



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

**November 15, 2012**

**CALL TO ORDER**

Vice Mayor Collins 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 15, 2012 at 3:00 PM.

**COUNCIL MEMBERS PRESENT**

Mayor Scott P. LeMarr  
Vice Mayor Michael Collins  
Council Member Paul E. Dembow  
Council Member Pam Kirby  
Councilmember Dan Schweiker  
Council Member Lisa Trueblood

**STAFF MEMBERS PRESENT**

Town Manager James C. Bacon, Jr.  
Town Attorney Andrew M. Miller  
Town Clerk Duncan Miller  
Community Development Director Eva Cutro  
Public Works Director Jim Shano  
Finance Director Scott McCarty  
Senior Planner Molly Hood  
Project Coordinator Jeremy Knapp  
Police Chief John Bennett

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**WORK SESSION**

**Discussion of Capital Budget Process**

Public Works Director James Shano presented a new and comprehensive approach to capital planning. There are two significant proposed changes. First, the projects will be evaluated and prioritized based on specific criteria, including critical objectives, cost impacts, community/citizen benefits, and distributional effects. The criteria will determine the projects included in the capital budget. The use of criteria is a well-established practice; although he said the criteria have been customized to the town's needs.

Secondly, Finance Director Scott McCarty discussed funding levels in terms of having the resources not only to build new projects but also have sufficient resources for repair and replacement of existing assets. As a result, he said the operating budget will need to generate additional capacity to meet both of these needs over the next several years. The estimated annual increase for repair and replacement and capital projects combined is about \$6 million.

He said the Town's current approach is to determine the amount of funding available for capital projects after departmental budgets have been finalized. Projects are then prioritized and scheduled based on the amount of revenue available. He recommended replacing that model with a needs-based approach in which the capital projects plan defines the funding requirements. In this approach the CIP competes for funding with departmental budgets.

Town Manager Jim Bacon provided the timeline for budget approval. He announced that the budget policy retreat would be held on December 13 and a work session would be held on January 24 to discuss priority rankings for the capital budget.

#### **Discussion of Cottonwoods Resort Major General Plan Amendment**

Senior Planner Molly Hood presented the Cottonwoods Resort Major General Plan Amendment. She stated that the Cottonwoods Resort is located within both the Town of Paradise Valley and the City of Scottsdale. The request is only pertinent to 27.5 acres within the Town. Of those 27.5 acres, 22.5 are currently developed with resort uses including 171 hotel units, four tennis courts, a pool, and poolside amenity buildings. The additional 5 acres is under the same resort ownership but currently has a single-family home located on it.

The 22.5 acres is designated as resort/country club in the General Plan and is zoned Special Use Permit – Resort. The remaining 5 acres is designated as low density residential in the General Plan and is zoned R-43, single family residential. The entire area is located in the East Lincoln South Development Area in the General Plan.

The proposed Major General Plan Amendment would change the land use designation of the 5-acre parcel from low density residential to resort/country club. In addition, the applicant has submitted a Major Special Use Permit Application for a three-phase redevelopment project of the entire property.

She said the citizen review meeting was held on October 3, 2012. Approximately 30 people attended. Property owners raised concerns regarding resort maintenance, access and circulation, building setbacks, and design quality.

She said the Planning Commission discussed the proposed General Plan Amendment at the October 16, 2012 work study session. The Planning Commission held a public hearing on the proposed amendment on November 13, 2012. The Commission voted 7 – 0 to forward the application to Council with a recommendation for approval.

**Discussion of Minor Zoning Code Amendments**

Town Attorney Andrew Miller summarized the four minor zoning code amendments scheduled for adoption later in the meeting. He stated that these ordinances were also discussed at the October 25, 2012 work session. During that meeting, the Council directed staff to eliminate language from draft Ordinance Number 659 inserted by the Planning Commission. Mr. Miller reported that the ordinance had been amended as requested. He said that the town received very little public comment on these ordinances.

