

TOWN  
*Of*  
PARADISE VALLEY



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**TOWN COUNCIL MEETING  
6401 E. LINCOLN DRIVE  
PARADISE VALLEY, ARIZONA 85253  
MINUTES  
Thursday, December 17, 2015**

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**1. CALL TO ORDER / ROLL CALL**

Mayor Collins called to order the Town Council Meeting for Thursday, December 17, 2015 at 4:00 p.m. in the Town Hall Boardroom.

**COUNCIL MEMBERS PRESENT**

Mayor Michael Collins  
Vice Mayor Paul Dembow  
Council Member Jerry Bien-Willner  
Council Member Mary Hamway  
Council Member David Sherf  
Council Member Mark Stanton  
Council Member Maria Syms attended the meeting by telephone conference call

**STAFF MEMBERS PRESENT**

Town Manager Kevin Burke  
Town Attorney Andrew M. Miller  
Town Clerk Duncan Miller  
Police Chief Peter Wingert  
Community Development Director Eva Cutro  
Director of Administration and Government Affairs Dawn Marie Buckland  
Public Works Director / Town Engineer James P. Shano  
Assistant Town Attorney Debbie Robberson  
Attorney Doug Jordan. Jordan Bischoff & Hiser

**2. STUDY SESSION ITEMS**

**15-313      Discussion of Special Use Permit Major Amendment for The Ritz-Carlton Resort, Paradise Valley**

Town Manager Kevin Burke and Community Development Director Eva Cutro summarized the Five Star Development Special Use Permit, site plan, stipulations, and

development agreement for a proposed mixed-use Ritz-Carlton resort with residential and commercial retail.

The applicant, Five Star Development, was represented by Jason Morris and Benjamin Graff of Withey Morris, Five Star Development Chief Financial Officer Chris Klecka, and Project Manager Richard Frazee.

Ms. Cutro explained the stipulations that had changed since the December 3rd meeting.

Mr. Burke presented two versions of the proposed development agreement. The two drafts differed in terms of resort residential unit replacement fees and project construction phasing.

The Council discussed parliamentary procedures for considering various motions for adopting, amending, and continuing items on the business meeting agenda.

### **3. EXECUTIVE SESSION**

**A motion was made by Council Member Hamway, seconded by Council Member Sherf, to go into executive session at 5:47 p.m. The motion carried by the following vote:**

**Aye:** 7 - Mayor Collins, Vice Mayor Dembow, Council Member Bien-Willner, Council Member Hamway, Council Member Sherf, Council Member Stanton, and Council Member Syms

**15-292      Discussion and consultation with Town Attorney to consider the Town Council's position and instruct the attorney regarding a potential development agreement with Five Star Development as authorized by A.R.S. §38-431.A.4; and discussion or consultation for legal advice with the Town Attorney as authorized by A.R.S. §38-431.A.3.**

**15-293      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.A.3.**

### **4. BREAK**

## **5. RECONVENE FOR REGULAR MEETING**

Mayor Collins reconvened the meeting at 6:50 p.m.

## **6. ROLL CALL**

### **COUNCIL MEMBERS PRESENT**

Mayor Michael Collins

Vice Mayor Paul Dembow

Council Member Jerry Bien-Willner

Council Member Mary Hamway

Council Member David Sherf

Council Member Mark Stanton

Council Member Maria Syms attended by telephone conference call

### **STAFF MEMBERS PRESENT**

Town Manager Kevin Burke

Town Attorney Andrew M. Miller

Town Clerk Duncan Miller

Police Chief Peter Wingert

Community Development Director Eva Cutro

Director of Administration and Government Affairs Dawn Marie Buckland

Public Works Director / Town Engineer James P. Shano

Senior Planner Paul Michaud

## **7. PLEDGE OF ALLEGIANCE\***

Mayor Collins led the Pledge of Allegiance.

## **8. PRESENTATIONS**

### **15-323 Presentation of Paradise Valley Vintage Car Show Proceeds to the Sentinels of Freedom and the Military Assistance Mission**

Mayor Collins, along with members of the Paradise Valley Veterans' Appreciation Car Show Committee, presented checks to the Sentinels of Freedom and Military Assistance Mission in the amount of \$4,200 each. Co-Chair Ed Winkler stated that the Town has been holding the car show event for eleven years on Veterans' Day weekend.

## **9. CALL TO THE PUBLIC**

There were no public comments.

## **10. CONSENT AGENDA**

Mr. Burke summarized the items on the consent agenda.

