

**TOWN OF PARADISE VALLEY
MINUTES
TOWN COUNCIL MEETING
JULY 14, 2005
4:00 p.m.**

CALL TO ORDER

Mayor Clarke called the meeting of the Town Council of the Town of Paradise Valley, Arizona, to order at 4:00 p.m. on Thursday, July 14, 2005, in the Town Hall, 6401 East Lincoln Drive, Paradise Valley, Arizona, 85253.

COUNCIL MEMBERS PRESENT

Mayor Ron Clarke
Vice Mayor Ed Winkler
Council Member Rick Coffman
Council Member Scott LeMarr
Council Member Dan Schweiker (arrived 4:10 p.m.)
Council Member Virginia "Jini" Simpson (arrived 4:10 P.M.)

Council Member Mary Hamway was not present

STAFF MEMBERS PRESENT

Town Manager Thomas M. Martinsen
Town Attorney Andrew Miller
Management Services Director Lenore Lancaster
Public Works Director Andrew Cooper
Planning Director Eva Cutro
Assistant Police Chief Larry Scott
Senior Planner Paul Michaud
Management Analyst Duncan Miller
Capital Projects Manager Bob Ciccarelli
Fire Marshal Chuck Fitzgerald

DISCUSSION ITEMS

Discussion of Zoning Code Special Use Permit Amendment, Official Zoning Map, and General Zoning Code Amendments

Ms. Cutro said the Citizen Review meeting was held May 17 and Planning Commission recommended approval on June 7, 2005. She introduced Mike House and Peter Atonna.

Mr. House said there was general agreement that the special use permit should be retained, but the Code language should be clarified. A set of standards should be built into the Code to ensure that non-residential use will not adversely impact the residential use. The special use permit will remain the primary tool to regulate non-residential use in the town. We want to make sure it is clear that this is legislative and not administrative. The standards for reviewing special use permits have been revised. Currently administrative and legislative standards are intermingled. The administrative standards would be eliminated. There is a process for repealing a special use permit as well. The current draft provides that an SUP is subject to the terms previously adopted but if there is a major amendment the Council could attach stipulations that address existing problems. There are also provisions for some very minor amendments that could be handled by Staff. There are also some new development standards that the Planning Commission felt should be included. It also creates an administrative conditional use permit that could be granted by the Planning Commission. The ordinance also includes a temporary use permit to review construction activities. It would be issued by the Town Manager or his designee.

Mr. Atonna highlighted some of things added to the text of the ordinance. He discussed the concept of standards versus guidelines. Some of the current special use permit uses were eliminated, such as public parks. He discussed the conditional use permit which is more administrative and the Planning Commission determines whether the standards for a conditional use permit have been met. The Planning Commission decision could be appealed to the Council. The construction related activities done through the temporary use permit have been expanded.

Ms. Cutro said they would have another work session in September and get into more details. Then there would be a public hearing.

Mr. Michaud stated the existing zoning map does not accurately reflect the existing uses. He reviewed the special circumstances including the Mountain Shadows Resort, the Hague property, the Applewood Pet Resort, the public schools and the properties owned by the Mummy Mountain Preserve Trust. He reviewed the organization changes to the Code.

Discussion of Lincoln Drive Sidewalk Project Right of Way Acquisition

Mr. Martinsen said we will proceed with the right of way acquisition as soon as the Town receives the environmental clearance.

Mr. Ciccarelli said we have to follow Federal guidelines. Jack Aquino has met with property owners.

David Gue of Willdan reviewed the required easements and the type of easement: sidewalk easement, slope easement and temporary construction easement. The plans are currently at 30% plans. They can't really go further because of the categorical exclusion (environmental clearance, utility clearance, and right-of-way clearance) which should be completed in August.

Discussion of Wireless Facility Siting Proposal at Town Hall Complex

Mr. Michaud said there are twenty-nine sites for possible wireless facility sites. Currently there are three sites that are being utilized. T-Mobile would like to use the Town Hall site, primarily the Public Works garage. The Code requires a minimum 200 foot distance to the nearest home, and this is about 275 feet to 300 feet to the nearest home. They would raise the existing parapet by 6 feet. The area is large enough for co-location. He reviewed the T-Mobile coverage map. He introduced Jeff Peterson with T-Mobile.

Mr. Peterson, T-Mobile, said the proposal was \$800 per month rent. The concern with the Police Department building is the existing police antennas.

