



**TOWN COUNCIL MEETING  
6401 E. LINCOLN DRIVE  
PARADISE VALLEY, ARIZONA 85253  
SUMMARIZED MINUTES  
DECEMBER 3, 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, December 3, 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 Scott LeMarr

Council Member Pam Kirby was not present

**STAFF MEMBERS PRESENT**

Town Manager James C. Bacon, Jr.  
Town Attorney Andrew Miller  
Town Clerk Duncan Miller  
Management Services Director Lenore Lancaster

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**Arbor Day Tree Planting Ceremony**

The Mayor and Council ceremoniously planted a Palo Verde tree on the north side of the Police Department as part of an ongoing tree planting program on public grounds. This annual tradition is one of the requirements to qualify as a Tree City, U.S.A., a distinction the Town has achieved every year since 1997.

**Motion and vote** – Vice Mayor Simpson moved to go into executive session at 3:15 p.m. Councilmember Clarke seconded the motion which passed by a vote of 6 – 0.

**EXECUTIVE SESSION**

- a. Discussion and consultation with Town Attorney **regarding potential contract negotiations with Clearwire** as authorized by A.R.S. §38-431.03.A.4; legal advice **regarding the Tele-communications Act** as authorized by A.R.S. §38-431.03.A.3; and discussion and consultation with Town representatives concerning potential negotiations for the purchase, sale, or lease of **real property in the vicinities of 6401 E Lincoln Dr and 8444 N Tatum Blvd** as authorized by A.R.S. §38-431.03(A)(7).
- 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; legal advice **regarding the Tele-communications Act** as authorized by A.R.S. §38-431.03.A.3; and discussion and consultation with Town representatives concerning potential negotiations for the purchase, sale, or lease of in various locations as authorized by A.R.S. §38-431.03(A)(7).
- c. Discussion of **Town Manager and Town Attorney performance reviews** as authorized by A.R.S. §38-431.03.A.1.
- d. Discussion of legal advice from Town Attorney **regarding zoning approvals for guard gates** as authorized by A.R.S. §38-431.03.A.3.

**4. WORK/STUDY DISCUSSION ITEMS CONTINUED**

**Update on Neighborhood Meetings held by NewPath Networks**

Mayor Parker reconvened the Work Session at 4:55 p.m.

Ms. Cutro reported that, as was discussed at the October 8 Council Work Session, NewPath Networks held neighborhood meetings on November 12 at Cherokee Elementary School, November 18 at Kiva Elementary School, and November 23 at Valley View Bible Church. Approximately one dozen residents attended the meetings in total.

Stephen Garcia, Director, External Affairs/Land Use for NewPath Networks reviewed what was discussed at the neighborhood meetings and the feedback received from those who attended. He displayed a map of proposed node locations and photo simulations of possible node designs.

He stated that 151 node sites have been approved in Scottsdale with 24 nodes at various stages of development. The Council asked for location information on those approvals and pictures of those installations.

Mr. Bacon clarified that all node locations and designs will be approved with one SUP but construction of the individual nodes may be phased over time and brought online in clusters.

Responding to a question from Council, Mr. Garcia stated that AT&T is their anchor client. NewPath does not have signed contracts with other carriers but they are confident that other carriers will be interested in utilizing NewPath's nodes. He said their experience in other cities is that additional carriers add on within 3 months after the system goes live. The competition among carriers to improve service coverage drives other carriers to join the DAS system.

Mr. Bacon recommended that the next step is to begin discussions with NewPath about filing a formal Special Use Permit application which would permit use of the Town's right-of-way for their node installations. Council was agreeable.

### **Discussion of Guard Gate Policy**

Ms. Cutro stated that Policy 1.7.8 of the Town General Plan states: *The Town shall discourage the installation of vehicle access gates. Where vehicle access gates are permitted, the Town shall require access for pedestrians and non-motorized vehicles.*

Accordingly the current policy followed by the staff and Planning Commission is to require pedestrian access as a condition of approval on all guard gate SUPs or amendments since 2003.

During Planning Commission consideration of new or amended guardgated subdivisions including Preserve at Lincoln, Judson Estates, Villaresi, Montelucia Villas, Casa Blanca Estates, and Finisterre Estates, Commission felt strongly that the General Plan policy should be enforced. However, attorneys for Finisterre challenged the interpretation when Finisterre applied to renovate their guardgate. Finisterre eventually withdrew the application.

Ms. Cutro noted that this issue was discussed by the General Plan Committee but no clear direction or interpretation was approved. There was Council discussion that the fact that pre-existing subdivisions got swept up in the new policy was inadvertent. There was Council consensus that the intent was to apply the policy to consideration of future guardgate applications.

Ms. Cutro offered the following policy interpretation:

*The Town shall discourage the installation of vehicle access gates. Where new vehicle-access gates are permitted, the Town shall require access for pedestrians and non-motorized vehicles. Subdivisions with existing gates are exempt from the access requirement when amending their SUP to improve or relocate guardhouses and or gates.*

Mr. Bacon recommended that the Council adopt a resolution at the December 17<sup>th</sup> meeting providing this direction to the Planning Commission and staff.