**15-319 Minutes of Town Council Special Meeting December 2, 2015**

**15-320 Minutes of Town Council Meeting December 3, 2015**

**15-327 Minutes of Town Council Special Meeting December 10, 2015**

**15-322 Approval of Municipal Court Case Management System Upgrade**

**A motion was made by Council Member Sherf, seconded by Vice Mayor Dembow, to approve the Consent Agenda. The motion carried by the following vote:**

**Aye:** 7 - Mayor Collins, Vice Mayor Dembow, Council Member Bien-Willner, Council Member Hamway, Council Member Sherf, Council Member Stanton, and Council Member Syms

## **11. PUBLIC HEARINGS**

### **15-324 Consideration of Ordinance Number 694 Amending the Existing Special Use Permit for The Ritz-Carlton, Paradise Valley**

Community Development Director Eva Cutro summarized the proposed Special Use Permit Amendment and site plan submitted by Five Star Development.

Attorney Jason Morris, representing the applicant, presented Five Star Development's application for a Ritz-Carlton resort.

Town Manager Kevin Burke summarized the proposed Development Agreement.

Planning Commissioner Scott Moore reported on the Commission's recommendation.

Mayor Collins opened the public hearing. He announced that members of the public could speak on both the Special Use Permit and Development Agreement.

Daran Wastchak supported the SUP but suggested a continuance of the development agreement; Robert Rasmussen recommended continuance; Collin Williams favored the project but questioned the branding requirement in the development agreement; Heather Wagenhals spoke in favor of the project and the revenue it would bring; Craig Jackson spoke in favor of the project; Ed Isaac spoke in favor of the project; Jack Wilson (representing St. Barnabas Church) reported that Five Star Development and Saint Barnabas had reached an agreement on the development; Paul Butzler spoke in favor of the project; James Anton spoke in opposition to the project's residential density; Miroslav Bristensky spoke in favor of the project; Sam Khazen spoke in favor of the project and urged the Council not to vote to continue; Joy McLean spoke in opposition to the density of the development and suggested that the Council continue the ordinance; Bob Darre spoke in favor of the project and urged a vote; Robert Green (President of Judson HOA) spoke in favor of the project and said the HOA does not object to the site plan; Gordon McGuire spoke in favor of the project but urged the Council to continue to further discuss the in lieu fee; Donna Holbura spoke in favor of the project, the revenue it would generate, and it was consistent with the mission and values of the Town; Scott Brandon spoke in favor of the project and urged the Council to vote; Jumana Hadeed spoke in favor of the smaller residential units; Dorothy Smith supported the resort but did not support a development agreement without an in lieu fee and waiver of the first \$200,000 in building permit fees; Linda Peterson Warren spoke in favor of the project based on economics and pragmatic reasons and asked the Council not to continue the ordinance, Ms. Warren read a statement from her husband supporting the project; Dennis Luz spoke in opposition to the density; Joel Barthelemy, William Simon spoke in opposition to the project; Paul Bowers; Ed Lowry suggested the council not vote tonight until there has been time to review the development agreement; Jini Simpson spoke in favor of the project and explained the development agreement negotiation process.

Patricia Stillman stated she and her husband owned the land originally and would like to see more open space. She thanked the town for its support of the Stillman Railroad Park.

The following residents did not speak but supported the project: Mary Anne Deardon, Vicki Vaughn, Scott Brannon James Nathan, Patricia Harris, Nadim Zyadh, Vicki Vaughan, and Mike Foley.

Scottsdale residents Dan Schweiker spoke in favor of the project and Patricia Badenoch opposed the project density.

Mayor Collins closed the public hearing.

Mr. Burke summarized the decision to be made by the Council based on consistency with the General Plan, zoning ordinances, SUP guidelines, Statement of Direction, infrastructure needs, and political considerations.

**A motion was made by Mayor Collins, seconded by Council Member Hamway, to adopt Ordinance 694.**

**A subsequent motion was made by Council Member Stanton to go into executive Session at 8:50 p.m. The motion was seconded by Council Member Bien-Willner. The motion carried by the following vote:**

**Aye:** 7 - Mayor Collins, Vice Mayor Dembow, Council Member Bien-Willner, Council Member Hamway, Council Member Sherf, Council Member Stanton, and Council Member Syms

Mayor Collins reconvened the meeting at 9:05 p.m.

Mayor Collins asked Ms. Cutro to describe the proposed pedestrian pathway on the SUP site plan.

**The motion to adopt Ordinance 694 failed by the following vote:**

**Aye:** 3 - Mayor Collins, Council Member Hamway, and Council Member Syms

**Nay:** 4 - Vice Mayor Dembow, Council Member Bien-Willner, Council Member Sherf, and Council Member Stanton

Town Attorney Miller explained that under the Town's procedural rules an affirmative action is required on ordinances and that another motion was now in order to deny or continue the ordinance.

