



**TOWN COUNCIL MEETING  
6401 E. LINCOLN DRIVE  
PARADISE VALLEY, ARIZONA 85253  
SUMMARIZED MINUTES  
JULY 9, 2009**

**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, July 9, 2009 at 4:00 PM.

**COUNCIL MEMBERS PRESENT**

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

**ALSO PRESENT**

G. Bernard Barry

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**Motion and vote** – Councilmember Clarke moved to go into executive session at 4:02 p.m. Councilmember LeMarr seconded the motion which passed unanimously.

**EXECUTIVE SESSION**

- a. Discussion of matters relating to public officers/personnel as authorized by A.R.S. §38-431.03.A.1.
  - Discussion of appointing G. Bernard Barry to fill the vacancy on the Town Council

**WORK/STUDY SESSION**

**STAFF MEMBERS PRESENT**

Town Manager James C. Bacon, Jr.  
Town Attorney Andrew Miller  
Town Clerk Duncan Miller  
Town Engineer William C. Mead  
Planning & Building Director Eva Cutro  
Chief of Police John J. Bennett  
Management Services Director Lenore Lancaster  
Deputy Town Attorney Steven Zraick  
Planner George Burton  
Accounting Supervisor Karen Gregoire

Mayor Parker reconvened the Work Session at 4:28 p.m.

**Discussion of Proposed Sewer Rate Adjustment**

Ms. Gregoire reviewed the Council's policy on sewer rate adjustments. The policy includes:

1. The Town should, at a minimum, pass along to each Town customer the City of Scottsdale residential sewer rate, which is paid by the Town in a combined monthly bill.
2. The sewer rate should encourage water conservation.
3. The rate structure should be simple to bill. It should also be simple to understand and explain to customers.
4. The rate structure should recover actual direct and indirect costs
5. The rate structure should not deplete the capital reserve except for capital sewer line replacement.

She reported that the City of Scottsdale increased the residential charge to customers in the Town by 3% effective July 1, 2009. The current charge is \$59.63 per month plus \$.82 per 1,000 gallons over 15,000 gallons of water usage, with a maximum of \$200 per month. She said the recommendation is to increase the minimum monthly rate to \$62.02, or a 4% increase, and raise the tier charge to \$.85 per 1,000 gallons over 15,000 gallons of water usage. She also recommended increasing commercial rates 4%. If adopted, sewer fund revenues would exceed expenditures by an estimated \$1,115.

There was Council discussion about the sewer infrastructure improvement schedule and whether enough money is being saved in the capital reserve fund. Ms. Lancaster stated that sewer line reserves are based on an 80 year life. She said \$300,000 will be added to the capital reserves this year but there is approximately 1 million in the fund. Mr. Mead confirmed that the sewer lines are being inspected on a recurring basis. The Council requested that during next year's budget policy retreat the issue of an 80 year system life be discussed.

Responding to a question from Council about whether the Town is doing enough to encourage water conservation, Ms. Gregoire responded that the consumption rate over 15,000 gallons is being increased. She said the Town raised rates last year also but they were not raised enough to “break even”.

Responding to a question regarding the Scottsdale Sewer IGA, Mr. Miller stated that sewage capacity is still under the threshold that would require the Town to build capacity. He said previous discussions about partnering with Scottsdale to build a lift station have been put on hold.

### **Discussion of Underground Utility Conversion Projects**

Mr. Mead reviewed the history of underground utility projects in the Town. In 1994 the Town adopted a resolution pledging to place all overhead utility lines underground. Arizona Public Service agreed to pay 45% of the cost for trenching, installation of conduits, rewiring and removal of old wires and poles with the Town paying 55%, less the property owners contributions. Criteria were established to prioritize 36 underground districts within the APS service area largely based on residential participation rates. In order to qualify, a minimum of 50% of non-hillside property owners must participate and pay \$1,500. Seventy-five percent of hillside property owners must participate and pay \$4,500 each. Of the 36 APS districts, 30 have been completed.

To date 55.35 miles of overhead facilities in the APS service area have been undergrounded at a cost of approximately \$25,442,000. The Town also removed 69kV poles and wires along Lincoln Drive, Mockingbird Lane, Scottsdale Road and McDonald Drive at a total cost of approximately \$8,000,000.

