

To: Kevin Burke, Town Manager

CC: Andrew Miller, Town Attorney  
Duncan Miller, Town Clerk

From: Michael Collins, Mayor  
David Sherf, Vice Mayor

Date: November 10, 2017

Under the Mayor's authority, but jointly, we asked that you place an item on the agenda regarding Staff Communication with Council. You indicated at our November 3<sup>rd</sup> Leadership meeting that this could be included on the November 17 study session. You have further requested back-up material to place in the packet to inform Councilmembers and the public about the topic. This memo shall serve that purpose.

Through our discussions at the Leadership meetings, three distinct communications topics have come forward that could use some dialogue and resolution with the full Council. These include: communication with councilmember-elects, communication of attorney-client privileged information, and communication of Town Manager weekly reports.

Paradise Valley is in a fortunate, but somewhat unique, situation in that the last two candidate elections have been resolved at the primary in late August or early September. However, the Councilmembers-elect are not sworn into office until the first meeting in January. This creates a rather long period of time for a transition. Consequently staff is trying to balance providing the councilmembers-elect with information that gets them up-to-speed and respecting the governance powers of those still in office. Based upon a discussion at Leadership in September, staff was advised to start including the councilmembers-elect in any communication to the sitting Council starting after the General Election. This was based upon the precedent of the 2014 election and according to Duncan has been the precedent with agenda packets for his entire 18 years. I would like to have this discussion with the full Council as I have heard some frustrations on both sides and if we could establish a policy for the next time around, it would better manage expectations.

Second, we were advised that a Town Attorney Weekly Report was mistakenly provided to a councilmember-elect. This violates the Attorney-Client privilege. As Andrew informed us, this is a privilege owned by the entire sitting Council and cannot be waived by any single member but can be waived by the entire Council. While the Town Attorney advises against broadly waiving the privilege for all Town Attorney Weekly Reports during the transition period because the topics are unknown from report to report, we believe it is worth communicating and discussing that with the Council and would like to do so at this meeting.

Third, the Town Manager similarly informed us that a Town Manager Weekly Report had been forwarded to a councilmember-elect. Further, you noted that unlike the Town Attorney report, this is a public document and is afforded no privilege or confidentiality. However, you informed us that you have been operating under the assumption that it was intended for Council and all requests for copies would come through the open records requests through the Town Clerk. That process afforded the Town Council a bit of a head start on information that constituents or newspaper reporters might

inquire about. Again, since this is a public document and may be forwarded by any recipient to any person at any time, a conversation with Council about how we want to handle these communications is probably appropriate so that no one is surprised.

I will introduce this topic at the Study Session but provide you , the Town Attorney, and the Town Clerk, the opportunity to provide any further information as you see fit.