



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

**SUMMARIZED MINUTES
SEPTEMBER 25, 2008**

CALL TO ORDER

Mayor Parker 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 25, 2008 at 4:06 PM.

COUNCIL MEMBERS PRESENT

Mayor Vernon B. Parker
Vice Mayor Ron Clarke
Council Member Brian Cooney
Council Member Mary Hamway
Council Member Pam Kirby
Council Member Scott LeMarr
Council Member Virginia "Jini" Simpson

STAFF MEMBERS PRESENT

Town Attorney Andrew Miller
Town Clerk Duncan Miller
Town Engineer William Mead
Management Services Director Lenore Lancaster
Street Superintendent Brent Skoglund
Planning & Building Director Eva Cutro
Chief of Police John J. Bennett
Public Safety Director John D. Wintersteen
Senior Planner Molly Hood
Planner George Burton
Human Resources Manager Jinnett Hancock

OTHERS PRESENT

Mayor Ed Lowry
Mayor Jack Brock
Mayor Kent Wick
Mayor Ed Winkler
Planning Commission Chair Dolf Strom
Ken Strobeck, Executive Director of the League of Arizona Cities and Towns

Discussion of Mayor Selection

Mayor Parker introduced Ken Strobeck, Executive Director of the League of Arizona Cities and Towns who facilitated the discussion.

Mr. Strobeck provided a history of direct election of mayors in Arizona. He said direct election of the mayor has become common place in most Arizona cities and towns. However, from statehood to 1984, direct election of the mayor was only available to cities who adopted the process as part of their charter. Direct election was most often used when the cities moved to a district system for electing councilmembers. The theory was that if councilmembers were elected by district it was important to elect a mayor to represent the entire city. That changed in 1984 when general law cities were granted the ability to directly elect the mayor, if approved by a vote of the people. He said that 70 of the 90 cities and towns in the state directly elect the mayor. In the remaining 20 municipalities the mayor is elected by the Council. He noted that no city has ever gone from direct election of the mayor to a council elected mayor.

He concluded that the process to transition from a council elected mayor to a mayor elected by the people is provided for in statute. Included therein are procedures for allowing the mayor to be elected when three council seats are open instead of four council seats. That way, towns can avoid the possibility of electing 5 new members on a 7 member council.

- One benefit of direct election is that it may make the voters feel that they have a direct impact on selecting the leadership of the town. However, councils who elect the mayor may have a better understanding of which member may have better leadership abilities. Another common question concerns directly elected mayor with no council experience. He noted that this year in 8 cities mayors were elected who had no prior council service.

Former Mayors then shared their thoughts about the mayoral selection process.

Mayor Ed Winkler supported the existing selection process for the following reasons. If the mayor is elected at-large campaigns will become more expensive and more politicized. Councilmembers are better able to select the person who best represents the Town. There is no greater compensation than the recognition of peers. The mayor has always been one of the seven. If mayor is directly elected, that person would no longer be considered an equal even though he or she would still only have one vote.

Mayor Winkler recommended retaining the council selection methodology but changing the process. He suggested that councilmembers who wish to be mayor should publicly announce their intention. The Town should hold a public forum where each candidate has an opportunity to state why he or she wants to be mayor and respond to questions from the Council and public. After which the Council would vote. This would eliminate the perception that the mayor is elected secretly.

Mayor Wick supported the current process. There was an informal agreement when he was mayor that whoever received the most votes in the council election became mayor. However that was before the staggered council terms.

Mayor Lowry stated that the switch to direct election of the mayor is inevitable in Paradise Valley. Not only has it become the trend across the state, but Paradise Valley is not the same quiet little town it once was. In the past decade the Town has worked hard at becoming a better neighbor and becoming more engaged in regional issues.

Also, the mayor selection process has become more divisive and there is a growing level of discomfort among residents.

He continued by saying state statute provides that the mayor is the chief executive officer of the town and is ultimately responsible for the town. It is appropriate that the people select that person. The mayor needs support from the consent of the governed. The argument could be made that a directly elected mayor would have more legitimate authority.