Responding to a question from Council, Mr. Miller stated that the Council would review the code changes regarding walls and fences on December 6, 2012.

**Interview of Nominees for Appointment to the Town Council**

This item was not discussed.

**Motion and vote** –Councilmember Schweiker moved to go into executive session at 4:07. Councilmember Kirby seconded the motion which passed by a vote of 6 - 0.

**EXECUTIVE SESSION**

- a. Discussion appointment and interview of nominees (Stephen Benson, David Sherf, and Jonathan Wainwright) to fill the vacancy on the Town Council as authorized by A.R.S. §38-431.03.A.1.
- b. Discussion and consultation with legal counsel regarding pending or potential litigation regarding current development agreement with Potomac Hotel Limited Partnership and future development agreement with MTS Land LLC and MTS Golf LLC related to the Mountain Shadows Resort as authorized by A.R.S. §38-431.03.A.4; and legal advice related to bankruptcy and other legal matters connected with the Mountain Shadows Resort project as authorized by A.R.S. §38-431.03.A.3.
- c. Discussion and consultation with town representatives concerning the purchase, sale or lease of real property in the vicinity of the 7000 block of Highlands Drive, 4200 block of East Lamar Road, and 7000 block of Invergordon Road as authorized by A.R.S. §38-431.03.A.7.
- 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

**BREAK**

**RECONVENE FOR REGULAR BUSINESS MEETING**

**CALL TO ORDER**

Mayor LeMarr reconvened the meeting of the Town Council at 6:41 P.M.

**COUNCIL MEMBERS PRESENT**

Mayor Scott P. LeMarr  
Vice Mayor Michael Collins  
Council Member Paul E. Dembow  
Council Member Pam Kirby  
Councilmember Dan Schweiker  
Council Member Lisa Trueblood

**STAFF MEMBERS PRESENT**

Town Manager James C. Bacon, Jr.  
Town Attorney Andrew M. Miller  
Town Clerk Duncan Miller  
Community Development Director Eva Cutro  
Planner George Burton

**PLEDGE OF ALLEGIANCE**

Mayor LeMarr led the Pledge of Allegiance.

**PRESENTATIONS**

There were no presentations.

**CALL TO THE PUBLIC**

Resident Bob Derry inquired about the status of the Ritz Carlton property.

**CONSENT AGENDA**

- a. Minutes of Town Council Meeting October 25, 2012**
- b. Minutes of Town Council Special Meeting October 30, 2012**
- c. Minutes of Town Council Meeting November 1, 2012**
- d. Adoption of Resolution Number 1266 Canvass of Election for November 6, 2012  
Special Election**

**Recommendation:** Adopt Resolution Number 1266.

**Staff Contact:** Duncan Miller, Town Clerk, 480-348-3610

**e. Approval of a New Subdivision Sign for Judson Estates**

**Recommendation:** Approve one monument subdivision wall sign for Judson Estates in conformance with the plan in the action report.

**Staff Contact:** Eva Cutro, Community Development Director, 480-348-3522

**f. Award of Contract to iXP for Public Safety Technology Consulting Services**

**Recommendation:** Award a contract to iXP for public safety technology consulting services in an amount not to exceed \$91,500.

Mr. Bacon summarized the items on the consent agenda. Item d regarding the November 6, 2012 canvass of election was removed because final results were not available.

**Motion and vote:** Councilmember Schweiker moved to adopt the Consent Agenda as submitted with the exception of item d. Councilmember Dembow seconded the motion which passed by a vote of 6 – 0

**PUBLIC HEARINGS**

**Consideration of Ordinance Number 653; Mountain Shadows Resort Special Use Permit**

Mayor LeMarr stated that since the last meeting, the applicant decided not to amend the application to realign 56<sup>th</sup> Street. As a result, the Town could continue negotiations with the applicant on the SUP stipulations forwarded by the Planning Commission and on the development agreement.

