TOWN
Of
PARADISE VALLEY

TOWN COUNCIL MEETING
6401 E. LINCOLN DRIVE
PARADISE VALLEY, ARIZONA 85253
SUMMARIZED MINUTES
OCTOBER 22, 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, October 22, 2009 at 3:00 PM.

COUNCIL MEMBERS PRESENT

Mayor Vernon B. Parker
Vice Mayor Virginia "Jini" Simpson
Council Member Bernie Barry
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
Management Services Director Lenore Lancaster
Town Engineer William C. Mead
Planning & Building Director Eva Cutro
Public Works Director Andrew Cooper, Jr.
Deputy Town Attorney Steven Zraick
Information Technology Manager Carl Hollish

Discussion of Fire Service

Mr. Bacon stated that the Council received a briefing on the history of the Fire Service IGA last Spring, but tonight's presentation would focus on the financial implications of the agreement. He said the current agreement continues to financially out-perform expectations of what it would cost to operate a Town fire department. However, the fire IGA operational costs are increasing at an annual rate above those for other Town services. In addition, the portion of the agreement reflected in debt service for the two new fire stations does not have financing from recurring revenue, but rather from fund balance. Over time it was expected that the Town would have the recurring revenue to finance the agreement, the debt service, and the Town's expenses. However, with the recession and the absence of revenue from Mountain Shadows and the Ritz Carlton, funding has been drawn from the fund balance.

Ms. Lancaster briefed the Council on a 5-year forecast assuming a 5% increase per year and a 5-year forecast assuming a 7% increase per year for services pursuant to the Phoenix Fire Services IGA. She noted that the Town does not control labor costs. She also provided a forecast of other miscellaneous expenses including utilities and fire station maintenance based on 5% annual increases.

She reported that the vehicles will be paid in full at the end of the FY 2010. There was Council discussion about the responsibility for replacement of fire trucks under the IGA. It was understood that vehicle replacement would alternate between the Town and Phoenix but the wording of the IGA seems to suggest otherwise. The Town Attorney was asked to review the IGA and opine on the Town's responsibility. The Town should be prepared with a list of IGA provisions to clarify when the agreement is due to be renewed.

Ms. Lancaster reported that furniture and equipment for fire stations will be paid by end of FY 2012. The 10 year bonds will be paid January 1, 2019. She reported that there will be costs associated with the radio system but they are not known at this time and not included in projections.

She summarized that operating expenses will be paid from General Fund revenues but the MPC bonds must be paid from the fund balance. She said it is important to find a new revenue source to pay for it in the future.

Mr. Bacon stressed that when the capital debt is retired in 2019, operational costs are projected to be higher than the first year operational costs and debt service payments combined. He said the next step is to discuss long term financing options as part of the budget process.

Review of Town Alarm Service

Mr. Bacon reported that the Town's Alarm Monitoring Service was moved from the Police Department to the Management Services Department effective July 1. The position reports to the Information Technology Manager. Mr. Bacon said the purpose of this briefing is to provide a comprehensive review of a Town service that staff thinks should be continued, and provide recommendations for Council consideration.

Mr. Hollish reviewed the current service. He said it was implemented in 1983 in response to resident interest. The Town offers direct monitoring of alarms and directly dispatches police officers. There are two levels of service: primary service over a telephone line at $25 per month; and backup service using radio/digital transmission at $38 per month. Currently there are 601 subscribers.

He said after covering monitoring expenses, net subscriber revenues are transferred to the Debt Service fund. For FY 2008-09, the net revenue transferred totaled $87,124.

Mr. Hollish then explained several service recommendations.

The first recommendation was to continue offering the Town Alarm Monitoring (TAM) service. Over the years the question of whether to terminate the service has been considered. Feedback from residents and subscribers continues to be positive. Customers value to the reliable service which enjoys faster officer response times than those available from commercial monitoring companies.

The second recommendation was to increase subscription rates to reflect market and adopt a tiered pricing model. He suggested splitting the primary and backup rates according to the number of zones monitored. Primary rate customers with less than 24 zones would be charged $35 and Primary rate customers with greater than 24 zones would be charged $40. Additionally, customers with Primary plus backup would pay $45, and customers with Primary plus radio backup would pay $50 per month. Furthermore, he recommended increasing the alarm business permit from $25 to $30 and instituting an alarm user permit at $20.

The third recommendation was to revise the false alarm fines. The Town would assess a $100 fine after the third false alarm within a one-year period.

The fourth recommendation was to develop a marketing strategy to increase subscriptions. He suggested that the Town could offer a referral and incentive program. There was Council discussion about the diminishing returns of increasing participation in the service. The Mr. Bacon stated that he was confident that a larger customer base would not strain police dispatcher or officer resources. However, it would increase the workload for the Alarm Monitoring Technician.

Mr. Hollish concluded that if the Council approved the recommendations, the estimated annual revenue impact would be $145,245. The revenue estimate assumes static subscription penetration.

Council asked for more information regarding program expenditures. Council also suggested that the Town develop a detailed a booklet explaining the services and fees.