Mayor Brock supported the current process. Paradise Valley is unique in that it has a homogenous philosophy about zoning and town priorities. Unity on the council is enhanced by selecting a mayor from among themselves. He also stated that it is not beneficial for the Town when several talented and passionate people run for mayor. That means that one person will win and the other candidates will not have an opportunity to serve the Town. In a council election, all of those good candidates could win.

Mayor Clarke supported the current system but agreed that the procedure needs to change. The intention to run for mayor should be made public. There should be no behind the scenes negotiating. Residents do not know what the process is to elect mayor. He feared that someone not on the council could run and buy the election. He argued that many residents do not know the issues. It could be possible that someone would run for mayor only to improve his resume or use it as a stepping stone for a higher office. If residents know that any councilmember could become mayor they may be more mindful when voting for councilmembers. Finally, he said an outsider (non-councilmember) could disrupt the unity shown by past councils. He supported Mayor Winkler's recommendation.

Mayor Lowry questioned what happens if there is a public forum for mayor and the person selected by the council is not the same person a majority of the residents at the forum would have selected?

Mayor Clarke commented that if you had a mayor with an agenda different from the council there would be divisiveness.

Councilmember Simpson supported direct election of mayor. She rejected the notion that electing an “outsider” was bad. She noted that it would exclude people like Ed Lowry from becoming mayor.

Councilmember Kirby stated that the troubles with the last selection raised the awareness among residents about how mayors are elected. She stated that direct election would improve transparency.

Councilmember LeMarr supported the current system. He said he never felt like he has been disenfranchised. He was concerned about the change in dynamics on the council with a directly elected mayor. The mayor might feel his one vote carries a little more weight than the other councilmembers. He noted that the Candidates’ Nights are not well attended by voters. This might indicate that the town government has the support of the voters.

Councilmember Cooney stated that councilmembers selecting the mayor can be uncomfortable. He supported direct election and thought that residents could be trusted to elect the mayor.

Councilmember Hamway said her biggest complaint about the current system is that there is no opportunity for councilmembers who want to be mayor to discuss their vision or why they think they would make a good mayor. She said there is greater chance for transparency with direct election. She noted that even using Mayor Winkler’s recommendations there would still be backroom conversations and lobbying for votes.

Mayor Parker supported direct election of the mayor. He noted that the day after he was elected mayor, residents asked for information on how to put direct election of the mayor on the ballot. Directly electing the mayor would eliminate uncertainty and improve transparency and legitimacy.

Resident Dolf Strom supported the current system. He agreed with Mayor Brock that the Town might lose good people. He supported Mayor Winkler’s recommendation that candidates declare in a public meeting that they want to be mayor and why.

Resident Dorothy Smith supported the current system. She did not believe that the current system was not a problem prior to staggered terms.

Mayor Parker noted that there is no way for the council to remove a mayor. He said that the vice mayor serves at the pleasure of the council, but the same is not true for mayor. Town Attorney Miller responded that this was discussed by the council previously but it was decided at the time not to amend the code. He said the code could be amended to provide a process for the Council to remove the mayor.

There was Council discussion about election timing and a transition phase. There was no interest in holding a special election, but rather to wait until the next regular election in 2010. It was

noted that if the Council does vote to put direct election of the mayor in the 2010 ballot it would not take effect until the 2012 election.

The Council expressed interest in discussing this topic again. There was direction to prepare a report on the deadlines for holding an election in 2010.

Motion and vote - Councilmember LeMarr moved to go into executive session at 5:48 P.M. Councilmember Simpson seconded the motion which passed by a vote of 7-0.

EXECUTIVE SESSION

- a. Discussion and consultation with Town Attorney regarding the application by **Arizona-American Water Company to the Arizona Corporation Commission for approval of a rate increase for the Paradise Valley Water District**, DOCKET NO. W-O1303A-08-0227, as authorized by A.R.S. §38-431.03.A.3 and A.R.S. §38-431.03.A.4.
- b. Discussion and consultation with the Town Attorney regarding **Stone v. City of Phoenix CV2007-003661** 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.
- c. Discussion and consultation with the Town Attorney regarding **James G. Tavernetti v. Redflex Traffic Systems, Inc and Town of Paradise Valley CV2008-053305** as authorized by A.R.S. §38-431.03.A.4.

