



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

December 6, 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, December 6, 2012 at 4:00 PM.

COUNCIL MEMBERS PRESENT

Mayor Scott P. LeMarr
Vice Mayor Michael Collins
Council Member Paul E. Dembow
Council Member Pam Kirby
Councilmember Dan Schweiker
Council Member Lisa Trueblood

STAFF MEMBERS PRESENT

Town Manager James C. Bacon, Jr.
Town Attorney Andrew M. Miller
Town Clerk Duncan Miller
Community Development Director Eva Cutro
Public Works Director Jim Shano
Finance Director Scott McCarty
Senior Planner Molly Hood
Planner George Burton
Project Coordinator Jeremy Knapp
Police Chief John Bennett
Financial Manager Christine Covell-Granberg

Discussion of Online Video of Public Meetings

Town Clerk Duncan Miller updated the Council on the government transparency project. He said that the project is on schedule. Staff will receive training next week on the agenda and action report work-flow process. He said electrical outlets will be added to the Council dais next week. He said the digital cameras have installed and tested.

He stated the purpose of tonight's discussion is to receive direction from the Council regarding whether video streaming should begin with the Council or the Commission. The original implementation schedule called for Council meetings to be broadcasted first. The website templates for the new agendas and video streaming have been programmed for the Council but not for Commission. If Council decides to start with the Commission, it might not be possible to switchover in January.

There was Council consensus to implement video streaming with the Planning Commission and report back to the Council.

Discussion of Walls and Fences

Planner George Burton presented recommended amendments to Article X and Article XXIV of the Zoning Ordinance governing walls and fences. He stated that the walls and fences code was most recently updated in 2004. As part of a periodic review of the Code the Council adopted Resolution 1260 referring a series of concerns related to front yard wall requirements and non-conforming fence walls to the Planning Commission for review.

The Planning Commission voted 5 to 2 to forward a series of amendments to Council. Mr. Burton summarized the following amendments.

1. Allow fence to be built in conjunction with new SFR:
 - a. Building permits must be obtained for both fence and house
 - b. Fence may be constructed before work starts on house
 - c. Fence design/plan must have opening to allow access to enclosed yard during construction
2. Allow of 3' tall rail type fence, wrought iron fence, masonry fence or metal view fence to be built on vacant lot
3. Allow 3' high wall at 10' front yard setback along major arterial streets
4. Allow 3' high wall at 10' side/rear setback along all right-of-ways
5. The Commission was direct to review an amendment to allow a 6' tall view fence at 10' front yard setback, but they were concerned about the practice of planting vegetation behind the view fence thereby eliminating openness. As a result the Commission decided not to pursue this amendment
6. Clarify that the setbacks shown on the recorded plat take precedence. If there are no setbacks on recorded plat, the applicant shall choose a setback of 20 feet or a setback as existing at time of annexation.
7. Allow stacking of no more than 2 walls provided:
 - a. Have a minimum separation of 3'
 - b. Applies only to walls adjoining ROW and/or walls visible from off the property
 - c. Walls not to exceed a total height of 6'

8. Amend ordinance regarding retaining walls to:
 - a. permit 6' maximum height regardless of amount of fill it retains
 - b. Clarify that retaining walls must meet setbacks requirements with one exception:
 - i. Retaining wall may encroach into the setback when deemed necessary by Town Engineer and Community Development Director to prevent erosion
 - ii. Placing fill solely for purpose of obtaining a decreased wall setback shall be prohibited
 - c. View fences placed on top of retaining wall fill must maintain 5' separation from top of retaining wall
 - d. All other fences placed on top of retaining wall fill must maintain 10' separation from top of retaining wall
 - e. Combined wall height shall not exceed 8' measured from the low side of wall (with the exception of view pool barrier fences)
 - f. Separation requirements apply to any single lot
 - g. Placing fill solely for obtaining increased height is prohibited
9. Add language to clarify that if courtyard is not included in the FAR, all accessory structures must comply with the accessory structure setback and height requirements
10. Regarding driveway columns and entry gates add language to reference the setback requirements for R-10 and R-18A zoning.
11. Regarding non-conforming walls, remove requirement for removal of non-conforming walls when permits are issued for new or rebuilt homes
 - a. Add language to code which:
 - i. Will allow nonconforming walls to be repaired
 - ii. Require nonconforming fence walls to meet current code requirements when more than 50% of wall is demolished, and
 - iii. Allow nonconforming fence to be reconstructed when damaged by natural causes

Ms. Cutro stated that the Planning Commission discussed this amendment in great detail and that the recommendation to Council was not unanimous. Staff's recommendation was not to amend this section, but rather to keep the Code. She said two Commissioners voted against this amendment because of a concern that "Proposition 207" would prohibit future Councils from restoring this provision. She said one reason Staff supports the current Code is because it is consistent with the 2012 General Plan goal of preserving "visually significant corridors". She said some Commissioners argued that amendment should apply specifically to visually significant corridors to help reduce traffic noise. Moreover, property owners would not be encouraged to remodel homes if they were forced to move their walls back 40 feet, and thereby lose 40 feet of their front yard.

