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

**November 17, 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, November 17, 2011 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  
Town Engineer William Mead  
Community Development Director Eva Cutro  
Planner George Burton  
Human Resources Manager Jinnett Hancock  
Police Chief John Bennett  
Public Works Director Andrew Cooper

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**Discussion of Final Organizational Changes**

Mr. Bacon presented his proposal for an organizational structure that would meet the service needs of the Town. He explained that when the Town developed its Mission, Vision, Values, and Strategic Initiatives, four primary governmental functions were identified: public safety, public infrastructure, land use, and financial management. In addition to these primary functions, the town provides three services which help to give the town a unique character. They include alarm service, municipal court, and post office. Each service has a unique characteristic among Arizona communities. He said the town is one of the last to operate its own alarm service and the last one in Maricopa County to do so. The municipal court relies on volunteer judges. The town is also the only city in Arizona to operate a post office. Every time eliminations of

these services are suggested, it has been denied based on the strong belief that these services make the town unique.

The foundational approach to organizing the town's government is that form should follow function. In other words, Town departments should reflect the towns primary governmental functions with the programs unique to the town rolled into those departments.

He explained the most significant recommendation is to consolidate the Public Works Director and Town Engineer positions into one position. That position, known as Public Works Director/Town Engineer, would be filled by a professional engineer. In addition, a new position would be created called Project Management Assistant. It would provide administrative support to the department for both capital and maintenance activities.

The Community Development Department would continue to be the town's primary department responsible for land use activities. The department director would continue to report directly to the Town Manager. The currently authorized positions for building, code enforcement, and planning would continue as currently organized.

The Finance Department would continue with six positions. The current department director's title would be replaced with Financial Director. The department would continue to operate the post office.

The Police Department, Municipal Court, and Town Attorney's office would remain as currently staffed.

The administrative structure described requires 75 positions, one less than the current budget and 33 less than the budget approved in June 2008. Payroll reductions of \$308,000 per year are expected by implementing this recommended plan.

There was Council support for the Town Manager's recommendation.

### **Year End Financial Report**

Finance Director David Andrews reported on the fiscal year ending June 30, 2011. He said revenues met budget. He provided the following revenue data:

<b>Category</b>	<b>Budget</b>	<b>Actual</b>	<b>Variance</b>
<b>Resort Sales &amp; Bed Taxes</b>	\$4,650,600	\$4,734,272	\$83,672
<b>Construction Sales Tax</b>	1,800,000	1,391,618	(408,382)
<b>All Other Sales Taxes</b>	1,740,000	1,818,879	78,879
<b>Totals</b>	<b>\$8,190,600</b>	<b>\$7,944,769</b>	<b>(\$245,831)</b>

He provided the following expenses data:

<b>Category</b>	<b>Budget</b>	<b>Actual</b>	<b>Variance</b>
<b>Salaries &amp; Overtime</b>	\$6,114,036	\$6,159,869	(\$45,833)
<b>Employee Benefits</b>	2,825,583	2,757,519	68,064
<b>O &amp; M</b>	5,765,651	5,524,040	241,611
<b>Capital Equip. &amp; Leases</b>	522,275	494,351	27,924
<b>Operating Contingency</b>	456,800	---	456,800
<b>Subtotal – Operating Expenses</b>	\$15,684,345	\$14,935,779	\$748,566
<b>Transfers</b>	\$96,855	\$2,427,629	(\$2,330,774)
<b>Total Expenses</b>	\$15,781,200	\$17,363,408	(\$1,582,208)

He provided the following fund balance summary:

<b>Fund Balance at July 1, 2010</b>	<b>\$17,252,780</b>	<b>\$17,252,780</b>	<b>\$----</b>
<b>Revenues</b>	15,781,200	15,789,959	8,759
<b>Expenses</b>	15,781,200	17,363,408	(1,582,208)
<b>Surplus / (Deficit)</b>	<b>\$----</b>	(1,573,449)	(1,573,449)
<b>Fund Balance at June 30, 2011</b>	<b>\$17,252,780</b>	<b>\$15,679,331</b>	<b>(1,573,449)</b>

He reported that debt service is fully funded through 2019 which is the maturity date.

