



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

**MAY 26, 2011**

**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, May 26, 2011 at 4:30 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 5:53 p.m.  
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  
Planner George Burton  
Municipal Court Director Jeanette Wiesenhofer  
Public Works Director Andrew Cooper  
Police Chief John Bennett

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**Discussion of Statement of Direction for Lincoln Plaza Medical Center**

Mr. Burton stated that Lincoln Medical Center submitted a Special Use Permit (SUP) application on April 19, 2011 requesting the following amendments to its SUP: Medical Marijuana Dispensary; Pharmacy; and Urgent Care Center. Since this application constitutes an intermediate SUP amendment it is necessary for Council to approve and forward a Statement of Direction (SOD) to the Planning Commission within 45 days after staff's presentation.

Mr. Burton summarized the applicant's request for the dispensary, pharmacy, and urgent care center.

- Medical Marijuana Dispensary
  - Located in Suite B-109, 1,735 sq ft
  - Operate Monday - Friday, from 8:30 am - 2:30 pm
  - Employ five staff members,
  - Offer smokeable and infused products to qualifying patients,
  - Have a single entrance for public access, a security guard, and secured storage,
  - Average three deliveries a week,
  - Have tenant signage, and
  - Meet all State and Department of Health Services requirements.
- Pharmacy
  - Located in Suite A-101, 2,079 sq ft
  - Includes an apothecary use
  - Operate Monday – Saturday, from 8:00 am to 6:00pm
  - Employ four staff members,
  - No sale of Class I and Class II drugs (i.e. narcotics).
  - Have secured storage and camera surveillance system,
  - Have tenant signage, and
  - Meet all State and Federal Regulations.
- Urgent Care Center
  - Located in Suite B-206, 1,520 sq ft
  - Operate Monday - Sunday, from 7:00 am to 9:00pm
  - Offer immediate care needs to approximately 42 patients per day
  - Employ five staff members,
  - No out-patient surgical facilities nor ambulance service, and
  - Have tenant signage.

He explained that staff supported the request for the medical marijuana dispensary and pharmacy because the uses are consistent with the Code. Staff opposed the request for an urgent care center because the hours of operation and increased traffic would be a more intensive use.

Mr. Miller briefed Council on the latest legal developments regarding Arizona's Medical Marijuana Act. He reported that County Attorney Bill Montgomery stated that the Maricopa County will not be issuing any dispensary permits. His concern is that County Officials and employees would be in violation of the Federal Controlled Substances Act. In addition, U.S. Attorney for Arizona Dennis Burke issued an opinion, similar to opinions issued by other U.S. Attorneys, stating that marijuana is a Class 1 narcotic under federal law and, therefore, illegal to buy, sell, or possess it. The Justice Department will not devote resources to going after patients. However, they may go after large scale distributors. There have been warnings that this may include medical marijuana dispensaries and those at the state and local who approve permits for dispensaries. Finally, Attorney General Tom Horne is filing suit tomorrow asking for a declaratory judgment on the legality of the AZ Medical Marijuana Act. The Department of Health Services is still waiting for direction on whether they will accept applications on June 1<sup>st</sup> for dispensaries.

Council questioned staff's decision not to support the request for an urgent care center. Staff agreed that although the use is not prohibited in medical SUP properties it would constitute a more intensive use of the property.

### **Discussion of Camelback Mountain Parking Policy**

Mr. Bacon stated that there is a large imbalance between the number of Camelback Mountain hikers and the number of available parking spaces near the two trailheads. The City of Phoenix estimates that approximately 1,000 people hike the mountain per day. There are only 67 legal parking spaces available at the Echo Canyon Trailhead off of McDonald Drive. This forces hikers to park their cars in surrounding neighborhoods. For many years, the Town has installed signs restricting parking in nearby neighborhoods, but this has simply pushed the problem to more distant areas.

Staff has been meeting with the City of Phoenix in an attempt to mitigate the parking issues. Several options have been identified to alleviate parking congestion around the Echo Canyon Trail. Short term solutions include: use of park rangers to eliminate Echo Canyon queuing; use of off duty officer for traffic control; and allow private shuttle to transport hikers from alternate locations. Mid-term solutions include: remove parking on east side of Echo Canyon Parkway; allow shuttle service to and from resorts; hire a consultant to study area for traffic solutions and cost analysis. Long-term solutions include: re-design Echo Canyon Parkway; close parking lot at Echo Canyon and offer shuttle service; expand current parking lot; construct additional parking lot.

Potential additional parking areas could include: 44<sup>th</sup> St & McDonald, McDonald Curve, expand existing Echo Canyon Parking, convert Arroyo Verde Properties into parking, use resort, church, and school parking, use Town Hall parking, or use City of Phoenix right-of-way.