Motion and vote – Council Member Clarke moved to go into Executive Session at 4:23 P.M. Kirby seconded the motion with passed by a vote of 7-0.

EXECUTIVE SESSION

a. Discussion and consultation with the Town Attorney regarding pending or potential litigation and current development agreement with **Potomac Hotel Limited Partnership and/or MTS Land LLC related to Mountain Shadows and potential future development agreement with HB Equities** as authorized by A.R.S. §38-431.03.A.4 and legal advice **regarding redevelopment zone laws** as authorized by A.R.S. §38-431.03.A.3.

b. Discussion and consultation with Town Attorney **regarding pending or potential litigation and/or potential contract negotiations with NewPath Networks, LLC** as authorized by A.R.S. §38-431.03.A.4 and legal advice **regarding the Tele-communications Act** 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 5:35 P.M.

COUNCIL MEMBERS PRESENT

Mayor Vernon B. Parker
Vice Mayor Virginia "Jini" Simpson
Council Member Bernie Barry
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 Chief John Bennett
Planning & Building Director Eva Cutro
Public Works Director Andrew Cooper, Jr.
Management Services Director Lenore Lancaster
Accounting Supervisor Karen Gregoire

PLEDGE OF ALLEGIANCE

Mayor Parker led the Pledge of Allegiance.

PRESENTATIONS

Recognition of Jana Peterson

The Mayor recognized local artist Jana Peterson to show appreciation for exhibiting her works of art in the Town Hall building from October 2008 through September 2009. She was presented with a Soleri bell. Ms. Peterson also donated to the Town a painted of the American Flag.

CALL TO THE PUBLIC

Resident Jim Diana asked for the Council's help with a sewer odor problem. He said Mr. Mead has tried to fix the situation but it gets worse with every new home built in the subdivision. He said he is on the Scottsdale sewer system. The matter was referred to the Town Manager for follow up and action.

MAYOR / COUNCIL / MANAGER REPORT

Council Member Clarke announced that the annual vintage car show benefitting the Arizona Military Family Relief Fund will be held on Saturday, November 14.

CONSENT AGENDA

a. **Minutes of Town Council Meeting October 8, 2009**

b. **Approval of Special Event Liquor License for Phoenix Children's Hospital Foundation**
Recommendation: Approve the Special Event Liquor License for the Phoenix Children's Hospital subject to the stipulations in the action report.

c. **Consideration of Approval of a Special Event Liquor License for Christ Church of the Ascension**
Recommendation: Consider the Special Event Liquor License for Christ Church of the Ascension subject to the stipulations in the action report.

d. **Adoption of an Identity Protection Policy**
Recommendation: Adopt the Identity Protection Policy attached to the Action Report in compliance with the Federal Trade Commission's Red Flags Ruling.

Mr. Bacon summarized the items on the Consent Agenda.

Motion and vote – Vice Mayor Simpson moved to approve the Consent Agenda as submitted. Council Member Hamway seconded the motion which passed by a vote of 7 – 0.

PUBLIC HEARINGS

Consideration of Adoption of Resolution Number 1199 Amending the Fee Schedule Regarding Sewer User Fees

Ms. Gregoire reviewed the sewer rate policy.

- Each customer should pay, at a minimum, the charge paid by the Town to City of Scottsdale
- Rate should encourage conservation
- Rate should be simple to bill, understand and explain to customers
- Rate structure should be based on actual direct and indirect costs
- Rate structure should not deplete capital reserve except for capital sewer line replacement

She said the Town implemented the current rates on December 1, 2008. Since then the City of Scottsdale raised what it charges the Town by 3% as of July 1, 2009. Additionally, residential water use during the reporting period increased 2.8% compared to the previous year.

She presented the following proposed rate increases:

	Current	Proposed
Residential	$59.63 per month plus $.82 per month for each 1000 gallons over 15,000 gallons	$62.02 per month plus $.85 per month for each 1000 gallons over 15,000 gallons
Schools, Churches, and Public Buildings	$3.65	$3.80
Medical Facilities	$3.88	$4.04
Commercial Building with Dining	$4.42	$4.60

She concluded that the proposed sewer rate adjustment will result in revenues exceeding expenditures by $1,115 and will increase reserves available for future sewer line replacement.

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

Motion and vote – Council Member Hamway moved to adopt Resolution Number 1199. Council Member LeMarr seconded the motion which passed by a vote of 7 – 0.