Mr. Mead reported that there are two districts currently under construction and two being designed but funds have not been budgeted for construction. Staff recommended delaying construction until next fiscal year.

The final two districts have not met the minimum requirements to establish a district. Mr. Mead said the Town has four options:

1. Do nothing in which case the poles and wires would remain overhead;
2. Wait 2-3 years and reassess if there is adequate property owner participation;
3. The Town could pay for the resident’s contributions and proceed with the district;
4. With 51% property owner approval the Town could establish an improvement district similar to prior SRP districts.

Mr. Mead recommended option 2; reconsideration in 2-3 years prior to the expiration of the APS agreement in 2015. There was no interest in option 3. Council concurred with option 2. It was suggested that the Town contact the residents and tell them that the APS agreement expires in

2015. If the districts are not formed, Council directed that any money collected from Districts 21 and 30 should be returned.

### **Discussion of Special Use Permit Process Amendments**

Ms Cutro reviewed the Council's three broad goals in amending the special use permit process:

1. Reduce administrative discretion;
2. Expand the role of the Planning Commission
3. Present a Town Council Statement of Direction to shape and streamline Planning Commission discussion on Intermediate and Major Amendments
4. Prove a Town Council Statement of Public Benefit on all SUP approvals.

She said the proposed changes are recommended to solve recent concerns with the SUP process.

She said the Planning Commission's recommendation is to change the existing three categories of SUP requests (Administrative, Minor, and Major) to include an Intermediate category between the existing Minor and Major categories. The process for reviewing Intermediate and Major Special Use Permits will allow for a Town Council review prior to the Planning Commission review. The Town Council review will focus on the essential items of the proposal. The Town Council will issue a Statement of Direction prior to the Planning Commission review. This Statement of Direction will guide the applicant, staff, and Commission in their review of the project. Also, any property that has an outstanding notice of violation of any existing Special Use Permit stipulations or Town Zoning Codes may not apply for an administrative, minor, or intermediate amendment unless the amendment is necessary to cure the existing violation.

The proposed Administrative Criteria will be defined as any proposal which does not mean:

1. Change or add any uses
2. Increase the floor area of the project by more than 1000 square feet (Cannot exceed 2% increase, or 1000 square feet, over 5 year period)
3. Increase the number of units or structures with the exception of playground equipment shade structures
4. Have any adverse effect on the adjoining property owners that is visible, audible, or otherwise perceptible from adjacent properties with the exception of playground equipment shade structures
5. Change in any respect any stipulation(s) governing the original special use permit
6. Change the vehicular or emergency circulation or the required parking or loading space or traffic
7. Change the architectural style and/or character of the approved SUP (renderings/plans)
8. Any property that has an outstanding notice of violation of any existing Special Use Permit stipulations or Town Zoning Codes may not apply for an administrative amendment unless the amendment is necessary to cure the existing violation.

There was Council discussion about eliminating number 8. It was agreed that number 8 was not

necessary in administrative criteria. Mr. Miller cautioned that number 8 could lead to due process issues. Council felt it was inadvertently punitive, but would be open to some compromise language that would allow some leverage in minor and major amendments.

Mayor Parker departed the meeting at 5:30 p.m.

Mr. Bacon stressed that these proposed changes would slow the approval process and would open it up to greater public scrutiny. Council acknowledged that possibility.

There was discussion about changing or deleting the word “character” in number 7. The term “character” might be so broadly defined so as to prevent any improvements.

Ms. Cutro said the proposed Minor Criteria will be defined as any proposal which does not change or add any uses; increase the floor area ratio by more than 15% or 5,000 square feet over the existing square footage (Cannot exceed 15% or 5,000 square feet over 5 year period); have any significant adverse effect on the adjoining property owners that is visible or audible that can not be sufficiently mitigated; or change the character of the special use permit. Outstanding violations of the zoning code must be cured prior to submittal of application unless the proposed amendment is necessary to correct the violation.

Mr. Miller stated that there should be more discussion about administrative versus legislative approvals. Legislative approvals are subject to referendum and any changes would require a Proposition 207 waiver. Minor amendments are not referable because the Planning Commission is not a legislative body.

There was discussion about the fees for administrative and intermediate amendments. There was interest in having different fees for schools and churches similar to the major amendment fee schedule.

