14 meeting will address the structural deficit.

Mr. Bacon explained that the Town is experiencing unprecedented decreases in governmental fund revenues. The FY 2011-12 budget will be the 5th consecutive year with lower revenues.

In response, the Town implemented three strategies to maintain balanced budgets: reduced capital projects spending; use reserves for CIP and debt service; and reduce operating budget while at the same time minimizing the effect on external services and implementing reductions in

ways that are sustainable. These strategies will also be used in the FY 2011-12 and in FY 2012-13.

He stated that the FY 2012-13 budget will include funding for 78 employee positions. This amount will result in fewer staff positions per thousand than 20 years ago. If more staff cuts are made, Council will need to consider service reductions. Council agreed that cuts in services may be necessary in the future.

Mr. Bacon summarized the recommended FY 2011-12 budget. He said the budget does not rely on new revenue sources or higher rates on current revenue sources. It reduces authorized staffing by 3 positions and General Fund / HURF budgeted spending by \$721,355 (4.6%). It reduces employee benefits and adds a mandatory furlough. Finally, it reduces the Phoenix Fire intergovernmental agreement budget.

He said the reductions in employee benefits including the elimination of HRA, 401(a) reductions, and some healthcare reductions. He said one position will be eliminated in the police department and two in the public works department.

Council asked about the \$7.4 million line item for debt service. Mr. Bacon said that the bond covenants pledge that the debt will be funded with excise taxes. If a new revenue source is identified to fund the debt service, the money currently set aside can be transferred out of the debt service line.

Mr. Bacon stated that the revenue estimate for FY 2011-12 is \$15,059,000. He noted that the estimate accounts for the Town's drop in population based on the 2010 Census. The Town already took into account overall reductions in State shared revenue but an additional \$92,345 in cost reductions had to be identified to account for negative population growth.

He summarized that the recommended budget reduces salary and benefit costs, reduces budget variances, includes no CIP funding, and uses reserves to pay debt service.

Council requested an opportunity to discuss the reserves policy. Historically, the Town followed a policy of maintaining at least one year of operating expenses in reserve. Mr. Bacon felt this was important given the Town's fragile revenue sources. However, he agreed that most other communities maintain much less than 90% in reserve.

Mr. Bacon reviewed the budget for each department. Highlights included:

The Mayor and Council's budget decreased by 11.3%, including reductions in recognition events and photography.

The Town Manager's budget reflects an increase of \$27,484 due to 41,144 in budgeted election expenses.

The Town Attorney's budget reflects savings of \$20,315 through the reduction of outside legal services and furlough. Council asked that the budgeted amount for outside prosecution services be shown separately from other professional services.

The Municipal Court's budget reflects a reduction of 6.0%. He noted that the number of photo enforcement citations issued have remained unchanged even after the Town started placing signs warning motorists that they are entering an active photo enforcement zone. He noted that the Municipal Courts budget assumes that the legislature will not preempt municipalities by eliminating photo enforcement state-wide.

The Police Department's budget reflects a reduction of 3.5%. There will be personnel savings from position deletions, and furloughs. Employee benefits reductions were offset by increases in pension expenses. The budget includes the purchase of three Tahoe police vehicles and related equipment. Council asked if it was possible to defer purchase of replacement vehicles for another year. Mr. Bacon stated that a work session on police vehicle replacements will be scheduled for the summer.

The overall Fire Services IGA budget was reduced by 7.2%.

The Public Works budget was reduced by 8.1%. He said the Public Works Department will switch to one Monday through Thursday schedule instead of two overlapping Monday through Friday schedules. This will allow for the elimination of two positions. The budget also includes money for the purchase of two pickup trucks. Council asked that these purchases be included when they discuss the replacement police vehicles.

The Community Development budget decreased by 5.5%. Funding for costs associated with the General Plan was reduced to \$22,500.

The Finance Department's budget increased by 1.4% as a result of the planned Town-wide conversion to Office 2010.

He said the Alarm Monitoring Service currently has 562 customers. Any operating surpluses are transferred to the Capital Projects Fund. Council asked for information on how much revenue has been generated from the new Alarm User Permit.

He said the Wastewater Utility Fund revenue assumes a 2.5% average rate increase on December 1, 2011 and only 10 customers added to the system. Revenue from the sewer user fee is primarily used to reimburse Scottsdale for sewage treatment. The sewer hookup fee and a small portion of the user fee will be used to buy additional capacity from Scottsdale at some point in the future, most likely when the Ritz Carlton come online.

Motion and vote – Vice Mayor Hamway moved to go into executive session at 1:36 p.m. Councilmember Collins seconded the motion which passed by a vote of 7-0.

EXECUTIVE SESSION

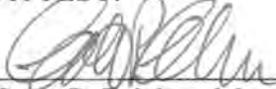
- a. Discussion and consultation with the Town Attorney regarding pending or potential settlement discussions related to a sales tax audit as authorized by A.R.S. §38-431.03.A.4
- b. Legal advice from the Town Attorney regarding medical marijuana as authorized by A.R.S. §38-431.03.A.3.
- c. The Town Council may go into executive session at one or more times during the meeting as needed to confer with the Town Attorney for legal advice regarding any of the agenda items listed above as authorized by A.R.S. §38-431.03.A.3.
- d. Town Manager Performance Evaluation as authorized by A.R.S. §38-431.03.A.1.

ADJOURNMENT

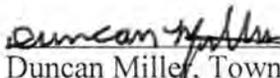
Motion and vote – Vice Mayor Hamway moved to adjourn. Councilmember Trueblood seconded the motion which passed by a vote of 7-0.

Mayor LeMarr adjourned the meeting at 3:00 PM

ATTEST:



Scott P. LeMarr, Mayor



Duncan Miller, Town Clerk