There was Council discussion that the amendment was contrary to the 2012 General Plan and a departure from what has been required of many property owners since the ordinance was adopted. It was noted that property owners may seek a remedy by making a "property hardship" case before the Board of Adjustment.

12. Clarify that rear or side wall connection must be made with minimum amount of encroachment needed to complete the connection
13. Add language to prohibit use of razor/barbed wire, electric fences and post & chain fences

The Council directed that this topic to be scheduled for an additional work session so the proposed changes could be considered in greater detail. Staff was asked to prepare the following for the next study session on this topic: photographic examples of existing conditions versus impacts of the proposed amendments; a summary of resident comments during the Planning Commission public hearings; and a comparison between Council's direction to the Commission, staff's recommendations, and the Commission's recommendations.

Discussion of Design Alternatives Mockingbird Ln 52nd St to 56th St

Public Works Director/Town Engineer James Shano presented three design alternatives for Mockingbird Lane between 52nd Street and 56th Street. He recognized Town Engineer Bill Mead for his assistance on this project and noted that would be Mr. Mead's last Council meeting after 25 years with the Town of Paradise Valley.

Mr. Shano explained that the roadway project would encompass Mockingbird Lane from 52nd St to 56th St including part of 56th St. Improvements would include a reconstructed roadway, concrete sidewalks, bike lanes, and storm water improvements.

The project would also include 52nd St from Shea Blvd around the Mockingbird curve to Tatum Blvd. Improvements would include curb and gutter, concrete sidewalks, and ADA improvements.

He stated that the Council awarded a design contract to Wood/Patel in June for \$337,801. An extensive public outreach program including project signage, two mailings, a public meeting, and website feedback forms. Based on that input, Wood/Patel prepared 3 alternatives:

1. North curb alignment
2. North curb alignment with landscaped medians
3. Curvilinear alignment with landscaped medians

He said staff's recommendation was alternative 3 – curvilinear with medians, a sidewalk on the north side of Mockingbird, bike lanes, a traffic circle at 52nd St, and continuation of the current cross section on 56th St.

There was consensus to proceed with alternative 3. There was discussion about constructing a traffic circle at 56th St. in addition to 52nd St. Mr. Shano stated that the cost differential would be minimal. There was concern about a traffic circle because of its proximity to Cherokee School. Staff was requested to conduct a site visit during pick up and drop off to assess any safety issues. Mr. Shano stated that this could be included in the construction documents as a bid alternative.

He said the next step would be for Wood/Patel to prepare plans based on alternative 3. Additional public meetings will be held in January, construction documents will be ready in March, and construction could begin as early as June. Construction would last 9 to 12 months.

FY 2011-12 Financial and FY 2012-13 Budget Report

Finance Director Scott McCarty summarized the Fiscal Year 2011-2012 audit and financial results. He said the Town received a clean audit but with some minor findings mostly related to internal control issues resulting from being short staffed. All of the issues have been resolved as a result of hiring a Finance Director. The comprehensive annual financial report will be formally presented to the Council in January.

He summarized revenues and expenditures for FY 2011-12. He said revenues were \$2.5 million or 17% over budget. However, the budget did not account for the sales tax rate increase by .85% since the tax was increased after the preliminary budget was adopted. He said expenses were \$0.2 million or 1% under budget, mostly resulting from the operating contingency.

He said revenues exceeded expenses by \$3.3 million before transfers out to other funds. The transfers totaled \$3.5 million and included:

- \$1 million for fire station debt (the debt is fully funded)
- \$2.5 million transferred to the capital improvement project budget

Generally revenues matched budget forecasts with the exception of sales tax since the increase was not accounted for in the budget. Building permit revenue was slightly over budget but court fines and interest income were below budget.

Overall, operating expenses were 1% under budget (mostly resulting from the operating contingency) and all departments were within budget.

Mr. McCarty proposed the following changes to the budgeting process.

1. He recommended allocating interest income based on the cash balance of each fund
2. Eliminate the alarm fund and record it in the general fund
3. Create new funds for restricted court activities and fire service
4. Eliminate the non-departmental category and create more transparent funds – for example Tourism and Hospitality Department to fund the Scottsdale Convention and Visitor's Bureau contributions
5. He suggested amending the Town's investment policy to add corporate paper, negotiable CDs, and municipal securities
6. Develop an investment plan to identify prudent investment opportunities based on the current economic climate
7. Review healthcare funding and cost sharing
8. Review workers compensation program

9. Review some contract service providers for cost savings

Motion and vote –Councilmember Kirby moved to go into executive session at 5:50. Councilmember Schweiker seconded the motion which passed by a vote of 6 - 0.

