



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

April 12, 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, April 12, 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 4:04 p.m.

Council Member Lisa Trueblood attended by telephone conference call.

STAFF MEMBERS PRESENT

Town Manager James C. Bacon, Jr.

Town Attorney Andrew Miller

Town Clerk Duncan Miller

Planner George Burton

Senior Planner Molly Hood

Town Engineer William Mead

Police Chief John Bennett

Acting Public Works Director Brent Skoglund

Update on Municipal Fire Protection Fee Bill (HB2060)

Doug Cole of Highground Public Affairs Consultants reported that HB2060, the Municipal Fire Protection Fee bill, was effectively dead in the Senate. The bill made it as far as Committee of the Whole in the Senate where it passed by a voice vote. He and the bill's sponsor, Representative Kate Brophy McGee, were already lining up votes in the House for when the bill was sent back for a concurrence vote in the House. However, strong opposition was mobilized against the bill and it was taken off the third reading calendar in the Senate.

Representative Brophy McGee held a stakeholders meeting on April 2, 2012 to discuss the bill and try to overcome the opponents concerns. Those present included Highground, Mayor LeMarr, Councilmember Trueblood, Town Manager Bacon, Tom Farley with the Arizona Association of Realtors, Kevin McCarthy from Arizona Tax Research Association, Carl Quinlan, from National Federation of Independent Businesses, Tom Jennings from Americans for Prosperity, Spencer Kamps from Homebuilders Association of Central Arizona, Tim Lawless of NAIOP, and Representative Steve Voeller of the Arizona Free Enterprise Club. Opposition seemed to focus on the fact that municipalities have the ability to assess a primary property tax to fund public safety services. Therefore, this new collection mechanism was not necessary and could lead to unintended consequences in the future.

Mr. Cole stated that this last minute coordinated attack on the bill proved to be successful in confusing legislators who had been supportive of the bill. After the meeting, Representative Brophy McGee decided it was best to allow the bill to die.

Responding to a question from Council, Mr. Bacon stated that he would brief Council at an upcoming work session on an alternative method to collect the Fire Service Fee.

Discussion of Sanctuary on Camelback SUP Amendment

Mayor LeMarr declared that he is a member of the Sanctuary Resort spa. Out of an abundance of caution he decided to recuse himself from consideration and the vote on this item.

Planner George Burton briefed Council on an application from Sanctuary Resort. The applicant requested 20 new guest rooms, a multi-purpose pavilion, and addition to the women's spa, addition of new pools, water features, screen walls, and additional parking spaces. The additions would be constructed where the tennis courts are currently located at the north end of the property. The new structures would meet heights and setbacks and would be in substantial compliance with SUP Guidelines.

He said that the Council approved the Statement of Direction on March 8, 2012. The application was reviewed by the Planning Commission on March 20 and April 3, 2012. They voted 5 – 0 to forward the Sanctuary Intermediate SUP Amendment request to the Town Council with a recommendation of approval subject to 7 stipulations.

The Council will hold a public hearing on April 26, 2012 to take final action on the application.

Mr. Bacon added that the Sanctuary agreed to volunteer as a test case for the new accelerated intermediate SUP review process. Once the process is complete, the applicant would be asked for feedback on the process.

Discussion of Camelback Golf Course Application and Statement of Direction

Mayor LeMarr rejoined the meeting. Councilmember Dembow declared that his homeowners association would be benefited by this project. As a result, he recused himself from consideration of this application.

Mr. Bacon stated that the Camelback Golf Course also agreed to be a test case for the accelerated SUP review process. He clarified that tonight's discussion would be limited to the Statement of Direction and would not discuss the merits of the application.

Community Development Director Eva Cutro noted that, unlike the expedited Sanctuary Resort review process, there would be no deferred submittals associated with the Camelback Golf Course SUP application. As such, all public notice and public input will occur during the Planning Commission and Town Council review process.

She stated that the applicant requested approval to fully redesign the golf course including: alternate tee box locations; restructuring of individual holes; new and reconfigured golf cart paths; new sand traps, berms and reconfigured water hazards; and a new landscape plan. She noted that this proposal is unique because there is no additional lot coverage, signage, lighting, uses, or any other type of expansion of the course.