Other considerations discussed were to limit days and hours of use; charge fees for use of parking areas, facilities, and/or shuttle; and provide restroom facilities.

The financial impacts of resolving this matter would include purchase of land; construction of parking areas and facilities; maintenance of parking areas and facilities; and police enforcement of parking areas and facilities.

There was Council consensus to continue to work with City of Phoenix to create additional parking areas. There was a preference to expand the current parking lot in Echo Canyon. The paramount concern was to protect residents from transient parking.

**Discussion of Replacement Vehicle Purchases**

Chief Bennett presented his request to migrate the police patrol fleet to Chevy Tahoes. He said currently the Town operates 10 marked patrol units including 6 Tahoes and 4 Crown Victorias. He summarized the choices of police vehicles for purchase including Dodge Charger, Ford Crown Victoria, Ford Interceptor, Chevrolet Impala, Chevrolet Caprice, and Chevrolet Tahoe. He stated the Tahoes have the following advantages: good visibility, better clearance in high water, rugged for use on hillsides and washes, excellent storage space for equipment, better prisoner ingress/egress, operational uniformity for officers, and has a lower operating cost per mile than Crown Victorias.

He requested that the Council authorize replacement of 3 Ford Crown Victorias with Chevy Tahoes. One would be purchased in this budget year and two would be purchased in the next budget year.

There was Council consensus to authorize the police department to proceed as requested.

Mayor LeMarr recessed the meeting at 6:08 p.m.

**EXECUTIVE SESSION**

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 on the agenda as authorized by A.R.S. §38-431.03.A.3.

No action was taken on the item.

**RECONVENE FOR REGULAR BUSINESS MEETING**

**CALL TO ORDER**

Mayor LeMarr reconvened the meeting of the Town Council at 6:15 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

**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.  
Community Development Director Eva Cutro  
Financial Services Manager Lenore Lancaster  
Planner George Burton

**PLEDGE OF ALLEGIANCE**

Mayor LeMarr led the Pledge of Allegiance.

**PRESENTATIONS**

**Recognition of Mayor Bobby Kilgore, City of Monroe, NC and his wife Norma**

Chief Bennett introduced Mayor Bobby Kilgore and his wife Norma from Monroe, North Carolina. Mayor Kilgore served as police chief, a member of the Council, and Mayor of Monroe.

**CALL TO THE PUBLIC**

Resident Judith Stern spoke in favor of restricting parking in the neighborhoods surrounding the Echo Canyon trailhead. She asked that "No Parking" signs be installed on both sides of 56<sup>th</sup> Street north of McDonald Drive.

Resident Barry Stern thanked Council for taking an interest in Camelback Mountain parking and asked the Town to prohibit parking on both sides of 56<sup>th</sup> St.

**MAYOR / COUNCIL / MANAGER REPORT**

There were no reports.

**CONSENT AGENDA**

- a. Minutes of Town Council Meeting May 12, 2011**
- b. Adoption of Ordinance Number 1235 Transfer of Funds within the Fiscal Year 2010-2011 Budget**  
*Recommendation:* Adopt Resolution Number 1235
- c. Award of Contract for Financial Auditing Services**  
*Recommendation:* Award the contract for financial auditing services to the certified public accounting firm of LarsonAllen, LLP.

Mr. Bacon summarized the items on the Consent Agenda.

**Motion and vote** – Vice Mayor Hamway moved to approve the consent agenda as submitted. Councilmember Parker seconded the motion which passed by a vote of 7 – 0.

**SPECIAL MEETING PURSUANT TO A.R.S. §42-17105**

Mayor LeMarr recessed the regular meeting and convened a Special Meeting to consider the Fiscal Year 2011-2012 Budget, pursuant to A.R.S. §42-17105.

**PUBLIC HEARING**

**Adoption of Resolution Number 1237 Approving the Fiscal Year 2011-2012 Budget**

Mr. Bacon presented the final budget for Fiscal Year 2011-2012. He said it was identical to the tentative budget approved by Council on May 12, 2011.

Responding to a question from Council regarding the sales tax increase approved by Council on May 12, 2011, Mr. Bacon stated that because the tax increase was approved after approval of the tentative budget, any additional revenue generated by the increase will simply go into the general fund. As a result, the fund balance will be larger than what is reflected in the budget by approximately \$2,600,000. The revenue will not be expended in the FY 2011-12 budget year.

There was Council discussion regarding how the revenue from the increased tax rate will be budgeted in future years. Some members questioned if the tax increase was necessary.