Mayor LeMarr reopened the public hearing.

MSE resident James Steven stated it is difficult to visualize the massing on the property based on the new story poles. He suggested that the setback should be 25 feet back. He also felt that the homes on the ring road should be 10,000 square foot lots.

MSE HOA President Carroll Collier said he has not received any positive comments from the residents regarding the proposal.

MSE Becky Bennett stated that the Council should delay the vote on this project until after December because there are still too many unanswered questions. She also asked that the public have an opportunity to see the Development Agreement before it is voted on.

Mayor LeMarr responded that the Development Agreement has not been completed but the Council should have a copy to review by November 27. It will be posted on the website soon thereafter.

MSW resident Jay Stucky asked that the Mountain Shadows Resort Committee be give 30 – 60 minutes to present their concerns and suggestions to the Council.

**Motion and vote** – Vice Mayor Collins moved to continue the public hearing on Ordinance Number 653, a Special Use Permit request for the re-development of the Mountain Shadows Resort to December 6, 2012. Councilmember Kirby seconded the motion which passed by a vote of 6 – 0.

**Approval of the Fire and Emergency Medical Services Default License Agreement with Paradise Valley Fire Services Department and Approval of the Rate and Fees**

Mayor LeMarr stated that this action is a culmination of a process that started in April 2011 to solve a structural deficit. When the Council entered into an intergovernmental agreement with the City of Phoenix for fire and emergency services, the Town was collecting more revenue than at any time in history. The Council decided to replace the subscription fee service residents had historically paid to Rural Metro with revenue from the General Fund. It was assumed at the time that the Ritz Carlton Paradise Valley would be constructed and opened within three years and that the Mountain Shadows would be renovated and opened to cover the IGA expenses. Since the resorts opened and we entered a major recession, the Town had to pay IGA expenses from cash reserves. This created a structural deficit that would be closed by this fee.

Mr. Bacon stated that the Town conducted a citizen outreach program in advance of this meeting. This included three direct mailings, two neighborhood open houses, and a micro website.

He stated that unlike law enforcement services, there is no legal requirement for cities and towns to provide fire service. He said action on this item tonight is necessary to meet the timeline to have it effective by the first of the year.

Finance Director Scott McCarty described the key elements of this project. (Attachment 1) He said most of the cost of a fire/EMS program is related to readiness. The cost of service drivers

He said the annual Fire/EMS program service costs are approximately \$3 million. It included the costs for the City of Phoenix

Mayor LeMarr opened the public hearing.

Resident Robert Rasmussen spoke in opposition to the tiered structure. He favored assessing the fee based on square-footage.

Resident Dorothy Smith supported paying a fire service fee but opposed the tiered structure. She said larger homes may have greater emergency service needs similar to resorts.

Resident Ruth Erlick-Bull spoke in opposition to the tiered structure. She disagreed with the way in which resorts were assessed. She hoped that if the Ritz Carlton and Mountain Shadows were built that the fire service fee would be eliminated.

Resident Jeff Scoon asked how long the fee would be in place. He asked if the fee would be reduced or eliminated if the Ritz Carlton and Mountain Shadows resorts open.

Resident Liz Clendenin said it would be valuable to consider the town's founding principles. She was not opposed to paying a fee but spoke in opposition to the tiered structure.

Council asked why it was a tiered structure and not based on square footage. Mr. Bacon responded that it is based on the notion that the service is based on number of homes not on the size of the homes. Staff's first recommendation was to charge a flat fee of \$40 per house regardless of size. He said basing the fee on square footage would have created an administrative staffing burden.

Resident Rod Cullum asked when home builders would start paying. He suggested that the fee should be assessed at permitting. He also suggested that the Council consider adding another tier for properties with a Knox Box because it creates an additional burden for the fire department. Mr. Bacon agreed that the fee would be assessed at issuance of permit.

Resident Richard Brown thanked the Town and appreciated the presentation.