Ms. Cutro stated that the proposed Intermediate Amendment will be defined as any proposal which does not change or add any uses; increase the floor area of the project more than 40% over the existing square footage and cannot exceed 40% increase over 5 year period; and have any significant adverse effect on the adjoining property owners that is visible or audible that can not be sufficiently mitigated.

Mr. Miller stated that Intermediate Amendments would be considered legislative and referable.

She said after staff has deemed the application complete and prior to Planning Commission review, the Town Council will be presented with the proposal. The Town Council review will be limited to a maximum of 45 days. The review will be limited to uses, lot coverage, massing, perimeter setbacks, maximum heights, view corridors, circulation, and known issues. The purpose of the review is to guide staff, the applicant, and the Commission on the appropriateness of the application.

Council suggested that the 45 day time limit be defined as 45 days after it is presented to Council. It was also suggested that the first step be defined as a “Council conceptual review” then it goes to the Planning Commission for a 90 day review and recommendation. Lastly, it is sent back to Council for final review and approval.

Mr. Miller stated that he shared the proposed ordinance with several outside attorneys for review and feedback. They had many concerns about this change. They cautioned that a council conceptual review could cause detrimental reliance problems.

Ms. Cutro said the Statement of Public Benefit would be a new provision.

She said the Major Amendment would be used for all new special use permits and revisions that do not qualify as administrative, minor, or intermediate amendments. The review process is the same as intermediate but without time limits and the fees are different.

It was agreed that Staff would prepare an updated draft and bring it back for council review at a hearing in the fall.

Mr. Miller discussed two final concerns. A suggestion had been made at the Planning Commission level that the Code should allow more than two minor amendments a year. This would prevent SUP properties from delaying needed projects. The second issue suggested by the Planning Commission Chair was to allow the application to be sent back to the Council during the Planning Commission review for another statement of direction if something significant changes during the Commissions review. There was a concern that this could create a feedback loop. On the other hand, there was Council interest in providing as many safeguards as possible.

**Motion and vote** – Councilmember Clarke moved to go back into executive session. Councilmember Kirby seconded the motion which passed unanimously.

**EXECUTIVE SESSION CONTINUED**

- b.** Discussion and consultation with Town representatives regarding **roadway abandonment request in the vicinity of E. Redwing Road and 61<sup>st</sup> Street** as authorized by A.R.S. §38-431.03.A.7.
- c.** Discussion and consultation with the Town Attorney regarding pending or potential litigation as authorized by A.R.S. §38-431.03.A.4 related to **Martin J. Dugan v. Town of Paradise Valley, CV2007-051027.**
- d.** Discussion and consultation with the Town Attorney regarding pending or potential litigation and current and/or future development agreement with **Potomac Hotel Limited Partnership and/or MTS Land LLC 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.

**RECONVENE FOR REGULAR MEETING**

**CALL TO ORDER**

Mayor Parker reconvened the meeting of the Town Council at 7:00 P.M.

**COUNCIL MEMBERS PRESENT**

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

**STAFF MEMBERS PRESENT**

Town Manager James C. Bacon., Jr  
Town Attorney Andrew Miller  
Town Clerk Duncan Miller  
Town Engineer William Mead  
Police of Chief John J. Bennett  
Planning & Building Director Eva Cutro  
Public Works Director Andrew Cooper, Jr.  
Management Services Director Lenore Lancaster

**PLEDGE OF ALLEGIANCE**

Mayor Parker led the Pledge of Allegiance.

Mayor Parker asked unanimous consent to consider action item 13 at this time. There was no objection.

**ACTION ITEMS**

**Consideration of Appointment to Fill Town Council Vacancy**

**Motion and vote** – Councilmember Clarke moved to appoint G. Bernard Barry to fill the remainder of the unexpired term of former Councilmember Brian Cooney. Councilmember LeMarr seconded the motion which passed by a vote of 6-0.

Town Clerk Miller administered the Oath of Office to Councilmember Barry.

**PRESENTATIONS**

**Recognition of Paradise Valley Police Officers for Meritorious Service**

The Council recognized the following police officers, detectives, and police dispatchers for their meritorious achievements.