Council asked for information on projected sewer capacity and whether it would be necessary to purchase additional capacity in the next couple years. He explained that Town must prepare and adopt a new sewer development fee by 2014.

### **First Quarter Financial Report**

Mr. Andrews stated that for the first quarter of FY 2011-12, actual revenues for the combined General & Highway Funds were very good and exceeded the revenue budget by \$222,000. Sales and bed tax collections exceeded the budget by \$130,000 as did fines and licenses and permits. State shared revenues were \$22,000 under budget.

He provided the following data:

<b>Category</b>	<b>Budget</b>	<b>Actual</b>	<b>Variance</b>	<b>Annual Budget</b>	<b>FYE Estimate</b>
<b>Resort Sales &amp; Bed Taxes</b>	\$611,888	\$665,759	\$53,871	\$4,824,000	\$6,140,000
<b>Construction</b>	367,500	353,554	(13,946)	1,470,000	2,050,000
<b>Sales Tax</b>					
<b>All Other Sales Taxes</b>	497,459	587,292	89,833	1,783,000	2,613,000
<b>Totals</b>	\$1,476,847	\$1,606,605	\$129,758	\$8,077,000	\$10,803,000

He reminded Council that sales tax will be over budget because the town increased the sales tax rate effective August 1 but the increase was not included in the revenue budget.

He said expenditures for the first quarter of the fiscal year were \$219,000 below budget. They are projected to be \$84,000 under budget at fiscal year end. Salaries and benefits were \$67,000 below budget for the quarter and these savings should be realized a June 30, 2012.

He provided the following data:

<b>Category</b>	<b>Budget</b>	<b>Actual</b>	<b>Variance</b>
<b>Salaries &amp; Overtime</b>	\$1,399,661	\$1,351,255	\$48,406
<b>Employee Benefits</b>	662,497	644,132	18,365
<b>O &amp; M</b>	1,465,848	1,313,300	152,548
<b>Capital Equip. &amp; Leases</b>	25,000	24,831	169
<b>Operating Contingency</b>	-----	-----	-----
<b>Subtotal – Operating Expenses</b>	\$3,553,006	\$3,333,518	\$219,488
<b>Transfers</b>	\$-----	\$-----	\$-----
<b>Total Expenses</b>	\$3,553,006	\$3,333,518	\$219,488

**Discussion of Special Use Permit Review Process**

Mr. Bacon stated that during the General Plan review process, Council expressed interest in modifying the intermediate and major special use permit (SUP) review process. Council asked that this work be given priority.

Mr. Bacon explained the current SUP application process. The first step is the pre-application in which the applicant submits: site plan, narrative, elevations, square footage, heights of new and

existing buildings, setbacks, and parking plan. Staff reviews proposals and generates initial comments and provides those comments to the applicant.

He said the issuance, or conditional issuance, of a Special Use Permit (or "SUP") is an act of the Town Council that permits certain primarily non-residential land uses. The decision whether to grant, or to condition the grant of, a Special Use Permit or an intermediate or major amendment thereto is entirely within the legislative discretion of the Town Council and the denial of a Special Use Permit or an intermediate or major amendment thereto is not the denial of a right, conditional or otherwise. The ability of an applicant to comply with the development standards set forth in this Article or elsewhere does not mean that a Special Use Permit will be approved.

He said the process for intermediate and major SUPs could be handled differently because, unlike with major SUPs, intermediate applications are limited to a specific building or portion of a property. Accordingly, the Statement of Direction (SOD) could be used to "streamline" the process by determining which submittals are needed at the application stage and which could be deferred to a future date.

Major amendments are different because the entire property and all buildings are under consideration. The complete list of permit application submittal requirements include: Authorization letter, current Title Report and/or Warranty Deed, Narrative, Site Plan, Building Plans, Signage Plan, Landscape Plan, Lighting Plan, Hydrology Study, Grading and Drainage Study, Traffic Study, Water Impact Service Study, Noise Study, CC&R's, Color Aerial, and any other plans or studies deemed necessary.