Resident Rodd Wolff asked if there would be an additional fee for ambulance transportation even though residents would be paying the fire service fee. He spoke in opposition to the tier structure.

Resident Lawrence Bull stated that the resorts are not paying enough.

Dale Marena stated he owns a vacant lot in Paradise Valley. He stated owners of vacant lots should not have to pay the fee.

Resident Beverly Rutt stated that this is a small town and the fee should not be a mandate. She suggested that the fee sunset after three years.

Resident Bob Darre spoke in opposition to the tiered fee structure.

Resident James Steven stated he appreciated the presentation and asked the Town to provide the presentation to the newspapers. He supported the notion of assessing a fee rather than levying a tax. He asked that the Council revisit the fee in future years for possible elimination. He supported the idea of an affordability program.

Mayor LeMarr closed the public hearing.

Councilmember Kirby discussed the need to balance the competing goals of remaining true to the Town's desire for limited government versus the need to continually make capital investments.

Councilmember Dembow stated that this proposal gives the Town the option to reduce the fee in the future.

Councilmember Trueblood stated she attended the open houses at the fire stations over the summer. She said there were many spirited debates about how to address the budget deficit regarding fire service. She said this proposal is transparent and funds would be put in a separate account. She described which services the fee would fund and not fund. She noted that the fee would not generate a surplus.

Responding to a question from the Council, Mr. Bacon stated that this action does not expressly state how long the fee will be in effect. He said it is structured with great flexibility so that the Council could revisit the fee at any time.

**Motion and vote** – Councilmember Trueblood moved to approve the Fire Services Default Provider License Agreement and Fee Schedule for such License Agreement with the following amendments: the fee schedule to be reviewed by July 1, 2014, that the fee be assessed at the time of permitting, and that staff would report back regarding an affordability program. Councilmember Kirby seconded the motion which passed by a vote of 6 – 0.

**Consideration of Ordinance Number 656; Amending Zoning Code Section 904 Inclusion of Common Lands**

Town Attorney Andrew Miller stated that Ordinance Number 656 moves golf courses from the list of private recreational facilities to those facilities that are capable of being used by the general public.

Mayor LeMarr opened the public hearing.

Rod Cullum inquired about when zoning for continuing care facilities would be discussed.

Mayor LeMarr closed the public hearing.

**Motion and vote** – Vice Mayor Collins moved to adopt Ordinance Number 656. Councilmember Schweiker seconded the motion which passed by a vote of 6 – 0.

**Consideration of Ordinance Number 657; Amending Zoning Code Section 1102.03  
Creating a Special Use Permit**

Mr. Miller stated that Ordinance Number 657 adds language to the SUP submittal requirements to clarify that the plans or studies that need to be submitted with each application for a new SUP or amendment to an existing SUP may vary based on the town's determination at the time of the pre-application process as to the extent of the application and the types of plans and studies necessary at that time.

Mayor LeMarr opened the public hearing. There were not public comments.

Mayor LeMarr closed the public hearing.

**Motion and vote** – Vice Mayor Collins moved to adopt Ordinance 657. Councilmember Trueblood seconded the motion which passed by a vote of 6 – 0.

**Consideration of Ordinance Number 658; Amending Zoning Code Section 1102.2(B); Uses Permitted**

Mr. Miller stated that Ordinance Number 658 adds kennels and veterinary clinics to the current listing of authorized uses in the medical office SUP category.

Mayor LeMarr opened the public hearing.

Resident Clay Coady spoke in favor of Ordinance Number 658.

Mayor LeMarr closed the public hearing.

**Motion and vote** – Vice Mayor Collins moved to adopt Ordinance Number 658. Councilmember Trueblood seconded the motion which passed by a vote of 6 – 0.