**March 3 Burglary Arrest**

Certificate of Merit - Assistant Chief Scott  
Certificate of Merit - Sergeant Michael Cole  
Certificate of Merit - Corporal Michael Kulak  
Certificate of Merit - Officer Nigel Williams  
Certificate of Merit - Detective Frank Hoekstra  
Certificate of Merit - Detective Jim Gibson  
Certificate of Merit - Detective John Wagner  
Certificate of Merit - Dispatcher Paul Thomforde

**March 25 Robbery Arrest**

Certificate of Merit - Officer Kevin Albert  
Certificate of Merit - Dispatcher Julie Mohr

**May 14, Burglary Arrest**

Certificate of Merit - Corporal Mike Kulak  
Certificate of Merit - Sergeant Mike Cole  
Certificate of Merit - Sergeant Bucky Boehm  
Certificate of Merit - Corporal Jay Jones  
Certificate of Merit - Officer Mark Garrity  
Certificate of Merit - Officer Sara Plotnik  
Certificate of Merit - Detective Sergeant Dennis Dodd  
Certificate of Merit - Detective Frank Hoekstra  
Certificate of Merit - Detective Jim Gibson

**Recognition of Retiring Municipal Court Services Manager Elsa Lynch**

Council recognized Elsa M. Lynch for her service to the Town on the occasion of her retirement effective July 15, 2009. The Mayor presented Judge Lynch with a proclamation, a gift from the Town, and a gift from the staff.

**Recognition of Joe and Evie Miller**

Council recognized Town residents Joe and Evie Miller, former owners of El Charro Lodge.

**Recognition of Council Member Brian Cooney**

Mr. Cooney was not present. The presentation was deferred to a future date.

**CALL TO THE PUBLIC**

Rodger Robinson spoke on behalf of the American Cancer Society Relay for Life. He thanked the Town for its help and support over the years.

**MAYOR / COUNCIL / MANAGER REPORT**

There were no reports.

**CONSENT AGENDA**

- a. Minutes of Town Council Special Meeting June 24, 2009**
- b. Minutes of Town Council Meeting June 25, 2009**
- c. Arts Committee Annual Report and Re-Appointments**  
*Recommendation:* Receive and file the Arts Advisory Committee annual report for Fiscal Year 2008-2009 and approve re-appointments to the Committee.
- d. Approval of Human Services Funding for FY 2009-2010**  
*Recommendation:* Authorize the Town Manager to distribute \$80,000 to the human service organizations specified in the Action Report.
- e. Approval of Resolution Number 1195 Adopting Mission, Vision, Value Statements for the Town of Paradise Valley and Establishing Strategic Initiatives**  
*Recommendation:* Approve Resolution Number 1195, adopting mission, vision, value statements and strategic initiatives for the Town of Paradise Valley.
- f. Approval of Ordinance 614 Amending Article 3-3 Other Offices of the Paradise Valley Town Code**  
*Recommendation:* Approve Ordinance Number 614, Amending Article 3-3 of the Town Code.
- g. Approval of Sign for Christ Church School**  
*Recommendation:* Approve one monument sign for Christ Church School at Christ Church of the Ascension as shown in the Action Report.

Mr. Bacon summarized the items on the Consent Agenda.

Item 11d was removed for separate discussion.

**Motion and vote** – Vice Mayor Simpson moved to adopt the Consent Agenda with the exception of item 11d. Councilmember Hamway seconded the motion. Consent agenda items 11a and 11b passed by a vote of 6-0, with Councilmember Barry abstaining. Consent agenda items 11c, 11e, 11f, and 11g passed by a vote of 7-0.

Councilmember LeMarr suggested that item 11d be tabled so that the Council could review all human services and civic organization funding in the Fall.

**Motion and vote** - Councilmember LeMarr moved to table the item 11d. Councilmember Clarke seconded the motion. 7-0.

**PUBLIC HEARING**

There were no public hearings.

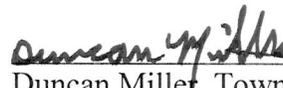
**ADJOURNMENT**

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

Mayor Parker adjourned the meeting at 7:45 p.m.

  
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Vernon B. Parker, Mayor

ATTEST:

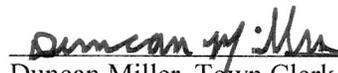
  
\_\_\_\_\_  
Duncan Miller, Town Clerk

**CERTIFICATION**

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the Paradise Valley Town Council held on then 9<sup>th</sup> day July 2009. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 10 day of September, 2009.



  
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Duncan Miller, Town Clerk