He said the current fees for SUP or Major Amendment to SUP for Schools, Government Buildings, and Places of Worship is \$7,000. SUP or Major Amendment to SUP for all other uses is \$8,000 + \$110 per acre or portion thereof. Intermediate Amendment for Schools, Government Buildings, and Places of Worship is \$4,500. Intermediate Amendment for all other uses is \$5,500 + \$110 per acre or portion thereof. He noted that these fees might seem high to some but they are the least expensive part of the process. Preparing the submittals and revisions to all those submittals is tremendously more expensive. He also noted that staff spends a great deal of time with applicants and potential applicants even before the pre-application process.

Council discussed various options to develop changes to the process. Three options were considered:

1. Staff would develop recommendations and present them to the Planning Commission and Council and request feedback
2. Establish a joint committee of Council and Commissioners
3. Set up a process similar to the fire service fee group. Staff would develop recommendations and then meet with 2 or 3 Councilmembers to work through the details. It may also be helpful to bring in other professionals, such as Planning Commissioners.

There was general consensus that the fire service fee study group model worked well, but certain question still remained about how best to proceed. Councilmembers Collins and Trueblood volunteered to meet and come up with a planning process and report back to Council on December 1.

**Motion and vote:** Councilmember Dembow moved to go into executive session at 5:55 p.m. Vice Mayor Hamway seconded the motion which passed by a vote of 7 – 0.

### **EXECUTIVE SESSION**

- a. Discussion and consultation with town representatives concerning the purchase, sale or lease of real property in the vicinity of McDonald Dr and Tatum Blvd as authorized by A.R.S. §38-431.03.A.7; and discussion and consultation with the Town Attorney regarding legal advice as authorized by A.R.S. §38-431.03.A.3
- b. Discussion and consultation with town representatives concerning disposition of real property and right-of-way in the vicinity of 66<sup>th</sup> St and E. Stallion Rd, 66<sup>th</sup> St. and Lincoln Dr., and 66<sup>th</sup> Pl and Fanfol Dr. as authorized by A.R.S. §38-431.03.A.7, and discussion and consultation with the Town Attorney regarding legal advice as authorized by A.R.S. §38-431.03.A.3
- c. Discussion and consultation with the Town Attorney regarding pending or potential litigation and current and/or future development agreement with Potomac Hotel Limited Partnership related to Mountain Shadows as authorized by A.R.S. §38-431.03.A.4 and legal advice as authorized by A.R.S. §38-431.03.A.3.
- d. 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

**RECONVENE FOR REGULAR BUSINESS MEETING**

**CALL TO ORDER**

Mayor LeMarr reconvened the meeting of the Town Council at 7:00 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  
Community Development Director Eva Cutro  
Planner George Burton  
Public Works Director Andrew Cooper

**PLEDGE OF ALLEGIANCE**

Planning Commissioner Rick Mahrle led the Pledge of Allegiance.

**PRESENTATIONS**

There were no presentations.

**CALL TO THE PUBLIC**

Jake Linderking, Water Resources Manager for Arizona American Water, invited Councilmembers and residents to the grand opening/ribbon cutting of the Xeriscape Demonstration Garden located at 6229 N. Mockingbird Lane on Friday, December 9, 2011 at 9:00 a.m. He said refreshments would be provided and master gardeners will be present to answer questions and offer landscaping tips and ways to reduce water consumption.

Jerry Van Gasse reported that the City of Phoenix is working on a possible long term solution for Echo Canyon parking. It would involve increasing the size of the parking lot at Echo Canyon. Mayor LeMarr announced that the City of Phoenix and the Town of Paradise Valley will hold an

open house on November 29, 2011 at 6:00 p.m. at Town Hall to discuss Echo Canyon parking concepts.

### **MAYOR / COUNCIL / MANAGER REPORT**

There was no report.

### **CONSENT AGENDA**

- a. Minutes of Town Council Meeting October 27, 2011**
- b. Minutes of Town Council Special Meeting November 1, 2011**
- c. Minutes of Town Council Meeting November 3, 2011**

Mr. Bacon summarized the items on the consent agenda.

**Motion and Vote:** Vice Mayor Hamway moved to adopt the Consent Agenda as submitted. Councilmember Dembow seconded the motion which passed by a vote of 7 – 0.

### **PUBLIC HEARING**

#### **Adoption of Ordinance Number 636 Lincoln Plaza Medical Center Special Use Permit Amendment**

Mr. Burton presented a request from Lincoln Plaza Medical Center for an intermediate amendment to their Special Use Permit to add a pharmacy and urgent care center.