EXECUTIVE SESSION

Councilmember Schweiker moved to adjourn to executive session at 5:20 p.m.. Vice Mayor Winkler seconded the motion, which carried 6-0.

- a. Discussion and consultation with Town representatives concerning a **roadway abandonment in the vicinity of Catesby Road and Invergordon Road** as authorized by A.R.S. §38-431.03.A.7
- b. Discussion and consultation with Town representatives concerning a **roadway abandonment in the vicinity of N Yucca Road East and N Yucca Road** as authorized by A.R.S. §38-431.03.A.7
- c. Discussion and consultation with Town Attorney regarding the **Rural/Metro License Agreement** as authorized by A.R.S. §38-431.03.A.4.
- d. Discussion of **Director of Building & Zoning** as authorized by A.R.S. §38-431.03.A.1.
- e. Discussion of **Town Attorney performance review** as authorized by A.R.S. §38-431.03.A.1.
- f. Discussion and consultation with Town Attorney regarding **Valley Rain Construction Claim** as authorized by A.R.S. §38-431.03.A.4.
- g. Discussion and consultation with Town Attorney regarding **National Century Financial Enterprises** as authorized by A.R.S. §38-431.03.A.4.
- h. Discussion and consultation with Town Attorney regarding the **Rafael Font De Mora Claim** as authorized by A.R.S. §38-431.03.A.4.

CALL TO ORDER AND ROLL CALL

Mayor Clarke reconvened the Town Council of the Town of Paradise Valley, Arizona, at 7:02 p.m. on Thursday, July 14, 2005, in the Town Hall, 6401 East Lincoln Drive, Paradise Valley, Arizona, 85253.

COUNCIL MEMBERS PRESENT

Mayor Ron Clarke
Vice Mayor Ed Winkler
Council Member Rick Coffman
Council Member Scott LeMarr
Council Member Dan Schweiker
Council Member Virginia "Jini" Simpson

Council Member Mary Hamway was not present.

STAFF MEMBERS PRESENT

Town Manager Thomas M. Martinsen
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Assistant Chief Larry Scott
Capital Projects Administrator Robert Ciccarelli
Management Analyst Duncan Miller
Senior Planner Paul Michaud

PLEDGE OF ALLEGIANCE

Chief Scott led the Pledge of Allegiance.

PRESENTATIONS

There were no presentations.

CALL TO THE PUBLIC

There were no public comments

MAYOR / COUNCIL / MANAGER REPORT

There were no reports.

CONSENT AGENDA

- a. **Minutes of Town Council Meeting June 23, 2005**
- b. **Cancellation of Regular Town Council Meeting for July 28, 2005**
- c. **Approval of Extension of Agreement with Phoenix Silent Witness, Inc for Matching Reward for “Rock Burglars Reward” in the amount of \$10,000, transferred to the Phoenix Silent Witness in Fiscal Year 2003-04.**
- d. **Approval of Fiscal Year 2005-06 Human Services Funding Agreements**
 - **Central Arizona Shelter Services** **\$25,000**
 - **Scottsdale Prevention Institute** **\$21,000**
 - **Area Agency on Aging** **\$13,000**
 - **Beatitudes Center D.O.A.R.** **\$ 5,000**
 - **Northwest Block Watch Coalition** **\$ 500**
 - **Anti-Graffiti Hotline** **\$ 1,000**
 - **Constitution Commemoration Committee** **\$ 1,500**
 - **Valley Fever Center For Excellence** **\$ 1,250**
 - **Maricopa County Animal Control** **\$ 1,000**
- e. **Approval of Lease Purchase of Additional Permits’ Plus Licenses for a total cost of \$17,818 from Accela, Inc.**
- f. **Adoption of Resolution Number 1106 Amending the 2005 Master Fee Schedule Regarding Commercial Solicitation Permits**
- g. **Authorization to Defer the Street Resurfacing of Mountain View Road and the Street Reconstruction of 69th Place from Fiscal Year 2004-05 to Fiscal Year 2005-06**
- h. **Adoption of Resolution Number 1107 Authorizing Roadway Abandonment in the Vicinity of Catesby Road and Invergordon Road**
- i. **Arts Advisory Committee Annual Report and Reappointment of Gretchen Bevan and Louise McCall**
- j. **Approval of Mutual Aid Agreement with the City of Phoenix for Fire and Emergency Medical Services**
- k. **Approval of Amendment to the Rural/Metro License Agreement Authorizing CPI Rate Adjustments and automatic renewals of the current License Agreement**

l. Approval of Amendment to Town Attorney Contract

m. Authorization of Settlement Agreement Regarding Rafael Font De Mora Claim

Mr. Martinsen summarized the items on the Consent Agenda and asked that item h be withdrawn from the Consent Agenda. He recommended item l be addressed after the Council reconvenes the Executive Session.