**Discussion of Capital Budget Priority Projects**

Mr. Bacon stated that the purpose of this Work Session topic is not to prioritize capital projects for possible funding. The purpose is to demonstrate that the Town has ongoing capital project needs totaling \$11.2 million over the next four years. However, the available fund balance for CIP projects as of June 30, 2009 was \$796,425. He said one of the main discussion items at next week's budget policy retreat will be to consider which projects should be funded and how they should be paid for in FY 2010 – 2011. He recommended that before priorities are established for capital projects, a recurring revenue source for debt service should be identified.

Mayor Parker recessed the meeting at 5:40 p.m.

**RECONVENE FOR REGULAR BUSINESS MEETING**

**CALL TO ORDER**

Mayor Parker reconvened the meeting of the Town Council at 5:50 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 Scott LeMarr

Council Member Pam Kirby was not present

**STAFF MEMBERS PRESENT**

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

**PLEDGE OF ALLEGIANCE**

Mayor Parker led the Pledge of Allegiance.

**PRESENTATIONS**

**Presentation of Seven Seals Award**

Former Mayor and Paradise Valley Vintage Car Show Committee Co-Chair Ed Winkler introduced Scott Essex, representing the United States Department of Defense, Employer Support of the Guard and Reserve (ESGR). He was accompanied by Colonel Chuck Schluter, retired. Mr. Essex presented the Town with the prestigious Seven Seals Award in recognition of "meritorious leadership and initiative in support of the men and women who serve America in the National Guard and Reserve". Each 'seal' represents a single branch of the Reserve forces (Which are the USAR, USMCR, USNR, USCGR and the USAFR, and the Army National Guard, and the Air National Guard).

Mr. Bacon noted that proceeds from the very successful annual vintage car show went to the Arizona Military Family Relief Fund.

**Recognition of Sergeant Edwin "Bucky" Boehm as Phoenix Elk's Lodge No. 335 Public Safety Appreciation Award Recipient**

Chief Bennett stated that each year the Phoenix Elks Lodge honors a local public safety officer for outstanding services in the Community. This award is given to various public servants throughout the area. It is granted for outstanding achievement by an officer that brings credit to the department and involves performance well above and beyond that which is required. One of this year's recipients was Sergeant Boehm who has been a member of the PVPD since July of 1984. He is scheduled to retire in April completing a combined forty year career in law enforcement.

**CALL TO THE PUBLIC**

There were public comments.

**MAYOR / COUNCIL / MANAGER REPORT**

There were no reports.

**CONSENT AGENDA**

- a. Minutes of Town Council Meeting November 5, 2009**

**b. Minutes of Town Council Meeting November 19, 2009**

**c. Adoption of Resolution Number 1207, Authorizing Cooperative Purchasing Agreement with Public Agencies or Public Procurement Units of the Federal Government and other States**

*Recommendation:* Adopt Resolution Number 1207, authorizing the Town Manager to execute cooperative purchasing agreements with public agencies or public procurement units of the federal government or other states pursuant to Arizona Revised Statutes §11-952.

**d. Authorization to Close Town Hall at 12:00 PM on December 11, 2009**

*Recommendation:* Authorize the Town Manager to close Town Hall on December 11, 2009 at 12:00 PM.

Mr. Bacon summarized the items on the Consent Agenda.

**Motion and vote** – Councilmember LeMarr moved to approve the Consent Agenda as submitted. Councilmember Clarke seconded the motion which passed by a vote of 6-0.

**PUBLIC HEARINGS**

**Consideration of Adoption of Ordinance Number 617 Amending Section 201 of the Zoning Ordinance Regarding Floor Area Ratio**

Mr. Burton stated that the current definition of Floor Area Total was adopted in 1996. Over the years, architects and builders have challenged the Town's interpretation of the definition. Many builders have requested that overhangs not be included in the FAR calculation or to count trellises and other permeable roof structures at a lower percentage when calculating FAR. After discussion at Commission, Council, and building community meetings a consensus was reached to slightly modify the language to the following:

*Floor Area, Total: The area under roof added to the floor area of any second story. The total floor area also includes any courtyard areas, the solid portion(s) of trellises and/or open weave roofs, and all area under roof in accessory buildings such as gazebos, ramadas and other accessory buildings. The total floor area excludes the floor area of any fully subterranean portions of a building.*

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

Responding to a question from the Council, Mr. Burton clarified that any open areas of the trellises will be excluded from the calculation.

**Motion and vote** – Councilmember Clarke moved to approve Ordinance Number 617. Councilmember LeMarr seconded the motion which passed by a vote of 6-0.

**ACTION ITEMS**

There were no action items.

**ADJOURNMENT**

**Motion and vote** – Vice Mayor Simpson moved to adjourn. Councilmember Clarke seconded the motion which passed by a vote of 6-0

Mayor Parker adjourned the meeting at 5:40 p.m.



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Vernon B. Parker, Mayor

ATTEST:

  
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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 3<sup>rd</sup> day December 2009. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 17 day of December, 2009.

  
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Duncan Miller, Town Clerk