**Consideration of Ordinance Number 659; Amending Zoning Code Section 1102.08  
Application and Approval Process for Amendments to Special Use Permits**

Mr. Miller stated that Ordinance Number 659 creates an appeal process to the Town Council for a Planning Commission denial of a minor SUP amendment

Mayor LeMarr opened the public hearing. There were not public comments.

Mayor LeMarr closed the public hearing.

**Motion and vote** – Councilmember Schweiker moved to adopt Ordinance 659. Councilmember Kirby seconded the motion which passed by a vote of 6 – 0.

**ACTION ITEMS**

**Adoption of Resolution Number 1255 Declaring the 2012 I-Codes as a Public Record and Adoption of Ordinance Number 648, Updating Chapter 5 BUILDING CONSTRUCTION and Chapter 13 FIRE DEPARTMENT**

Fire Marshal and Building Safety Manager Robert Lee recommended that the Council recommended that the Town Council adopt Resolution #1255, declaring that certain documents filed with the Town Clerk and entitled: International Building Code 2012, International Residential Code 2012, International Mechanical Code 2012, International Plumbing Code 2012, International Property Maintenance Codes 2012, International Fuel Gas Code 2012, International Energy Conservation Code 2012, the National Electrical Code 2011, International Fire Code 2012, Articles 5-1 through 5-9 of Chapter 5 and Articles 13-1 through 13-3 of Chapter 13 of the Town Code as public records pursuant to A.R.S. §9-801 and adopt Ordinance #648, updating to the current editions by reference of the International Building Code 2012, International Residential Code 2012, International Mechanical code 2012, International Plumbing Code 2012, International Property Maintenance Code 2012, International Fuel Gas Code 2012, International Energy Conservation Code 2012, the National Electrical Code 2011 and International Fire Code 2012.

He said the transition from an older edition of the codes to the most current edition is a routine matter as the content changes are relatively minor. He said the updated codes would take effect on January 1, 2013 to be in line with many of our neighboring jurisdictions.

Responding to a question from Council, Mr. Lee stated that the codes are updated every three years.

**Motion and vote** – Vice Mayor Collins moved to adopt Resolution 1255 and Ordinance 648 and suspend the rule that ordinances must be heard in work session prior to adoption. Councilmember Trueblood seconded the motion which passed by a vote of 6 – 0.

**Consideration of Ordinance Number 701; Amending Article 13 Fire Protection Section 13-4-2(2); Alternatives**

Mr. Miller stated that this ordinance extends the implementation of the requirement for all owners of real property within the Town limits to obtain fire prevention and control service from the default provider from December 31, 2012 to February 15, 2013.

**Motion and vote** – Councilmember Trueblood moved adopt Ordinance Number 701 and suspend the rule that ordinances must be heard in work session prior to adoption. Councilmember Dembow seconded the motion which passed by a vote of 6 – 0.

**REQUESTS FOR FUTURE AGENDA ITEMS**

Mayor LeMarr made the following announcements:

- There would be an executive session on November 27 at 3:00 p.m. to discuss the Mountain Shadows Development Agreement
- The Budget Policy Retreat would be held on December 13 at 8:00 a.m. at the Hermosa Inn
- The discussion of mayor and council election cycles and terms of office would be moved from March 14 to February 28.
- On March 14 there would be a discussion of continuing care living facilities

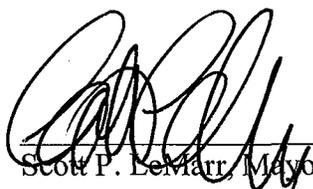
**MAYOR / COUNCIL / MANAGER REPORT**

There were no reports.

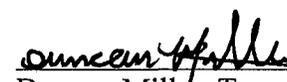
**ADJOURNMENT**

**Motion and vote** – Councilmember Schweiker moved to adjourn. Councilmember Kirby seconded the motion which passed by a vote of 6 - 0.

Mayor LeMarr adjourned the meeting at 8:47 p.m.