The project proposed a major grading and earth moving operation. She said all improvements would be required to be at or below existing water surface profiles. The Flood Control District of Maricopa County would review the engineering documents to ensure modifications will not adversely affect the flows in the Indian Bend Wash. She stated that the Town has also retained Wood- Patel to also review the grading and drainage plans submitted by the applicant. Because the drainage and hydrology will be reviewed by two different consultants, staff believed it was not necessary to discuss drainage in detail and did not include it in the Statement of Direction.

Mr. Mead estimated that it would take Wood-Patel approximately 5 weeks to review the drainage plan.

Ms. Cutro reviewed the following draft Statement of Direction:

- The General Plan encourages continued Special Use Permit property revitalization and improvement within the Town of Paradise Valley.
- Due to the complexity and sensitivity of the proposed golf course drainage, and hydrology review by two different consultants, the Town Council finds that it will not be necessary for the Planning Commission to discuss grading and drainage in detail, so this is not included as a task in the Statement of Direction.
- The Planning Commission shall focus its review on any visible and/or audible effects the amendment may have on neighbors. In particular, the landscaping palette and the cart path and pedestrian circulation shall be studied.

- The Planning Commission shall also review any structures proposed, including bridges and walls.
- The interconnectivity of proposed pedestrian pathways shall be reviewed to meet the General Plan goal of a comprehensive system of trails to better serve the health, welfare, aesthetic, and sociability needs of pedestrians and cyclists.
- The Planning Commission may craft stipulations to address the need for a construction schedule and impact analysis at time of building permit review.
- 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, the Planning Commission shall complete its review within forty-five (45) days.

Council requested that the following be added to the Statement of Direction:

- The Planning Commission shall evaluate proper screening of existing and/or proposed mechanical equipment including existing pumping station(s).
- The Town of Paradise Valley is included in Maricopa County's PM-10 non-attainment area. The applicant, therefore, shall demonstrate and provide written documentation describing how they will comply with Maricopa County Rule 310 (Fugitive Dust from Dust Generating Operations) and specifically PM-10 requirements.

Responding to a question from Council, Ms Cutro clarified that the direction regarding proposed pedestrian pathway interconnectivity is site specific and involves existing pedestrian sidewalks.

Responding to a question from Council, Ms. Cutro stated her confidence that the Commission could meet the 45-day Commission review timeline. It would be possible for the Commission to meet 2 or 3 times in that period. However, if the review stalls for some reason, the Commission could always send the SOD back to the Council for further clarification and direction.

Nick Wood, representing the applicant stated that outreach has already taken place with the adjoining property owners. The majority of feedback concerned relocation of existing landscaping and trees.

Council requested information on how involved Berneil Water Company has been in the analysis of water usage. Council requested more information to evaluate existing water usage versus proposed water usage.

Discussion of FY 2012-13 Budget Recommendations

Councilmember Dembow rejoined the meeting.

Mr. Bacon stated that during the budget workshop, Councilmembers identified a series of changes or additions to the recommended budget. The first was the elimination of the annual alarm user registration fee. Elimination of this fee would reduce FY 2012-13 revenues by \$60,000. The second change concerned the budget for outside legal counsel. There was Council interest in allocating some funds in the Council budget for outside attorneys. Presently, the recommended budget includes \$80,000 for this expenditure in the Town Attorney's budget. The recommendation was to allocate \$72,000 in the Attorney's budget, \$24,000 in the Council budget, and \$12,000 in the Town Manager budget. This would reduce the contingency fund by \$3,000.

Mr. Bacon announced that, according to those responsible for developing state shared revenue estimates, the Town will likely receive at least \$328,234 more in state shared revenues than what was included in the recommended revenue budget. That would make the total budgeted governmental funds revenue for next year equal to \$18,327,254.

He said this revenue bump would cover the anticipated increase in the Town's health insurance plan and the Town's pension contributions should the Arizona legislature restore the 50/50 funding formula that was changed last year to 47/53.

He stated that four positions were discussed for possible addition to the budget: code enforcement officer, police detective, public works technician, and a uniformed police administrative position. He recommended that the Town Council consider approving the detective and the public works technician this year and the other two next year. This could be funded from the bump in state shared revenue and a \$2,534 reduction in the operating contingency account.