EXECUTIVE SESSION

- a. Discussion and consultation with legal counsel regarding pending or potential litigation regarding current development agreement with Potomac Hotel Limited Partnership and future development agreement with MTS Land LLC and MTS Golf LLC related to the Mountain Shadows Resort as authorized by A.R.S. §38-431.03.A.4; and legal advice related to bankruptcy and other legal matters connected with the Mountain Shadows Resort project 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

BREAK

RECONVENE FOR REGULAR BUSINESS MEETING

CALL TO ORDER

Mayor LeMarr reconvened the meeting of the Town Council at 6:41 P.M.

COUNCIL MEMBERS PRESENT

Mayor Scott P. LeMarr
Vice Mayor Michael Collins
Council Member Paul E. Dembow
Council Member Pam Kirby
Councilmember Dan Schweiker
Council Member Lisa Trueblood

STAFF MEMBERS PRESENT

Town Manager James C. Bacon, Jr.
Town Attorney Andrew M. Miller
Town Clerk Duncan Miller
Community Development Director Eva Cutro
Planner George Burton
Police Chief John Bennett
Town Engineer William Mead
Public Works Director James Shano

PLEDGE OF ALLEGIANCE

Town Engineer William Mead led the Pledge of Allegiance.

PRESENTATIONS

There were no presentations.

CALL TO THE PUBLIC

Resident Gail Gordon spoke regarding recent burglaries in Town. She asked the Council to schedule a meeting to discuss police staffing levels.

Resident Allyson Beckham expressed concern that the Police Department no longer has a community resource officer and no block watch program. She asked the Town to be more proactive in preventing crime. She also advocated for increased police staffing

Resident Ron Ober stated that his house was recently burglarized while he was out of town. He stated that an officer stayed at house for 3 hours until he was able to send someone to his house

to secure it. He said he was pleased with the quality of the police department but asked that the town hire additional officers.

Resident Ahmed Bedeir stated that his neighbor had recently been burglarized. He expressed concern about the lack of visibility of patrol officers and slow response times.

Resident Bill Gold stated his house was robbed over the Thanksgiving weekend. He said the response time was 8 minutes but asked for the Town to hire additional officers.

Resident Amy Pickett stated that she had been burglarized. She said that the police response was great but agreed that the Town should hire additional officers.

Resident Jennifer Swartz expressed concern about police staffing levels. She asked the Town to hire additional officers and implement a formal block watch program.

Town Manager Jim Bacon thanked the residents for expressing their concerns in person and by email. He said he lives near the area that had recently seen an increase in criminal activity. His intention tonight had been to report on recent and planned staffing increases in the police department, the fact that overall crime is down in Paradise Valley, and significant increases in funds being budgeted to improve police technology, but after listening to the speakers tonight it became evident that the Town must do a better job at proactively communicating with residents regarding public safety. He said the Town will hold a public meeting in January to discuss the concerns raised about community policing and block watch programs.

Chief Bennett provided a briefing on the Police Department's response to the recent break-ins. He said the Department's focus and priority has been on investigating and apprehending the suspects. He said that physical evidence had been obtained from the crime scenes and it was sent to the crime lab for testing. He said patrols have been increased in the neighborhood. In addition, the Department has 22 citizen volunteers who have also been patrolling the surrounding neighborhoods reporting anything suspicious. He reported that crimes fitting this MO have not been reported in neighboring communities.

He explained that the Department is fully staffed with 5 detectives assigned to the General Investigation Bureau (GIB). He said the Town hired an additional patrol officer so that a veteran officer could be reassigned to GIB. The Department is also in the process of updating and increasing its technological capabilities. The Town is committed to being leaders in law enforcement technology. He agreed that the Department's outreach needs to be better and he will work to make improvements.

Chief Bennett invited members of the audience to meet with Commander Laitsch and him in a nearby conference room to address additional questions and concerns.

Councilmember Kirby departed the meeting.

CONSENT AGENDA

Minutes of Town Council Meeting November 15, 2012

Minutes of Town Council Meeting November 26, 2012

Minutes of Town Council Meeting November 27, 2012

Mr. Bacon summarized the items on the consent agenda.

Motion and vote: Vice Mayor Collins moved to adopt the Consent Agenda as submitted. Councilmember Dembow seconded the motion which passed by a vote of 5 – 0. (Councilmember Kirby was not present)

PUBLIC HEARINGS

Consideration of Ordinance Number 653; Mountain Shadows Resort Special Use Permit

Mayor LeMarr announced that the Town was not prepared to take final action on this item. He said that no progress had been made with the applicant to finalize the Special Use Permit stipulations and development agreement.

