



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

March 8, 2012

CALL TO ORDER

Mayor LeMarr called to order the Town Council meeting of the Town of Paradise Valley, Arizona, held at Town Hall 6401 E. Lincoln Drive, on Thursday, March 8, 2012 at 4:00 PM.

COUNCIL MEMBERS PRESENT

Mayor Scott P. LeMarr
Vice Mayor Mary Hamway
Council Member Michael Collins
Council Member Paul E. Dembow
Council Member Pam Kirby
Council Member Vernon B. Parker arrived at 4:10 p.m.
Council Member Lisa Trueblood

STAFF MEMBERS PRESENT

Town Manager James C. Bacon, Jr.
Town Attorney Andrew Miller
Town Clerk Duncan Miller
Planner George Burton
Police Chief John Bennett
Acting Public Works Director Brent Skoglund

Discussion of Sanctuary on Camelback Mountain Application and Statement of Direction

Mayor LeMarr stated that he is a member of the Sanctuary Spa. As a result he would recuse himself from consideration of this item.

Planner George Burton presented a request by Sanctuary on Camelback Mountain to amend their Special Use Permit ("SUP") to allow the addition of 20 new guest rooms, a multi-purpose pavilion, an addition to the women's spa, a new pool, and additional parking spaces. The proposed additions will be located at the north end of the property where the existing tennis courts and tennis support building are currently located.

He stated that the proposal is substantially compliant with the Town Code Resort Guidelines with minimum setbacks of 65' from the west property line and 140' from the north property line. The heights of the structures will not exceed 24'. The design will be consistent with the existing spa villas.

The total increase in square footage for the guest rooms, pavilion, and spa will be 13,750, bringing the total square footage on the site to 131,398.

The applicant requested an expedited review process. This will allow for select plans such as lighting, landscaping and signage to be reviewed by staff at a later date, following a public meeting. He noted that the proposed amendment and deferred submittals will also be reviewed by the Hillside Committee.

Mr. Burton summarized the Statement of Direction ("SOD"). It provided that the Planning Commission would focus on heights, setbacks, uses, parking, and off-site visibility impacts. The Commission could craft stipulations to address compatible architecture, landscaping, and mechanical equipment. The SOD also encouraged the Planning Commission to complete its review within 45 days.

Michael Surguine, General Manager of the Sanctuary Resort, and project designer Mike Philp were also present to respond to questions.

There was Council discussion regarding the direction to the Planning Commission to review the change in "uses". There was consensus that a change in uses is a business decision and should not be regulated. Mr. Miller stated that it would be appropriate for the Council to publicly express that the Town accepts the change in use since the original SUP was for a tennis ranch. He recommended the following change:

- *The Town Council finds that the proposed additions and changes specified in the documentation submitted by the applicant, including the proposed heights, setbacks and uses shown (including the loss of the existing tennis courts) are acceptable, and that the Planning Commission shall focus its review on parking concerns and off-site visibility impacts.*

There was further Council discussion regarding Hillside Committee review of the application. There was interest in specifying that the Committee's review should be completed within 30 days of submittal. Mr. Miller recommended the following change:

- *It shall be understood that additional submittals such as lighting, landscaping, and signage plans will be submitted at a later date for review by staff, and, as needed, by the Hillside Committee, and that the Hillside Committee review be completed within thirty (30) days of submittal. These items will not be reviewed by the Planning Commission.*

Finally, the Council questioned if it was possible to reduce the Planning Commission's review of the application from 45 days to 30 days. Mr. Miller stated that the Town and the applicant could still meet all the legal requirements in a 30-day timeframe. He recommended the following change:

- *The Planning Commission is expected to complete its review and hearing process in an expedited manner as per previous discussions on the intermediate review process. Although Section 2-5-2.D.1 of the Town Code allows 90 days for Planning Commission review (that 90 day review period expiring on June 6, 2012), the Planning Commission shall complete its review within thirty (30) days (April 7, 2012).*

Mr. Bacon stated that the amended Statement of Direction would be ready for Council adoption later in the meeting.

Discussion of Mountains Shadows Application and Statement of Direction

Mr. Bacon stated that he and Councilmember Collins met with the resort development team to discuss the letter the Council adopted at the last meeting. It was made clear that the Town is waiting on the Letter of Authorization from the owner and on a Special Use Permit application from JDM Partners. When those two items have been submitted the Town has committed to an expeditious review process.