Mayor LeMarr recessed the meeting at 5:30 and reconvened the meeting at 5:40 p.m.

Motion and vote – Councilmember Kirby moved to go into executive session at 5:40 p.m. Councilmember Parker seconded the motion which passed by a vote of 7 – 0.

EXECUTIVE SESSION

- a. Discussion and consultation with town representatives concerning the purchase or sale of real property in the vicinity of 66th Street and Fanfol Drive as authorized by A.R.S. §38-431.03.A.7.
- b. Discussion and consultation with the Town Attorney regarding pending or potential litigation regarding property located at 7505 N. 70th St. as authorized by A.R.S. §38-431.03.A.4 and legal advice regarding group home regulations as authorized by A.R.S. §38-431.03.A.3.
- c. 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.

RECONVENE FOR REGULAR BUSINESS MEETING

CALL TO ORDER

Mayor LeMarr reconvened the meeting of the Town Council at 7:00 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 attended by telephone conference call

STAFF MEMBERS PRESENT

Town Manager James C. Bacon, Jr.

Town Attorney Andrew Miller

Town Clerk Duncan Miller

Police Chief John Bennett

Community Development Director Eva Cutro

Planner George Burton

Acting Public Works Director Brent Skoglund

Town Engineer William C. Mead

Senior Planner Molly Hood

PLEDGE OF ALLEGIANCE

Councilmember Trueblood led the Pledge of Allegiance.

PRESENTATIONS

There were no presentations

CALL TO THE PUBLIC

Resident Dorothy Smith congratulated the Councilmembers who were elected or reelected. She also complimented Acting Director Brent Skoglund and the Public Works Department for their efforts in cleaning the Right-of-Way.

MAYOR / COUNCIL / MANAGER REPORT

Mr. Bacon thanked Ms. Smith for her comments and acknowledged that Acting Public Works Director Brent Skoglund will remain as Superintendent when the new Public Works Director is hired.

Vice Mayor Hamway updated Council on the resort trolley program that the Town helped fund. Last year the resort trolley operated for 15 days. This year it operated for 3 months. Ridership increased 45%. During Spring Training, ridership increased from 1,488 to 2,496. She said a 45% increase was a sign of success.

Councilmember Dembow announced that the Taste of Paradise will be held on May 4th starting at 6:00 PM benefiting the American Cancer Society Relay for Life.

CONSENT AGENDA

a. Minutes of Town Council Meeting March 22, 2012

b. Minutes of Town Council Meeting March 30, 2012

c. Approval of Appointment to the Personnel Appeals Board

Recommendation: Appoint Russ Mosser to the Personnel Appeals Board for the term April 2012 – October 2014

d. Approval of First Amendment to the Intergovernmental Agreement for the Provision of Fire Protection Services to Clearwater Hills Fire District by the Town of Paradise Valley

Recommendation: Direct the Town Manager to execute the First Amendment to the Intergovernmental Agreement for the Provision of Fire Protection Services to Clearwater Hills Fire District by the Town of Paradise Valley.

Mr. Bacon withdrew item 10c from consideration

Mr. Bacon summarized the items on the consent agenda.

Councilmember Kirby removed item 10d.

Motion and Vote: Vice Mayor Hamway moved to adopt the Consent Agenda items A and B. Councilmember Collins seconded the motion which passed by a vote of 7 – 0

Approval of First Amendment to the Intergovernmental Agreement for the Provision of Fire Protection Services to Clearwater Hills Fire District by the Town of Paradise Valley

Councilmember Kirby asked why the agreement with Clearwater Hills does not expire until 2032. Mr. Miller responded that it is co-extensive with the IGA between the Town and the City of Phoenix. However, the agreement with Clearwater Hills can be terminated with one-year notice.

Motion and Vote: Councilmember Kirby moved to authorize the Town Manager to execute the First Amendment to the Intergovernmental Agreement for the Provision of Fire Protection Services to Clearwater Hills Fire District by the Town of Paradise Valley. Vice Mayor Hamway seconded the motion which passed by a vote of 7 – 0.

PUBLIC HEARING

There were no public hearings.