He said the pharmacy/apothecary would employ approximately four staff members. It would operate Monday through Saturday from 8:00 a.m. to 6:00 p.m. It would offer medical grade pharmaceuticals but would not dispense Class I or Class II drugs (i.e. narcotics). The pharmacy would not sell, lease, or market any non-medically related paraphernalia or sundries.

The urgent care center would employ approximately five staff members. It would operate Monday through Saturday from 8:00 a.m. to 7:00 p.m. It would offer immediate care needs to patients and would provide a variety of medical services which include the treatment of infections, cuts/lacerations, rashes, heat exhaustion and allergies. The facility would not dispense prescription drugs and would not have any out-patient surgical centers or ambulance services.

He stated that the application complies with the zoning ordinance. He stated that the Planning Commission's recommendation includes 15 stipulations which he described.

Commissioner Rich Mahrle was present on behalf of the Planning Commission. Responding to a question from Council regarding the limited hours of operation, he stated the purpose was to reduce traffic and noise. He also said the Commission felt the new uses were consistent with a medical plaza concept. He said the vote was unanimous.

Mayor LeMarr opened the public hearing. There were no public comments.  
Mayor LeMarr closed the public hearing.

**Motion:** Vice Mayor Hamway moved, and Councilmember Parker seconded the motion, to adopt Ordinance Number 636; Lincoln Plaza Medical Center's Intermediate SUP Amendment to operate a pharmacy and an urgent care center subject to the following stipulations:

1. All existing Special Use Permit stipulations shall remain in full force and effect, unless changed or modified by the Intermediate Amendment SUP-11-2.

#### **Pharmacy**

2. Only one (1) pharmacy shall be allowed.
3. The pharmacy shall be located in Suite A-101 as identified on the Site Plan and the Floor Plan (Exhibit A and Exhibit C, respectively). The pharmacy floor plan and usable square footage shall be substantially compliant with the narrative and Exhibit C.
4. Tenant signage shall be permitted on Building A at the entrance to the pharmacy, but such sign shall be no larger than the signs for other tenants of the building or for similar buildings at the Lincoln Plaza Medical Center.
5. The pharmacy shall not sell, dispense, lease or market any non-medically related paraphernalia, products and sundries.
6. The pharmacy's days and hours of operation shall be limited to Monday through Saturday, 8:00 am to 6:00 pm.
7. All activity related to the pharmacy shall be conducted in compliance with State and Federal rules and regulations; and other implementing state statutes and administrative regulations.
8. The pharmacy security measures shall be substantially compliant with the Floor Plan and the narrative.
9. An apothecary may be located in Suite A-101. The apothecary must comply with all State and Federal rules and regulations, and all SUP pharmacy stipulations.

#### **Urgent Care Center**

10. The urgent care center shall be located in Suite A-103 as identified on the Site Plan and the Floor Plan (Exhibit A and Exhibit D, respectively). The urgent care center floor plan and usable square footage shall be substantially compliant with the narrative and Exhibit D.
11. The urgent care center shall not have any out-patient surgical facilities, ambulatory services or sell any prescription drugs.
12. The urgent care center's days and hours of operation shall be limited to Monday through Saturday, 8:00 am to 7:00 pm.
13. The east and west monument sign copies shall be substantially compliant with the sign elevation plans and the narrative.
14. Tenant signage shall be permitted on Building A at the entrance to the urgent care center, but such sign shall be no larger than the signs for other tenants of the building or for similar buildings at the Lincoln Plaza Medical Center.
15. Directional signs for the urgent care center shall not be substantially visible from off site, must comply with the Special Use Permit Guidelines and shall be limited to a maximum/total number of three (3) signs.

**Vote:** The motion passed by a vote of 7 – 0.

**Adoption of Resolution Number 1242 Declaring as a Public Record the 2011 Tax Code Amendments and Ordinance Number 637 Amending the Town Tax Code**

Town Clerk Duncan Miller stated the Town of Paradise Valley formally adopted the Model City Tax Code (MCTC) in 1987. The MCTC's goal is to provide a greater degree of uniformity among cities and towns while at the same time preserving local options for determining exemptions and setting tax rates. Periodically, the Arizona Department of Revenue and the Unified Audit Committee meet to review changes in state law as well as discuss other tax code issues. The results of those meetings are the MCTC amendments which all cities must adopt. The amendments are designed not only to reflect recent changes in state law but also to make tax code compliance more transparent for businesses.