Mr. Miller asked item m be removed.

Vice Mayor Winkler asked that item d be removed.

Vice Mayor Winkler made a motion to accept the Consent Agenda except for items d, h, l, and m. Mayor Clarke seconded the motion, which carried 6-0.

Vice Mayor Winkler stated that Ms. Lancaster, Councilmember Simpson and he reviewed the funding requests. They will be bringing forward an additional request to support the Arizona armed forces in Iraq.

Councilmember LeMarr made a motion to approve item d. Councilmember Schweiker seconded the motion, which carried 6-0.

Mayor Clarke said item h has been removed and Mr. Scognamillo asked to speak.

Mr. Scognamillo, 6401 E. Catesby Road, said he learned this morning that the property at 6337 E Catesby had been sold. He contacted the new owners, Lane Dixon who is a licensed real estate broker who specializes in lot sales, and his partner Robert Barrow and explained to them about the abandonment. They were aware of the abandonment and they gave him a letter supporting the abandonment. He said he was told at 6 p.m. that there were Council concerns that Mr. Dixon was not aware of the ramifications of the abandonment and he again contacted Mr. Dixon. Mr. Dixon indicated he was aware of the ramifications and that it changes the setbacks on his property and makes it more saleable. Mr. Michaud spoke with Mr. Dixon and explained his rights and that he has first option. He asked that this not be delayed.

Mr. Miller explained the statutes of vacating or selling the right-of-way. He said they could do a double escrow.

Mr. Michaud said he made it very clear to Mr. Dixon that he had first right to the land and Mr. Dixon made it clear that he had no problem with the property going to Mr. Scognamillo.

Mr. Miller stated this was pulled from the Consent Agenda and there has been no motion to continue the item. Council can approve item h.

Mayor Clarke made a motion to approve Resolution No. 1107 contingent on Mr. Dixon agreeing to what needs to appropriately be done in order to convey title. Councilmember Simpson seconded the motion, which carried 5-1 with Councilmember LeMarr voting no.

Councilmember Schweiker moved to continue item 1 until after the continuation of the executive session. Councilmember Simpson seconded the motion, which carried 6-0.

Mr. Miller stated item m directs the town attorney to draft a settlement agreement between the Town and Rafael Font de Mora and authorizes the town manager to sign the settlement agreement. He summarized the terms.

Vice Mayor Winkler asked that we request Mr. Font de Mora to agree to no further courts of any type be built. Mr. Miller said he doesn't know if Mr. Font de Mora will agree to that term.

Bob Speirs, 7450 E. Sage Drive, addressed the Council in opposition to this settlement. He suggested Mr. Font de Mora should agree not to build any more courts of any kind. He also requested that the attorney forward a copy of the draft of the settlement agreement to their attorney before the agreement is signed. He asked that there be a requirement for additional landscaping between the tennis courts and neighboring properties. And he said the neighbors will be very watchful to make sure the courts are not used for commercial use.

Councilmember LeMarr stated that while the Speirs can look at the agreement, they will not determine if the Town will sign the agreement. He agreed that the landscaping is good but the Town can't require it. He said it would be in Mr. Font de Mora's best interests to add the landscaping and we should encourage them to put in more landscaping.

Susan Speirs 7450 E. Sage Drive said they did not have any knowledge about a new settlement until today.

Mr. Miller said this was added to the agenda yesterday but they did not have the details of the settlement until today. He did contact the Speirs' attorney. The attorney was aware of the first three terms.

Council requested the requirement of oleanders along the south side of the courts be added as a term.

Mayor Clarke made a motion to authorize the town attorney to prepare and the town manager to execute a settlement agreement between the Town and Rafael Font de Mora regarding a claim filed by Mr. Font de Mora on February 3, 2005 with the four terms included in the Action Report, and which would include additional language for term 1 agreeing not to build any more courts of any kind whether tennis, or sport, or any other type of court, and adding a fifth term to plant an additional row of 15 gallon oleanders along the Sage Drive frontage from the east end of the fence to the west end of the fence on Sage Drive and authorize a payment in the amount of

\$25,000 instead of \$20,000 in term 2. The motion was seconded by Councilmember LeMarr and carried 6-0

PUBLIC HEARINGS

There were no public hearings.