CALL TO ORDER

Mayor Parker reconvened the meeting of the Town Council at 7:05 P.M.

COUNCIL MEMBERS PRESENT

Mayor Vernon B. Parker
Vice Mayor Ron Clarke
Council Member Brian Cooney
Council Member Mary Hamway
Council Member ~~Eleet~~ Pam Kirby
Council Member Scott LeMarr

Council Member Virginia "Jini" Simpson not present

STAFF MEMBERS PRESENT

Town Attorney Andrew Miller
Town Clerk Duncan Miller
Town Engineer William Mead
Police of Chief John J. Bennett
Street Superintendent Brent Skoglund
Management Services Director Lenore Lancaster
Planning & Building Director Eva Cutro
Public Safety Director John D. Wintersteen

PLEDGE OF ALLEGIANCE

Arthur Club members Nick Giancola, Maddie Giancola, and Ian Parker led the Pledge of Alliance.

PRESENTATIONS

There were no presentations

CALL TO THE PUBLIC

Resident Dr. Sean Perini stated that mechanical equipment at the Montelucia Resort exceeds the Town's nighttime noise limits set by Town Code. Dr. Perini presented a plot map showing the results of ambient noise readings from the neighborhood and noise readings at Montelucia's property line.

His findings showed that ambient noise in the neighborhood was less than 40 decibels. He contended that under the Code (10-7-3(2)) the measured ambient noise level shall be the

allowable level between 10:00 p.m. and 7:00 a.m. He requested that the Town's existing noise ordinances be enforced.

Resident Dennis Wurst asked for a greater police presence on Lincoln Drive. He stated that his neighbor was burglarized recently and would like more patrols in his neighborhood.

Resident Jon Wiggins read a letter from Nancy Lacy regarding noise from the Montelucia Resort. She commented that during the review and approval process she was lead to believe that noise was a concern to the resort and steps would be taken to mitigate noise from delivery trucks and mechanical equipment.

Mr. Jon Wiggins distributed pictures of La Posada and Montelucia resorts comparing the locations of the HVAC units and mature landscaping. The pictures showed that La Posada's lodge building was buffered from surrounding neighbors by casitas and mature landscaping. The Montelucia Resort main building is much closer to the property line with no mature landscape buffer. He also showed renderings of the approved plans showing a pitched tile roof which is different from what was constructed. Finally, he shared that an appraisal of his property which suggests that the visual impact of the Resort could reduce the value of his home by 10 to 20 percent.

Resident Bill Trefethen said he supported the Montelucia project as it was originally presented based on the visual appearance of the resort. He was disappointed with the structural changes approved by the Town, particularly the changes to the roof and the lack of mechanical equipment screening. He requested that the Town withhold the certificate of occupancy until the noise violations are mitigated.

Mayor Parker stated that the Council will hold a Special Meeting next week to review and discuss this issue.

MAYOR / COUNCIL / MANAGER REPORT

There were no reports.

CONSENT AGENDA

- a. Minutes of Town Council Meeting August 4, 2008**
- b. Minutes of Town Council Meeting September 11, 2008**
- c. Report on Investments**
Recommendation: Receive and file the report.
- d. Approval of Special Event Liquor License for Unitarian Universalist Congregation of Phoenix**

Recommendation: Approve the Special Event Liquor License application for the Unitarian Universalist Congregation of Phoenix, subject to the stipulations in the action report.

e. Authorization to Apply for Congestion Mitigation and Air Quality Funding for the Purchase of a PM-10 Certified Street Sweeper

Recommendation: Authorize an application to the Maricopa Association of Governments (MAG) for grant funding to purchase a Particulate Matter-10 (PM-10) certified street sweeper with a 20% cash match.

f. Authorization to Purchase a PM-10 Certified Street Sweeper

Recommendation: Authorize the purchase of a Particulate Matter-10 (PM-10) certified street sweeper in an amount not to exceed \$218,000.