ACTION ITEMS

Approval of Statement of Direction for the Camelback Golf Course Special Use Permit Amendment

Mr. Bacon stated that the Camelback Golf Course Special Use Permit Statement of Direction (SOD) was discussed during the work session earlier in the day. Community Development Director Eva Cutro amended the SOD based on the feedback from the Council. He stated that the amended SOD was reviewed by the applicant and they are agreeable to the changes.

Motion and Vote – Councilmember Collins moved to approve the Camelback Golf Club Statement of Direction dated April 12, 2012 as amended. Vice Mayor Hamway seconded the motion which passed by a vote of 6 – 0. (Councilmember Dembow recused himself from voting)

Adoption of Ordinance Number 646; Amending the Paradise Valley Code, Chapter 2, related to Appointment and Removal of Committee, Commission, and Board members

Town Attorney Andrew Miller stated that the purpose of this ordinance was to clarify the Town Code and was not drafted to apply to any specific committee or committee member. It was part of the Town's ongoing effort to improve efficiency and accountability in processes and procedures similar to the accelerated SUP review process recently adopted by the Council.

He explained that the current Code provision providing for the removal of appointed members of commissions and boards states that a removal can only occur “for-cause” after a public hearing. He said he was asked to research the process followed in other municipalities. He stated that the process in many communities, including both Scottsdale and Phoenix, provide that committee members may be removed with or without cause. The initial draft of Ordinance 646 included similar language to Scottsdale and Phoenix. He said this would give the Council more flexibility in staffing committees.

Mr. Miller suggested that the current language could put the Council in a difficult position if they did decide to remove a committee member prior to the expiration of a term. Because the process requires a for-cause hearing, the Council would be acting in a quasi-judicial role and would possibly need to take into consideration certain due process rights. This is different from the legislative role in which councils normally operate.

Mr. Miller was asked to define “for-cause”. He stated that the definition comes from employment law. In this context, “for-cause” would be defined in an employment procedural manual. However, the Town has never defined “for-cause” as it relates to the appointed bodies. As a result, it would be problematic for the Council to make a for-cause finding. He posited that an appointed committee member could contend that a removal was not for-cause even though a majority of the Council agreed that the member should be removed. If the Town adopted a process similar to the one used in other cities, the Council would avoid the problem of being tied to a process that does not have a definable standard. Instead, the Council could determine by a majority vote if a committee member should be removed.

After conducting further research into the removal procedures in other municipalities and based on feedback received on the initial draft, he distributed a second version of the ordinance to the Council. Version 2 eliminated the “with or without cause” language and replaced it with a statement that appointed committee, commission, and board members serve at the discretion of the Council. This language is used in Carefree, Cave Creek, Chandler and elsewhere. This language has existed in the Town Code for many years with respect to the Vice Mayor. Moreover, the Code states that committees, commissions, and boards themselves exist at the discretion of the Council. He reasoned that version 2 of the ordinance may be a better way to achieve the Council’s goal.

Responding to a question from the Council, Mr. Miller clarified that the Council could not remove a committee member without a majority vote held in a public meeting. Even though version 2 of the draft ordinance removed the specific language related to a requirement to hold a public hearing, state law prohibits the Council from voting in executive sessions or “behind closed doors”. He said any final action taken by the Council must occur in a public meeting.

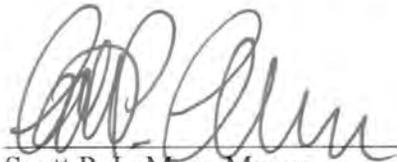
Resident Dorothy Smith voiced concern about any ordinance that would restrict or inhibit residents from wanting to volunteer for a committee, commission, or board.

Motion and Vote – Vice Mayor Hamway moved to adopt Ordinance Number 646 version 2. Councilmember Dembow seconded the motion which passed by a vote of 6 – 1. (Councilmember Trueblood voted “No”.)

ADJOURNMENT

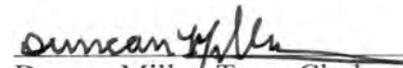
Motion and vote – Vice Mayor Hamway moved to adjourn. Councilmember Kirby seconded the motion which passed by a vote of 7 - 0.

Mayor LeMarr adjourned the meeting at 7:32 p.m.



Scott P. LeMarr, Mayor

ATTEST:



Duncan Miller, Town Clerk