Motion and vote – Vice Mayor Collins moved to continue the public hearing on Ordinance Number 653 to January 10, 2012. Councilmember Dembow seconded the motion which passed by a vote of 5 – 0. (Councilmember Kirby was not present)

Consideration of Resolution Number 1267; Approving a Major General Plan Amendment, GP-12-01, for the Property Located at 6401 North Quail Run Road

Senior Planner Molly Hood presented a request for the Town's first Major General Plan Amendment. She said the request is to change the land use designation on a five-acre parcel adjoining the Cottonwoods Resort from low density residential to resort/country club. She noted that the general plan amendment does not change the zoning on the property. The zoning would remain R-43 single family residential. An SUP would be needed to change the zoning.

She explained that the Cottonwoods resort was issued an SUP in 1975. The resort is situated on multiple properties located in the City of Scottsdale and the Town of Paradise Valley. The request is only pertinent to 27.5 acres within the Town. Of those 27.5 acres, 22.5 are currently developed with resort uses. The additional 5-acres is under the same resort ownership and has a single-family home on it. Access to the resort is off Scottsdale Rd via Rose Lane.

She reported that all necessary public notice and outside agency review procedures had been satisfied. She said the Planning Commission voted 7 0- 0 on November 13, 2012 to forward the request to Council with a recommendation for approval.

Attorney Lynn Lagarde (Earl, Curley & Lagarde, P.C.) spoke on behalf of the applicant. She said this change in land use was contemplated during the 2012 General Plan adoption process. She said it is only changing the land use designation not he zoning. The zoning review process would be considered during a separate public hearing process. She requested approval of the amendment

Mayor LeMarr opened the public hearing

Resident Lee Storey spoke in favor of the amendment. She said she did have concerns about the SUP application but favored revitalizing the resort.

Resident Colleen Steinberg spoke regarding the potential redevelopment of Cottonwoods Resort. She said she would support the SUP application so long as Quail Run Rd does not become a through-street, there would be no vehicular access allowed on to Quail Run Rd, and that an attractive and maintained wall was constructed first.

Scottsdale resident Barbara Randall did not object to the General Plan Amendment. She said she did have concerns regarding the SUP application, specifically parking and increased traffic on Rose Lane.

Responding to a question from Council, Ms. Lagarde stated that the applicant does not intend to make Quail Run Road a through-street.

Mayor LeMarr closed the public hearing.

Motion and vote –Councilmember Schweiker moved to adopt Resolution Number 1267. Vice Mayor Collins seconded the motion which passed by a vote of 5 – 0. (Councilmember Kirby was not present)

ACTION ITEMS

Councilmember Kirby rejoined the meeting.

Consideration of Appointment to Fill the Vacancy on Town Council

Motion and vote: Councilmember Schweiker moved to go into executive session at 7:39 PM. Mayor LeMarr seconded the motion which passed by a vote of 6 – 0.

Mayor LeMarr reconvened the meeting at 7:45 PM.

Motion and vote – Councilmember Dembow moved to appoint David A. Sherf to fill the vacancy on Town Council. Vice Mayor Collins seconded the motion which passed by a vote of 6 – 0.

Consideration of the Cancellation of the December 20, 2012 Regular Meeting

Mr. Bacon stated that Council rules require formal action if Council wishes to cancel the meeting on December 20, 2012

Motion and vote – Councilmember Schweiker moved to cancel the December 20, 2012 regular meeting. Councilmember Trueblood seconded the motion which passed by a vote of 6 – 0.

REQUESTS FOR FUTURE AGENDA ITEMS

Vice Mayor Collins moved to move the items currently scheduled for January 24, 2013 and hold a discussion on public safety issues. Councilmember Dembow seconded the motion. After discussion the motion was amended to the first available date in January as determined by the Town Manager. The motion passed by a vote of 6 – 0.

MAYOR / COUNCIL / MANAGER REPORT

There were no reports.

ADJOURNMENT

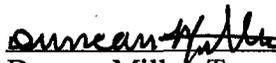
Motion and vote – Councilmember Kirby moved to adjourn. Councilmember Dembow seconded the motion which passed by a vote of 6 - 0.

Mayor LeMarr adjourned the meeting at 7:56 p.m.



Scott P. LeMarr, Mayor

ATTEST:



Duncan Miller, Town Clerk

STATE OF ARIZONA)
 :SS.
COUNTY OF MARICOPA)

CERTIFICATION

I, Duncan Miller, Town Clerk of the Town of Paradise Valley, Arizona hereby certify that the following is a full, true, and correct copy of the minutes of the regular meeting of the Paradise Valley Town Council held on the 6th day of December, 2012.

I further certify that said municipal corporation is duly organized and existing. The meeting was properly called and held and that a quorum was present.



Duncan Miller, Town Clerk