Councilmember Collins stated that it is encouraging that all parties are communicating and there is still interest in the project. The Town's attempt to clarify and define the review process was viewed as constructive by representatives from the development team.

Discussion of Council Policies and Procedures

Mr. Bacon presented an updated draft of the Council Rules and Procedures that addressed the feedback provided by councilmembers at the February 23, 2012 study session. He said the revised language allows the mayor or the town manager to place items on an agenda. Any councilmember may also request to add an item to a future agenda. This would occur during a new item on regular meeting agendas called, "Requests for Future Agenda Items". The proposed new policy language states:

"Any member of the Council may move to have the Town Manager add a new agenda item to a future agenda. Upon the concurrence of three more Members, which may include the Mayor, the item shall be added to the list of future agenda items and scheduled by the Town Manager as a future agenda item within sixty days. In the event that the Town Manager determines such a future agenda item request should be moved to a later date due to the need for

the Council to address more critical agenda items, the Town Manager may move the requested item to a later Council Meeting date, but only to the next scheduled Council Meeting date. Any discussion on the motion to add a future agenda item shall be limited to the propriety of placing such item on a future agenda and not on the merits of such agenda item."

Responding to a question from Council, Mr. Bacon confirmed that the Mayor could remove an item added to the agenda by the Manager but the Manager could not remove an item added by the Mayor or by a vote of the Council. Items could be delayed by the Manager if other items become higher priorities.

There was Council discussion regarding when would be the appropriate point in the process for the Council to consider the scope of the item to be discussed and the staff resources needed to prepare a report for Council. Mr. Bacon responded that it is presumed that items added to the agenda would first be discussed in a work session. As part of the work session discussion, Council would frame the goals, scope, and resources needed to proceed. After that discussion, the Council could also determine that there is not enough interest to proceed at all.

Mr. Bacon stated that this item would be scheduled for adoption on March 22, 2012.

Update on Municipal Fire Protection Fee Bill (HB2060)

Mr. Bacon stated that the purpose of HB2060 is to allow the County Treasurer to collect the proposed fire service fee on behalf of the Town. The fee would be added to the property tax bill, thus reducing administrative costs for the Town. He said the bill would require the Council to adopt a fire service fee schedule by ordinance, post a budget online, limit what expenses could be recovered by the fee, and require the payment mechanism to be approved by the voters.

The bill will be heard in Senate committee next Wednesday. If it receives a favorable vote it must still be approved by the full Senate and House. It is hoped that, if adopted and signed into law, the Town could adopt a fee schedule and call a special election in November.

Discussion Regarding Group Home Located at 7505 N 70th St

Town Attorney Andrew Miller briefed the Council on a half-way house or group home operating at 7505 N 70th St. He stated that, following a complaint from neighbors, Building Official Robert Lee inspected the property and discovered that the property is being leased to an entity called the Silkworth Institute. According to Silkworth's program manager, the Institute serves male residents between the ages of 25 and 65 who have completed a 30-day drug rehabilitation program. All of the residents are recovering from alcohol abuse. The location can accommodate

up to nine residents but there are six living there currently. Residents are required to take part in several on-site and off-site meetings each week as part of their recovery.

Silkworth has only been in operation for a couple of months. However, prior to Silkworth there was a similar business called Sober House operating at this location. It was also unlicensed.

Mr. Miller provided a history of police activity at the property since 2003. The only incidents in 2012 was a medical assist on January 15, 2012 for a 22 year old occupant with a possible drug overdose and a crime prevention notification on February 11, 2012 for an open garage door.

Mr. Miller reviewed the provisions of Article 17 of the zoning code related to Assisted Living Homes. He discussed the number of assisted living homes in Town that have received licenses from the state of Arizona.

If Council concurred, he recommended aggressively pursuing all potential code violations at the property and authorized him to research additional code changes to address group home issues, including both zoning code and building code changes.

Council discussed options for regulating group homes. Mr. Miller stated that he has retained outside counsel to assist him in researching the interaction between federal, state, and local regulations governing group homes. He said these types of facilities could implicate Protected Class and ADA statutes, but more research was needed.

