



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

**April 26, 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 26, 2012 at 4:05 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  
Council Member Lisa Trueblood

**STAFF MEMBERS PRESENT**

Town Manager James C. Bacon, Jr.  
Town Clerk Duncan Miller  
Community Development Director Eva Cutro  
Planner George Burton  
Senior Planner Molly Hood  
Police Chief John Bennett

Outside Counsel Doug Jorden, Jorden-Bishoff-Hiser, PLC

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**Water Utility Committee Update**

Councilmember Kirby, Chair of the Water Utility Committee, reported on the Committee's activities over the past three years.

She said the Committee was reconstituted in January 2009 by Resolution 1180. It charged the Committee with studying the ability of the Town's water companies to provide adequate fire protection and water supply; and to communicate to the public and invite participation. She stressed that it is not empowered to negotiate with anyone on behalf of the Town.

The Committee is made up of seven members including: 2 councilmembers, 2 staff members, 2 community members (residents or resort general managers), and 1 at-large member selected by the Committee.

She summarized the accomplishments from 2009 which included:

- Discontinued Town's Water Rebate Program
- 2009 Arizona American Water Rate Case
  - Fire flow improvements – Public Safety Surcharge removed
  - System Benefit Surcharge (Water Conservation) removed
  - Rate Tier Structures
  - System Consolidation – was not approved
- May 2009 Water Conservation Event
- Evaluated Water Providers' Emergency Preparedness Plans
- Developed Current Water Infrastructure Maps for the Town
- Initiated study of Town's Fire Flow Standards – Documented current state
- Collaborated with Scottsdale Citizens for Sustainable Water
- Influenced AAW's Best Management Practiced ordered by ACC

She said in 2010 and 2011 the Committee focused on Arizona American Water issues including:

- Collaborated with Scottsdale Citizens for Sustainable Water
- 2011 Conservation Initiative
- Collaborated with the City of Scottsdale
- Arizona American Water Long Term Supply - Avoided a proposed 22% rate increase from AAW (Condemnation to Treat and Transport)
- Monitored Impact of AAW Sale to EPCOR
- Provided input to the General Plan
- Evaluated IBMs Smarter Cities Initiative

She reported on the Water Committee's proposed 2012 work plan. She noted that the General Plan included a number of water-related elements from delivery and supply to water quality and sustainability. The Committee has the expertise and resources to take the lead in addressing these elements.

The Council was supportive of the Water Utility Committee remaining active and concurred with the proposal to study and make recommendations on implementation of General Plan water-related elements.

### **Discussion of FY 2012-13 Budget Recommendations**

Mr. Bacon presented the final draft of the Fiscal Year 2012-13 budget. He said the final draft included higher state shared revenues and eliminated the alarm service fee. The net effect of these two changes increased budgeted revenues for the next year to \$18,327,689. Those increased revenues would allow the Town to adopt a budget which includes two additional positions and increase the amount available for three operating expenses. The two additional positions are a police officer and a public works technician. The operating expense categories which are increased included professional legal services, health insurance, and pension costs. He

said the operating contingency account was \$482,471, about 2.8% of the governmental funds budget.

He stated that the tentative budget is scheduled to be adopted on May 10 and the final budget will be adopted on May 24. The budget that is adopted on May 10 sets the maximum expenditure limit. The Council could adjust the budget down between May 10 and May 24 but not increase expenditures.

### **Discussion of Fire Service Fee**

Mr. Bacon reported that since the Municipal Fire Protection Fee Bill (HB2060) died in the state Senate, staff will focus on identifying a third party billing agent over the summer. He anticipated that the Council would adopt the fee schedule in the fall and begin billing for the service by the end of the calendar year.

He announced that a mailer was sent out recently with the goal of increasing awareness of the Town's plans to implement the fire service fee. It would be followed up two weeks later with an invitation to attend one of a series of meetings to discuss the fee and solicit feedback. Council supported the idea but asked for a written implementation plan and timeline.

He explained that the current ordinance provides an effective date of June 1. The Town Attorney will prepare an amendment to push the effective date to the end of the calendar year. In addition, the fee schedule must be adopted. The previously proposed fees of \$30-\$40-\$50 and \$0.09 per square foot for commercial will serve as the starting point for discussions with residents. He clarified that this original schedule does include in-house administrative costs. Council felt it was important to be transparent with regard to what the fee will be used to fund. Council asked staff to develop a clear budget of fire service fee expenses for distribution to the public.