  
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Scott P. LeMarr, Mayor

ATTEST:

  
\_\_\_\_\_  
Duncan Miller, Town Clerk

11/20/2012

**KEY ELEMENTS**

1. Most of the Cost of a Fire/EMS program is related to **Readiness**
  - Cost of Service Drivers
    - 90%-95% Readiness vs. 5%-10% Calls for Service
    - Readiness = Staffing, Training, Equipment, Dispatch
    - Calls for Service = Fuel, EMS supplies

**KEY ELEMENTS (CONTINUED)**

2. The Demand for Fire/EMS is strongly related to the presence of **people** (Functional Population)
  - ~80% of Calls are EMS vs. ~20% for Fire / Other
  - Land Use: Occupied Space
    - ~90% Residential vs. ~10% Nonresidential

**KEY ELEMENTS (CONTINUED)**

3. Annual Fire/EMS Program Service Costs are ~\$3.0M.
  - Included Costs:
    - City of Phoenix IGA (staffing, equipment replacement and new equipment)
    - Administration/Billing/Collection
  - Excluded Annual Costs:
    - Construction of Stations: \$1M.
    - Maintenance of Stations: \$65,000

**RATE STRUCTURE OUTCOMES**

1. Yields \$3.0M to Cover FY 2014 Estimated Costs
2. Residential Rate Structure Reflects Existence
3. Nonresidential Rates
  - Correlation to Residential Rate
  - Acknowledges Different Land Uses

**RESIDENTIAL RATE PROPOSAL  
\$2.7M YIELD (~5,600 HOMES)**

	Tier 1	Tier 2	Tier 3
	3,000 SF or less	3,001-6,000 SF	More than 6,000 SF
Rate, Monthly/Annual	\$30/\$360	\$40/\$480	\$50/\$600
% of Homes	20%	60%	20%
# of Homes	1,143	3,361	1,143

**NONRESIDENTIAL PROPOSAL**

	Properties	Equivalent Homes	Annual Amount
Resorts			\$49,000
Churches	13	64	\$30,000
Private Schools		37	\$18,000
Public Schools/Government	5	38	\$14,000
Retail	4	26	\$9,000
Offices	6	36	\$13,000
Non-Profit			\$800
<b>TOTAL</b>	<b>41</b>	<b>635</b>	<b>\$230,000</b>

**SUMMARY: TOTAL REVENUES**

	Equivalent Units	%	Annual Amount	%
Residential	5,600	90%	\$2,700,000	90%
Nonresidential	635	10%	\$230,000	8%
Vacant Land (\$10 monthly per lot)	485		\$60,000	2%
<b>TOTAL</b>			<b>\$3.0M</b>	

**PUBLIC FEEDBACK**

- ~60 Inquires
  - 35 Phone Calls
  - 24 E-mails and Letters
  - Copies Provided to Town Council

11/20/2012

**PUBLIC FEEDBACK (CONTINUED)****Two Most Common Questions**

1. Why the tiered structure and not per square foot?
2. What would I have paid with Rural Metro?

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**RESPONSES TO FEEDBACK**

1. Why the tiered structure and not per square foot?
  - Service Costs are driven by number of structures and occupants, not size of structure
  - \$40 Tier Standard (60%), \$30 Tier for Smaller (20%), \$50 Tier for Larger Homes (20%)

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**RESPONSES TO FEEDBACK (CONTINUED)**

2. What would I have paid with Rural Metro?
  - A comparison is speculative and involves many assumptions
    - Higher Service Level with Phoenix
    - Likely Moved to a Tier Structure
      - 7 Tiers in Cave Creek
  - Increasing for CPI only, Rural revenue yield would be \$3.4M, 13% higher than proposal

**OTHER PUBLIC FEEDBACK**

- How has it been paid for the last 5 years?
- Did we consider a Property Tax?
  - Not Income Tax Deductible
- Do Not Charge for Vacant Office Space
- Do Not Charge for Vacant Homes
- Offer a Credit for Having a Fire Suppression System

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