Examples of what other cities have done to regulate these uses were discussed. Some communities have separation requirements, limits on the number of unrelated renters living at a single property, and requirements for these facilities to be in close proximity to public transit.

Responding to a question from Council, Mr. Miller stated that justifying a moratorium on new facilities can be a difficult and time consuming legal process, but it would be possible to delay pending applications.

Responding to a question from Council regarding how soon the Council could adopt an ordinance regulating group homes, Mr. Miller stated changes to the zoning code require public hearings at both the Planning Commission and Town Council. He said some regulations could be added to Chapter 2 of the Town Code. Such an amendment would only require Council action.

Mayor LeMarr opened the floor for comments from the audience. He read a letter from resident John Westover in support of the group home. Councilmember Kirby read a letter from Joan Galloway in opposition to the group home.

Residents Dennis Mueller, John DeBarros, Ellie Otto, and Paul Streich spoke in opposition to the group home.

John Mulligan, President and CEO of Silkworth Institute addressed the Council. He apologized for the oversight in not obtaining a business license from the Town. He stated he holds a license in Scottsdale. He submitted an application this week and pledged to cooperate with the Town. He stated that Silkworth Manor is an upscale sober living program which promotes long term sobriety. He said guests include doctors, lawyers, and other professionals who have been referred to his facility from counselors from facilities such as the Betty Ford Clinic and Sierra Tucson. The property at 7505 N. 70th St can accommodate up to 9 residents. Fees range from \$1,600 to \$2,000 per month.

Council directed the Town Attorney to work with outside counsel to draft ordinances regulating group homes for Council consideration. If there are ordinance changes that would not require a hearing before the Planning Commission, Council asked that they be presented at the next meeting.

EXECUTIVE SESSION

- a.** Discussion and consultation with the Town Attorney regarding pending or potential litigation and current and/or future development agreement with Potomac Hotel Limited Partnership, MTS Land LLC, and or JDM Partners 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.

- b.** The Town Council may go into executive session at one or more times during the meeting as needed to confer with the Town Attorney for legal advice regarding any of the agenda items listed on the agenda as authorized by A.R.S. §38-431.03.A.3.

There was no action on this item.

RECONVENE FOR REGULAR BUSINESS MEETING

CALL TO ORDER

Mayor LeMarr reconvened the meeting of the Town Council at 6:08 P.M.

COUNCIL MEMBERS PRESENT

Mayor Scott P. LeMarr
Vice Mayor Mary Hamway
Council Member Michael Collins
Council Member Paul E. Dembow
Council Member Pam Kirby
Council Member Vernon B. Parker
Council Member Lisa Trueblood

STAFF MEMBERS PRESENT

Town Manager James C. Bacon, Jr.
Town Attorney Andrew Miller
Town Clerk Duncan Miller
Police Chief John Bennett
Planner George Burton
Acting Public Works Director Brent Skoglund

PLEDGE OF ALLEGIANCE

Mayor LeMarr 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 February 17, 2012**

b. Minutes of Town Council Meeting February 23, 2012

c. Approval of Special Event Liquor License for Kachina Country Day School

Recommendation: Approve a Special Event Liquor License for Kachina Country Day School for an event on March 16, 2012, subject to the following stipulations: only those people authorized by law be allowed to dispense and/or consume alcoholic beverages; consumption shall be limited to the premises as indicated in the application; and Section 10-7 Control of Excess Noise be observed.

Mr. Bacon summarized the items on the consent agenda.

Motion and Vote: Vice Mayor Hamway moved to adopt the Consent Agenda as presented. Councilmember Kirby seconded the motion which passed by a vote of 7 – 0

PUBLIC HEARING

There were no public hearings.

ACTION ITEMS

Adoption of Ordinance Number 643; Amending Time Limits for Planning Commission Action

Mr. Miller stated that in recent meetings regarding Mountain Shadows the Council committed to streamlining and expediting the SUP review process. In order to do that it is necessary to amend Article 2 of the Town Code. The Code currently gives the Planning Commission 90 days to review SUP applications and take action. The proposed amendment provides that the Town Council may specify a time period for Planning Commission review in the Statement of Direction for a particular SUP application that is less than 90 days.

He stated that because there are applications pending before the town for a property with dilapidated structures, Ordinance Number 643 includes an emergency clause so that public peace, health, and safety can be preserved by allowing the shorter time limit provisions to take effect immediately.