**A motion was made by Mayor Collins, seconded by Council Member Syms, to continue Ordinance 694 to December 21, 2015: The motion carried by the following vote:**

**Aye:** 7 - Mayor Collins, Vice Mayor Dembow, Council Member Bien-Willner, Council Member Hamway, Council Member Sherf, Council Member Stanton, and Council Member Syms

## 12. ACTION ITEMS

### **15-326 Adoption of Ordinance Number 696; Approval of a Development Agreement with Five Star Development Resort Communities, LLC for the Redevelopment of Real Property in the Vicinity of Lincoln Drive and Mockingbird Lane**

**A motion was made by Mayor Collins, seconded by Council Member Stanton, to continue Ordinance 696 to December 21, 2015. The motion carried by the following vote:**

**Aye:** 7 - Mayor Collins, Vice Mayor Dembow, Council Member Bien-Willner, Council Member Hamway, Council Member Sherf, Council Member Stanton, and Council Member Syms

### **15-325 Adoption of Ordinance Number 695 Providing for Full Recovery of Sewer Disconnection Costs**

**A motion was made by Council Member Hamway, seconded by Council Member Sherf, to adopt Ordinance Number 695 The motion carried by the following vote:**

**Aye:** 7 - Mayor Collins, Vice Mayor Dembow, Council Member Bien-Willner, Council Member Hamway, Council Member Sherf, Council Member Stanton, and Council Member Syms

### **15-312 Consideration of "Mountain Shadows Resort - Condominium Hotel" Preliminary Condominium Map**

Senior Planner Paul Michaud presented a request by MS Condo Hotel Owner, LLC for approval of a Preliminary Condominium Map application for the Mountain Shadows Resort Condominium Hotel. The map consists of a total of 44 condominiums located on 1.3 acres. He said the Planning Commission reviewed the application and voted 6 to 0 to recommend approval, subject to stipulations.

**A motion was made by Council Member Sherf, seconded by Vice Mayor Dembow, to approve the Preliminary Condominium Map for "Mountain Shadows Resort - Condominium Hotel" (PP 15-04), subject to the following stipulations:**

1. The Final Map shall be in substantial compliance with the Preliminary Map, "Mountain Shadows Resort – Condominium Hotel," Sheets 1-13, prepared by Coe & Van Loo Consultants, Inc. dated November 3, 2015, and print date of November 23, 2015.
2. Prior to recordation of the Final Map, the applicant shall provide to the Town Attorney a copy of the CC&R's, declaration, bylaws, or other documents for review to insure that all terms required

under the SUP or other recorded agreements are part of these documents, including provision for maintenance of any drainage easements dedicated on the map.

3. The final improvements shall be in substantial compliance with improvement plans approved by the Town Engineer and Community Development Department that address items such as sewer, water, grading, drainage, paving, landscaping, and irrigation. Prior to the recordation of the Final Map, the applicant shall provide, subject to Town approval and consistent with the requirements set forth in the SUP and Development Agreement, all assurances necessary to guarantee completion of any improvements in the public right-of-way. The Town Engineer shall approve said final improvement plans prior to the issuance of any building permit for a residential unit in said Final Map.
4. Within 60 days of approval of the Final Map, the applicant shall submit to the Town mylars of the approved plans and an electronic version of these plans in a pdf format for the Town's permanent record.
5. The Final Map and/or declaration shall include any and all necessary easements, including:
  - a. Easements for drainage that are consistent to the overall grading and drainage plans for the entire Special Use Permit (SUP) site west of 56<sup>th</sup> Street, which shall be depicted on the Final Map prior to recordation of said plat,
  - b. Easements for utilities, with said easements to be in the locations and widths as prescribed by the respective utility provider, with correspondence from said utility providers given to the Town prior to Town Council approval of the Final Map, and

Easements for access, parking, refuse collection, and other similar easements.

**The motion carried by the following vote:**

**Aye:** 7 - Mayor Collins, Vice Mayor Dembow, Council Member Bien-Willner, Council Member Hamway, Council Member Sherf, Council Member Stanton, and Council Member Syms

**13. REQUESTS FOR FUTURE AGENDA ITEMS**

**15-291 Consideration of Requests for Future Agenda Items**

There were no discussions or additions to the future agenda list.

**14. MAYOR / COUNCIL / MANAGER COMMENTS**

There were no reports.

**A motion was made by Council Member Hamway, seconded by Vice Mayor Dembow to go into Executive Session at 9:27 p.m. The motion carried by a unanimous vote.**