Consideration of Adoption of Resolution Number 1201 Declaring as a Public Record the Town of Paradise Valley Zoning Code Article XI Special Uses and Additional Use Regulations and Adoption of Ordinance Number 609 Amending Article XI of the Zoning Code

Ms. Cutro said the recommended changes to Article XI have four goals:

- Limit authority of the Town Manager on Managerial (Administrative) reviews and expand the role of the Planning Commission
- Provide an improved process for applicants
- Clean up the language in Article XI and clarify the processes related to the four types of SUP applications
- Present a Town Council Statement of Direction to shape and streamline Planning Commission discussion on Intermediate and Major Amendments; and provide a Town Council Statement of Public Benefit on all SUP approvals

She said there are currently three categories of SUP amendment requests: Administrative; Minor; and Major. The proposed ordinance would create a new Intermediate category between the existing Minor and Major; and renames the Administrative category to "Managerial." The process for reviewing the new Intermediate and existing Major SUP Amendment applications adds an opportunity for the Town Council to conduct a review of the application at the beginning

of the process prior to the Planning Commission review. The Town Council review would focus on the "big picture" elements of a proposed amendment and lead to the Town Council issuing a non-binding Statement of Direction prior to the Planning Commission review. This Statement of Direction would then help guide the applicant, staff, and Commission in their review of the application.

She reviewed the criteria for the four types of SUP applications. The first type, Administrative Amendment, will change to "Managerial Amendment". This newly named application provides a more formal process in which applicants file an application and pay review fees. The Managerial Amendment criteria includes proposals which doe not:

1. Change or add any uses
2. Increase the floor area of the project by more than 1000 square feet or constitute an increase of more than 2% upon the existing square footage, whichever is less, with any such increase to be measured cumulatively over a sixty month period
3. Increase the number of units or structures with the exception of playground equipment shade structures
4. Have any material 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 of the approved SUP (renderings/plans)

The Minor Amendment standards will be expanded to allow more revisions to be considered Minor Amendments. The criteria includes proposals which doe not:

1. Change or add any uses
2. Increase the floor area by more than 5000 square feet or constitute an increase of more than 15% upon the existing square footage, whichever is less, with any such increase to be measured cumulatively over a sixty month period
3. Have any material effect on the adjoining property owners that is visible, audible, or otherwise perceptible from adjacent properties that cannot be sufficiently mitigated.
4. Change the architectural style of the existing Special Use Permit

The new Intermediate Amendment includes amendments which do not increase square footage over 40% above existing square footage. The criteria includes proposals which doe not:

1. Change or add any uses
2. Increase the floor area of the project by more than 40% upon the existing approved floor area square footage, with any such increase to be measured cumulatively over a sixty month period
3. Have any significant material effect on the adjoining property owners that is visible, audible, or otherwise perceptible from adjacent properties that cannot be sufficiently mitigated

The process for an Intermediate proposal will include a formal application, staff review, then a Town Council review and direction prior to the Planning Commission review, public hearing, and recommendation to Council. Council will conduct a public hearing for Intermediate Amendments similar to those done for Major Amendments today.

The Major Amendment will be used for all new SUPs and revisions that do not qualify as Managerial, Minor, or Intermediate Amendments.

The approval process will be similar to the process that was previously used for Major Amendments. The process includes a formal application, staff review, then a Town Council review and direction prior to the Planning Commission review, public hearing, and recommendation to the Council. Council will then conduct a public hearing similar to those done for Major Amendments today.

Town Attorney Andrew Miller reported that some additional editing changes were made after the meeting materials were sent to Council. He noted that the final version to be adopted is titled "Strikeout and Bold Final Copy 2".

Responding to a question from Council, Ms. Cutro stated that approved Managerial Amendments will be reported to Council publicly at a Council Meeting. She also clarified that any potential applications for distributed antenna systems would be covered under the utility poles and wires section of Article XI. Finally, she confirmed that applicants can the appeal denial of a Minor Amendment by applying for an Intermediate Amendment or Major Amendment and paying the difference in fees.

Council noted that discussions about amending the SUP review process started at a Council retreat over a year ago. Council thanked Staff and the Planning Commission for their hard work.

Commissioner Baker reported on the Planning Commission's recommendation. He said the only change that was made since the Commission made its recommendation was to remove the ability of the Commission to cure certain code violations in Minor Amendment applications. He asked to Council to reconsider granting the Commission flexibility in addressing code violations when the Minor Amendment application does not address the violations in question. The Commission suggests that when code violations are identified at an SUP property under review the Commission could send the application to the Council who could determine if the application should go forward without addressing the violation or give direction to the Commission to cure the violation as part of the Minor Amendment.

Mr. Miller responded that there is a different process provided for in the Code to cure code violations. He advised that there could be double jeopardy and equal protection concerns if the SUP process was used to address code violations. Moreover, Councilmembers could possibly lose their legislative immunity if they stepped into the role of using prosecutorial discretion to determine if a violation should be resolved as part of the SUP process. He stated that the Code Enforcement Office is the more appropriate body to resolve code violations.

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

Motion and vote – Council Member Clarke moved to adopt Ordinance Number 609 and Resolution Number 1201 with attachment "Strikeout and Bold Final Copy 2". Council Member LeMarr seconded the motion which passed by a vote of 7 – 0.

ACTION ITEMS

There were no action items.

ADJOURNMENT

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

Mayor Parker adjourned the meeting at 6:15 p.m.

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 22nd day October 2009. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 5 day of November, 2009.

TOWN CLERK TOWN OF PARADISE VALLEY SEAL 1961 MARICOPA COUNTY, ARIZONA

Duncan Miller, Town Clerk