### **Discussion of 7M Ranch Subdivision**

Senior Planner Molly Hood presented a request by Cullum Homes for approval of a preliminary plat for a 4-lot subdivision named "7M Ranch". The subdivision is located in the vicinity of 9205 N. Kober Road. The proposed lots would all be approximately 1-acre. She said there was no proposed subdivision signage, subdivision wall, landscape lighting, private road, or private roadway gate as part of this request. The lots meet the size, width, access, and setback requirements for R-43 properties.

She said the applicant will dedicate fifty feet of right-of-way for a new cul-de-sac which will be located on the north side of the project east of Kober Rd. She confirmed that all lots are served by existing 8" sewer lines and a new 6" water line. Finally, the lots will comply with drainage requirements and fire sprinkler requirements. There is 1 existing sewer connection and 3 will be

connected and pay the sewer hook-up fees. Additionally, Berneil Water Company has provided a written response that there is adequate water capacity for residential use and fire hydrant use.

She stated that the Planning Commission voted 7-0 on April 17, 2012 to forward the preliminary plat to Council with a recommendation for approval subject to seven stipulations. It is scheduled for Council approval on May 10.

Council asked staff to research and report back on May 10 about whether the Berneil Channel floods in this area.

Mayor LeMarr recessed the meeting at 4:50 p.m.

### **Discussion of Reasonable Accommodation Hearing Process and Resolution Number 1252**

Mayor LeMarr reconvened the meeting at 5:06 p.m.

Mayor LeMarr introduced outside counsel Doug Jorden.

Mr. Jorden explained that the Fair Housing Act of 1988 provides protections for persons with disabilities and gives them the ability to request reasonable accommodation. Cities and towns must adopt standards or processes for handling requests for reasonable accommodation. A request for a reasonable accommodation may be made by any person with a disability, or by another person on their behalf, in order to provide disabled individuals with an equal opportunity to use and enjoy a dwelling. He stated that the Town has never adopted any such standards or processes and it is appropriate to do so. There have not been any requests for reasonable accommodation as of today.

He said proposed Resolution 1252 included a reasonable accommodation guide, forms required to be completed by applicants, a reasonable accommodation fee, and provisions for appointing a hearing officer to hear and consider applications for reasonable accommodation. He noted that the Resolution includes an emergency clause so it would take effect immediately upon adoption by the Council.

He said that the urgency for this resolution is the result of a group home at 7505 N 70<sup>th</sup> Pt. The facility is currently in violation Town Code Zoning Ordinance Section 201. This section prohibits more than five unrelated persons, excluding residential staff, to live together as a housekeeping unit. He stated that a code violation letter was sent to the operator on April 19, 2012. As of today, the Town has not received a response. They have until May 11, 2012 to come into compliance.

He said the operator of the group home could ask for reasonable accommodation. Alternatively, they could continue to operate if they become licensed as an assisted living home or simply have five or fewer residents.

Council questioned the proposed application fee of \$150. It was noted that most other fees in the Town's master fee schedule were developed based on a full cost recovery methodology. There was concern that the fee was too low, especially since the Town would have to pay for a hearing officer. Mr. Jordan cautioned that the fee could not be so high as to create a barrier to entry.

After reviewing comparable fees in the fee schedule it was suggested to increase the fee to \$500 to be consistent with the application for a Managerial Special Use Permit Amendment.

Mayor LeMarr recessed the meeting at 5:44 p.m.

**EXECUTIVE SESSION**

- a.** 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 5:55 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 attended by telephone conference call.  
Council Member Lisa Trueblood

**STAFF MEMBERS PRESENT**

Town Manager James C. Bacon, Jr.  
Town Clerk Duncan Miller  
Police Chief John Bennett  
Community Development Director Eva Cutro  
Planner George Burton

**ALSO PRESENT**

Planning Commissioner Dolf Strom

**PLEDGE OF ALLEGIANCE**

Mayor LeMarr led the Pledge of Allegiance.

**PRESENTATIONS**

**Recognition of Plan Reviewer Russ Louman's Appointment to the Governor's State Fire Safety Committee**

Mayor LeMarr recognized Plan Reviewer Russ Louman on his appointment by Governor Brewer to the State Fire Safety Committee. The committee is made up of building officials and fire service professionals. It adopts state standards for plan review, permitting, and inspections.