Responding to a question from the Council, Mr. Miller stated that the Planning Commission would still have the ability to refer a statement of direction back to the Council for clarification. After clarification by the Council, the time limit for Planning Commission consideration would restart.

Mr. Bacon stated that this ordinance is evidence of the Town's commitment to the owner of Mountain Shadows and JDM Partners that their SUP application, when filed, will be expedited.

Motion and Vote: Vice Mayor Hamway moved to adopt Ordinance Number 643, amending time limits for Planning Commission action, and that the matter be considered an emergency measure so that the health and safety of the Town may be immediately preserved. Councilmember Dembow seconded the motion which passed by a vote of 7 – 0.

Approval of Statement of Direction for the Sanctuary on Camelback Mountain Intermediate Special Use Permit Amendment

Mayor LeMarr restated that he will recuse himself from consideration of this item because he is a member of the Sanctuary Resort Spa.

Mr. Bacon stated that the timelines provided for in the Statement of Direction are consistent with the ordinance just adopted by Council.

Mr. Miller stated that he reviewed the revised language in the statement of direction with the applicant. They are comfortable with the new schedule.

General Manager of the Sanctuary on Camelback Mountain Michael Surguine introduced Mark Philp. Responding to a question from Council, Mr. Surguine stated that they have not decided how soon after approval of the SUP amendment construction would begin.

Motion and Vote: Councilmember Collins moved to approve the Sanctuary Resort Statement of Direction as follows:

*SUP-12-2
Sanctuary Resort
-Statement of Direction-
March 8, 2012*

On February 16, 2012, with the Town's authorization, Tennis Ranch, Inc. (Sanctuary Resort) submitted a Special Use Permit application to allow the addition of 20 new guest rooms, a multi-purpose pavilion, and an addition to the women's spa.

Section 1102.3 of the Town's Zoning Ordinance states the Town Council must issue a Statement of Direction for the Special Use Permit application within 45 days of the first staff presentation. In this case, the Statement of Direction must be issued on or before April 22, 2012.

The Statement of Direction is not a final decision of the Town Council and does not create any vested rights to the approval of a Special Use Permit. Any applicant for a Special Use Permit shall not rely upon the matters addressed in the Statement of Direction being the same as those that may be part of an approved Special Use Permit.

Therefore, the Town Council issues the following Statement of Direction for SUP-12-2, Sanctuary Resort:

- *The General Plan encourages revitalization and improvement of existing resorts within the Town of Paradise Valley.*
- *All proposed additions are within the existing geographic boundaries of the resort Special Use Permit.*
- *The Town Council finds that the proposed additions and changes specified in the documentation submitted by the applicant, including the proposed heights, setbacks and uses shown (including the loss of the existing tennis courts) are acceptable, and that the Planning Commission shall focus its review on parking concerns and off-site visibility impacts.*
- *It shall be understood that additional submittals such as lighting, landscaping, and signage plans will be submitted at a later date for review by staff, and, as needed, by the Hillside Committee, and that the Hillside Committee review be completed within thirty (30) days of submittal. These items will not be reviewed by the Planning Commission.*
- *The Planning Commission may craft stipulations to address compatible architecture, landscaping and mechanical equipment.*
- *The Planning Commission is expected to complete its review and hearing process in an expedited manner as per previous discussions on the intermediate review process. Although Section 2-5-2.D.1 of the Town Code allows 90 days for Planning Commission review (that 90 day review period expiring on June 6, 2012), the Planning Commission shall complete its review within thirty (30) days (April 7, 2012).*

As per Section 1102.3.C.3.c of the Zoning Ordinance, at any time during the review process, the Planning Commission may request clarification and/or expansion of this Statement of Direction based on additional information that has evolved.

Councilmember Parker seconded the motion which passed by a vote of 6 – 0. (Mayor LeMarr did not vote.)

ADJOURNMENT

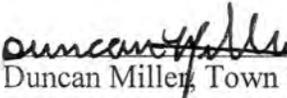
Motion and vote – Vice Mayor Hamway moved to adjourn. Councilmember Parker seconded the motion which passed by a vote of 6 - 0.

Mayor LeMarr adjourned the meeting at 6:21 p.m.



Scott P. LeMarr, Mayor

ATTEST:



Duncan Miller, Town Clerk