Acting Town Manager Eva Cutro summarized the consent agenda.

Vice Mayor Clarke asked that item 11c be removed.

Motion and vote – Vice Mayor Clarke moved to approve the Consent Agenda with the exception of 11c. Councilmember LeMarr seconded the motion which passed by a vote of 6-0.

g. Report on Investments

Recommendation: Receive and file the report.

Vice Mayor Clarke asked if the Town holds any non-secured bonds from Lehman Brothers. Management Services Director Lancaster responded that the Town does not hold any non-secured bonds in its portfolio, but the Local Government Investment Pool did hold approximately \$40 million in bonds from Lehman. The impact on the Town is approximately \$35,000. The State Treasurer believes that 60% will be recovered. The Town's exposure would be about \$12,000.

Motion and vote – Vice Mayor Clarke moved to approve to approve item 11c. Councilmember LeMarr seconded the motion which passed by a vote of 6-0.

PUBLIC HEARINGS

Consideration of Adoption of Ordinance Number 605, Amending the Zoning Ordinance to Provide for a Conditional Use Permit ("CUP") for New Municipally-Owned Water Booster Facilities

Mr. Miller stated that Ordinance Number 605 adds a requirement to Article 11 of the Zoning Code for municipally-owned water supply systems to obtain a conditional use permit (CUP) for

those facilities that contain mechanical and electrical equipment, surge tanks, valves, etc. These facilities may be on private property or on Town right-of-way.

He said the ordinance requires that the equipment in the facility must be secured and enclosed by a wall between 8 feet and 11 feet in height, finished with stucco, brick, stone, solid metal, wood, or wrought iron with wood slats. The dual goal is to keep the water system safe from vandalism and tampering and to have enclosure materials that blend aesthetically with the surrounding neighborhood.

He stated that the ordinance requires that the equipment inside the enclosure not exceed 11 feet in height except for telemetry equipment and exhaust venting. The objective is to have as much of the equipment within the enclosure screened from view and to limit heights so as to enhance neighborhood aesthetics. The ordinance also provides for flexibility in working with each municipality on other enhancements such as landscaping in adjoining right-of-way.

Responding for a question for the Council, Mr. Miller confirmed that the ordinance does not invalidate or supersede separate agreements negotiated between the utility and a property owner.

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

Motion and vote – Councilmember Hamway moved to adopt Ordinance Number 605. Councilmember LeMarr seconded the motion, which passed by a vote of 6-0.

ACTION ITEMS

Adoption of Resolution Number 1165; Abandonment of Excess Right-of-Way Located Adjacent to 6667 E. Stallion Road

Mr. Miller stated that John and Elizabeth Lennon have requested that the Town abandon an approximately 33-foot wide by 325-foot long strip of unimproved right-of-way located east of their property at 6667 E. Stallion Road. The property is in the 67th Street alignment, but has remained unimproved since annexation of this neighborhood in 1961. He said the General Plan Circulation Map shows no future connection of the 67th Street to any nearby roadways. The Town Engineer confirmed that Town has no plans to improve the roadway, however, the Town will request an easement for a “hammerhead” area of approximately 90 feet by 57 feet to allow solid waste, deliver, and other vehicles an adequate and safe turnaround area at the terminus of the 67th Street.

The Lennons have agreed to grant the Town an easement for the hammerhead and agreed to pay \$50,000 for the abandonment.

Responding to a question from the Council, Mr. Miller confirmed that the hammerhead was reviewed by the Fire Marshal. He also stated that the \$50,000 cashiers check has already been received. The funds will be put in escrow while the title insurance is processed. The Town will also process an administrative lot line adjustment.

Motion and vote – Vice Mayor Clarke moved to adopt Resolution Number 1165. Councilmember LeMarr seconded the motion, which passed by a vote of 6-0.

ADJOURNMENT

Motion and vote – Councilmember Hamway moved to adjourn. Vice Mayor Clarke seconded the motion which passed unanimously.

Mayor Parker adjourned the meeting at 7:46 p.m.



Vernon B. Parker, Mayor

ATTEST:



Duncan Miller, Town Clerk