**CALL TO THE PUBLIC**

There were no public comments.

**MAYOR / COUNCIL / MANAGER REPORT**

Mr. Bacon reported that the recently adopted amendments to the Council Rules and Procedures will go into effect at the next meeting. One of the amendments adds an item to the regular council meeting agenda which will provide Councilmembers with an opportunity to suggest items to be added to a future agenda. Accordingly, in the future, Councilmembers will be provided with a copy of the calendar of pending topics as part of the council packet. This calendar will serve as the primary tool for setting future agendas.

Mr. Bacon announced that he hired James Shano to serve as the new Public Works Director/Town Engineer. He presently works for the City of Surprise and has extensive expertise in the management of large capital projects. His first day will be June 4, 2012.

He said the Town is also in the process of hiring a new Finance Director. The pool of candidates has been narrowed to three. He hopes to make an offer next week.

Councilmember Dembow announced that the American Cancer Society Relay for Life will be held at Phoenix Country Day School on May 4, 2012. The Taste of Paradise will begin at 6:00 p.m.

Mayor LeMarr announced that HB2826, the consolidated elections bill, will likely pass the legislature. It would require that Town elections be held during the fall election cycle. He stated that the Town will draft a letter to the governor asking her to veto it if it passes the House next week.

**CONSENT AGENDA****a. Minutes of Town Council Meeting April 12, 2012****b. Award of Contract to Dick & Fritsche Design Group for Architecture and Engineering Services**

**Recommendation:** Award a design contract to Dick & Fritsche Design Group in the amount of \$42,500 to design security enhancements for the Municipal Court.

Mr. Bacon summarized the items on the consent agenda.

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

**PUBLIC HEARING**

**Adoption of Ordinance Number 645 Approval of Sanctuary on Camelback Mountain Special Use Permit Amendment**

Mayor LeMarr announced that he is a member of the Sanctuary Spa and, therefore, would recuse himself from consideration of this item.

Mr. Bacon suggested that since there was no one in the audience, the Council could dispense with the formal presentation and respond to questions instead.

Responding to a question from Council, Planner George Burton stated that the Town did not receive any objections or protests regarding this application.

It was noted that this application was reviewed using the new expedited process. Mr. Burton stated that it went well. Staff and the applicant were able to meet all of the public notice and mailing deadlines. The work sessions and public hearings were focused and provided ample time to thoroughly review all aspects of the project.

Planning Commissioner Dolf Strom reported on the Commission's recommendation. He agreed that the expedited process worked well. He said when there is a good statement of direction; the Council will get good results in a timely fashion. Commissioner Strom offered a suggestion regarding the roof-mounted air conditioning units for the new villas. He said the Commission spent most of its time on the roof-mounted mechanical equipment and noise. The applicant's solution to reduce noise and improve esthetics was to install the equipment in masonry towers on each villa. However, this might be a problem because the project must also be reviewed by the Hillside Building Committee. The Hillside Code prohibits putting mechanical equipment on the roof. Commissioner Strom suggested that the Council direct the Hillside Building Committee to waive this code requirement.

Responding to a question from the Council, the applicant stated that they have not identified a construction start date but it would likely be more than a year.

**Motion and vote** – Councilmember Collins moved to adopt Ordinance Number 645. Councilmember Trueblood seconded the motion which passed by a vote of 6 – 0. (Mayor LeMarr was recused)

**ACTION ITEMS**

**Adoption of Resolution Number 1252 Establishing a Reasonable Accommodation Application Process**

Mayor LeMarr rejoined the meeting.

Mr. Bacon stated that Resolution Number 1252 was discussed during the work study session earlier today. It establishes a reasonable accommodation application process. At the Council's request, Staff prepared an amendment increasing the application fee to \$500. He noted that the resolution includes an emergency clause so it will go into effect upon adoption by the Council and signed by the Mayor.

**Motion and Vote** – Councilmember Kirby moved to adopt Resolution 1252 with the following amendment: change the application fee to \$500. Vice Mayor Hamway seconded the motion which passed by a vote of 7 – 0.

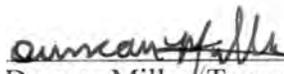
**ADJOURNMENT**

**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 6:14 p.m.

  
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Scott P. LeMarr, Mayor

ATTEST:

  
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Duncan Miller/Town Clerk