**Motion** – Vice Mayor Hamway moved to adopt Resolution Number 1237. Councilmember Collins seconded the motion.

**Vote: 7- 0**

**Aye: Collins, Dembow, Hamway, Kirby, Parker, Trueblood, LeMarr**

Mayor LeMarr adjourned the special meeting.

Mayor LeMarr reconvened the regular meeting.

**ACTION ITEMS**

**Adoption of Lincoln Plaza Medical Center Statement of Direction for Medical Marijuana Dispensary, Pharmacy, and Urgent Care Center**

Councilmember Kirby departed at 6:40 p.m.

Mr. Burton presented a request by Lincoln Plaza Medical Center to amend its Special Use Permit to provide for a medical marijuana dispensary, a pharmacy, and an urgent care center. He provided the following summary of each new use:

- Medical Marijuana Dispensary
  - Located in Suite B-109, 1,735 sq ft
  - Operate Monday - Friday, from 8:30 am - 2:30 pm
  - Employ five staff members,
  - Offer smokeable and infused products to qualifying patients,
  - Have a single entrance for public access, a security guard, and secured storage,
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  - Offer immediate care needs to approximately 42 patients per day

- Employ five staff members,
- No out-patient surgical facilities nor ambulance service, and
- Have tenant signage.

He stated that staff supports the request for the medical marijuana dispensary and the pharmacy since these uses are compliant with zoning ordinance. He said staff opposed the urgent care center since this is a more intensive hospital type use.

He said this was an intermediate amendment and, therefore, requires a Statement of Direction to the Planning Commission. A Statement of Direction provides general project guidelines and is not a final decision and does not create vested rights.

Paul Shepherd, representing Five Star Development owner of the property across Lincoln Drive, expressed concerns about the application. Five Star's concern relates to any zoning decision that would increase the intensity of use for each of the three proposed changes. He said someday there will be residents living immediately across the street. These proposed additions may not be an appropriate use for this property.

Pat Simone, owner of Lincoln Plaza Medical Center, summarized the proposed new uses. He suggested that Lincoln Medical Center would be a better location for a medical marijuana dispensary than Tatum Blvd and Shea Blvd.

**Motion:** Vice Mayor Hamway moved and Councilmember Trueblood seconded the motion to forward a Statement of Direction to the Planning Commission regarding Lincoln Plaza Medical Center's request to amend its Special Use Permit as follows:

Return a recommendation for denial of the Medical Marijuana Dispensary for the following reasons:

- 1) Growing, possessing, and selling marijuana violates the Controlled Substances Act. Opinions by U.S. Attorney Dennis Burke, County Attorney Bill Montgomery, and Attorney General Tom Horne have suggested that local and state officials could be subject to prosecution for their role in approving permits to operate medical marijuana dispensaries. The Town should not take action on medical marijuana dispensaries until the courts have ruled on the legality of the Arizona Medical Marijuana Act.
- 2) Residential spacing and resort spacing from the proposed dispensary is inadequate. The Town does not wish to discourage resort redevelopment by allowing a dispensary in such close proximity to three resorts.
- 3) There does not seem to be a demand in Paradise Valley for a dispensary since there have only been 5 medical marijuana recommendations issued in the Paradise Valley area.

Return a recommendation for denial of the pharmacy for the following reasons:

- 1) The current Special Use Permit prohibits a pharmacy and there is no compelling reason to change it. Moreover, the stipulation to prohibit narcotics would be difficult to police and monitor.
- 2) Approving another pharmacy could result in more medical marijuana dispensaries. Pursuant to the Arizona Medical Marijuana Act and the rules established the Arizona Department of Health Services, one medical marijuana dispensary permit will be issued for every ten pharmacies. If the Town approves another pharmacy it would be added to the total number of pharmacies, thus making it more likely that another medical marijuana dispensary permit will be issued.

Return a recommendation for denial of the urgent care facility for the following reasons:

- 1) It is not in character with the Town's Medical Office SUP District
- 2) There is no signage and it would be challenging for people to use it
- 3) The hours of operation are inconsistent with the current hours

**Vote: 5 – 0.**

**Aye: Collins, Hamway, Parker, Trueblood, LeMarr**

**No:**

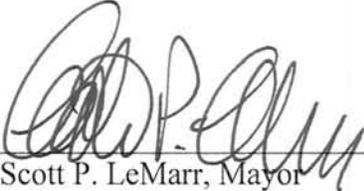
**Recused: Dembow**

**Not Present: Kirby**

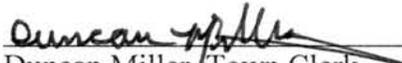
**ADJOURNMENT**

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

Mayor LeMarr adjourned the meeting at 7:12 p.m.

  
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Scott P. LeMarr, Mayor

ATTEST:

  
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Duncan Miller, Town Clerk