ACTION ITEMS

Award of Contract for McDonald Drive Storm Drain Sidewalk and Soundwall Extensions

Mr. Ciccarelli summarized the project scope. There were five responsive bidders. The low bid is Combs Construction Company, Inc. The total bid was \$939,529.67 of which \$91,568 would be paid by the City of Phoenix. Heritage Hills Subdivision has paid \$30,000. Staff is asking for a 10% contingency. The total cost is \$1,033,484.64.

There was Council discussion of the need for a 10% contingency. Mr. Martinsen suggested a \$20,000 contingency.

Dennis Wurst, 6501 N. 40th Place, spoke to Council on the sidewalk project on Lincoln Drive.

Councilmember Simpson made a motion to award a contract to Combs Construction Company for construction of the McDonald Drive Storm Drain, Sidewalk, and Soundwall extensions in the amount of \$939,529.67 plus a \$20,000 contingency. Vice Mayor Winkler seconded the motion, which carried 6-0.

Award of Contract for Construction Administration of Invergordon Road Improvement Project

Mr. Martinsen said in June, Bill Mead explained to Council that construction administration is a technical service usually provided by the engineer for the project. He also compared the construction administration cost on this project at 8% and the percentage paid on other projects. This is a very favorable bid for these services.

Randall Beck, URS, said the fee is based on the 180 day construction period and the 30 day close-out. If there are time extensions, they would come back and ask the Council for additional funds. It includes all reimbursables. One of their roles is to monitor the contractor's schedule.

Vice Mayor Winkler made a motion to award a contract to URS Corporation for construction administration services for Invergordon Road Improvement Project in the amount of \$221,232. Mayor Clarke seconded the motion, which carried 6-0.

Approval of Property, Liability, and Excess Land Use Liability Insurance Coverage and Workers Compensation Insurance

Ms. Lancaster stated that the Town has been a member of the Arizona Municipal Risk Retention Pool since 1997. The increase in premium is very low, 1.7% before any dividends. The AMRRP is meeting tomorrow to discuss the dividend for this year. The Town's workers compensation costs have decreased due to a reduction in the e-mod for experience from 1.26 to 1.06.

Councilmember Coffman made a motion to approve the property, liability and excess land use liability insurance coverage in the amount of \$431,230 plus workers compensation coverage for approximately \$159,000 for fiscal year 2005-06. Councilmember Simpson seconded the motion, which carried 6-0.

Award of Contract to Architecture Plus, Ltd for Architectural Design Services for Town Hall Improvements

Councilmember LeMarr said this is a request for Architecture Plus to prepare plans and specifications for improvements to the Town Hall and asked that a member of Council interface with the Town Manager to manage the project.

Mayor Clarke asked Councilmember LeMarr to be the interface person with the Town Manager.

Councilmember Coffman made a motion to authorize a professional services agreement with Architecture Plus to prepare plans and specifications for improvements to Town Hall, for an estimated fee of \$28,100. Councilmember LeMarr seconded the motion, which carried 6-0.

Councilmember Schweiker made a motion to adjourn to executive session. Mayor Clarke seconded the motion, which carried 6-0.

Mayor Clarke recessed the meeting at 8:22 p.m.

The meeting reconvened at 9:05 p.m.

CONSENT AGENDA - Continued

I. Approval of Amendment to Town Attorney Contract

Vice Mayor Winkler made a motion to amend the Town Attorney's contract as of May 27, 2005 to reflect a 4% increase and provide for a severance package. Councilmember Schweiker seconded the motion, which carried 6-0.

ADJOURNMENT

Mayor Clarke adjourned the meeting at 9:07 p.m.



Ronald B. Clarke, Mayor

ATTEST:



Lenore P. Lancaster, Town Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the Town Council of Paradise Valley held on the 14th day July 2005. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 13th day of September, 2005.



Lenore P. Lancaster, Town Clerk



OFFICIAL SEAL
OFFICE OF TOWN CLERK
TOWN OF PARADISE VALLEY
LENORE LANCASTER, TOWN CLERK