The Model City Tax Code Commission approved the certain changes to the MCTC in April and recommends approval by each MCTC jurisdiction.

He noted that, in addition to the MCTC recommended changes, it was also recommended that the Council adopt new Section 4A-446 – Additional tax on non-residential rental business activity. This amendment would add an additional 0.85% on non-residential rental activity to make the total tax rate 2.5%, which is equal to the Town's general sales tax rate.

In May 2011, when the Town Council adopted Ordinance 627 increasing the sales and use tax rate to 2.5%, residential and non-residential rental taxes were not included in the ordinance. The state legislature had recently passed a law preempting cities and towns from increasing residential rental taxes without voter approval. It was prudent at the time to proceed with consideration of Ordinance 627 without amending rental taxes until the impact of the state law could be fully researched. The Town has since confirmed that the law applies to residential rental in Paradise Valley, but that an alternative exists to make the rate for non-residential rental (Section 4a-445) consistent with the Town's general sales tax rate. Other cities, including Phoenix and Fountain Hills, have previously adopted Section 446 of the Model City Tax Code which allows for the assessment of a tax in addition to that imposed by Section 4a-445.

This tax primarily impacts the resort community. When resort general managers were contacted for feedback, they expressed a preference for setting the rental tax rate at the same rate as the general sales tax. It is believed that tax rate consistency will make reporting less cumbersome.

The Town submitted draft language for Section 4a-446 to the Unified Audit Committee for review. The Committee met on November 4, 2011 and approved the language. It is identical to what has been adopted in other cities. The only difference is that the ordinance adopting this amendment contains the same sunset provision as Ordinance 627. The rate will automatically be reduced to 0.0% effective July 31, 2014.

Mayor LeMarr opened the Public Hearing. There were no public comments.  
Mayor LeMarr closed the Public Hearing.

**Motion and Vote:** Vice Mayor Hamway moved to adopt Resolution Number 1242, declaring as a public record the 2011 Tax Code Amendments and Ordinance Number 637, amending the Tax Code. Councilmember Kirby seconded the motion which passed by a vote of 7 – 0.

## **ACTION ITEMS**

### **Approval of Planning Commission Chair**

Mr. Bacon stated that the Planning Commission selected Maria Syms to serve as chair of the Planning Commission on October 18, 2011. The Town Code requires the Council to approve the selection.

Council noted that this item was scheduled as an action item to discuss the process for appointing Planning Commissioners. Vice Mayor Hamway and Councilmember Kirby stated that they would meet to discuss changing the timing of appointments and reappointments. The current

timing conflicts with the summer holidays. This causes the Council to feel rushed in September and October.

Commissioner Tom Campbell spoke in support of Ms. Syms.

Commissioner Dolf Strom spoke in support of Ms. Syms.

Commissioner Syms stated that she was honored to receive the endorsement of her fellow commissioners.

Resident Jini Simpson spoke in favor of Ms. Syms.

Responding to a question from Council about the reappointment process, Ms. Syms stated that it is perfectly understandable for the Council to want to meet with current commissioners seeking reappointment. She said she would be happy to meet with Vice Mayor Hamway and Councilmember Kirby to provide feedback on the reappointment process if they thought it would be helpful.

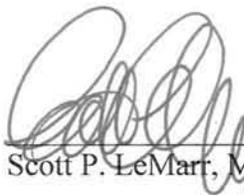
Ms. Syms was also asked for feedback on the current SUP process. She responded that there are opportunities to make the process more efficient.

**Motion and vote:** Vice Mayor Hamway moved to approve the selection of Maria Syms to serve a one-year term as Chair of the Planning Commission. Councilmember Parker seconded the motion which passed by a vote of 7- 0.

**ADJOURNMENT**

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

Mayor LeMarr adjourned the meeting at 8:06 p.m.



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Scott P. LeMarr, Mayor

ATTEST:



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Duncan Miller, Town Clerk