

TOWN
Of
PARADISE VALLEY



**TOWN COUNCIL MEETING
6401 E. LINCOLN DRIVE
PARADISE VALLEY, ARIZONA 85253
MINUTES
Thursday, December 3, 2015**

1. CALL TO ORDER / ROLL CALL

Mayor Collins called to order the Town Council Meeting for Thursday, December 3, 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 arrived at 4:53 p.m.
Council Member Maria Syms arrived at 4:12 p.m.

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

2. STUDY SESSION ITEMS

**15-287 Discussion 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.

Mr. Burke stated that the item would be scheduled for Council approval on December 17, 2015.

15-309 Discussion of Ordinance Related to Sewer Disconnection Costs

Town Attorney Andrew Miller presented draft Ordinance Number 695 amending the Sanitary Sewer Code to permit for the full recovery of costs associated with sewer line disconnection for customers whose accounts are severely delinquent. Responding to questions from the Council, Mr. Miller stated that extraordinary attempts will be made to notify the property owner and the Maricopa County Health Department prior to blocking the sewer.

15-306 Discussion of Special Use Permit Major Amendment for The Ritz-Carlton Resort, Paradise Valley

Town Manager Kevin Burke, Town Attorney Miller, and Community Development Director Eva Cutro presented the 66 draft Special Use Permit stipulations for the proposed Ritz-Carlton Resort. The applicant, Five Star Development, was represented by Jason Morris and Benjamin Graff of Withey Morris and Project Manager Richard Frazee. The Town Council tabled certain stipulations for additional discussion at a future meeting.

3. EXECUTIVE SESSION

A motion was made by Council Member Hamway, seconded by Council Member Sherf, to go into executive session at 5:30 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 6:10 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

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

7. PLEDGE OF ALLEGIANCE*

Madison Osuch led the Pledge of Allegiance.

8. PRESENTATIONS

15-307 Acceptance of the FY15 Comprehensive Annual Report and Associated Financial Reports

Dennis Osuch with CliftonLarsonAllen LLP presented the Fiscal Year 2015 Comprehensive Annual Financial Report, Annual Expenditure Limitation Report, HURF Report, Internal Control Communication and Communication to Governance. His firm concluded that the Town's financial statements present fairly in all material respects.

There was one material weakness noted related to the double entry of a worker's compensation expense in the general ledger. He stated that the Town is in compliance with the state expenditure limitation law, but his firm took notice of the exemptions and carry forwards the Town utilizes to remain under the limit.

A motion was made by Council Member Hamway, seconded by Vice Mayor Dembow, to adopt Resolution 1342 accepting the FY 2015 Comprehensive Annual Financial Report and Associated Financial reports. 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

9. CALL TO THE PUBLIC

There were no public comments.

10. CONSENT AGENDA

Mr. Burke summarized the items on the consent agenda.

15-304 Town Council Minutes November 19, 2015

15-290 Adoption of Resolution Number 1337 Amending the Fee Schedule

15-288 Approval of Special Event Liquor License for CASA Academy

A motion was made by Council Member Hamway, seconded by Council Member Bien-Willner, 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. ACTION ITEMS

15-310 Adoption of Ordinance Number 691 Regulating Unmanned Aerial Vehicles; and Declaring an Emergency

Town Attorney Andrew Miller presented Ordinance Number 691 regulating unmanned aerial vehicles, or drones, in the Town of Paradise Valley. He stated the regulations attempt to balance the competing interests of privacy and safety concerns with the appropriate use of UAV technology for both recreational and commercial use. The ordinance regulates three types of users: commercial, recreational, and emergency.

Commercial users would need to register online and notify the Town at least four hours prior to a flight.

A Paradise Valley property owner may use an UAV on their own property as long as such use is at a height of less than 500 feet and is not in violation of other laws or regulations. The general prohibitions and penalties include:

- Flying over private property without the owner's permission may be considered a form of trespass
- An UAV shall not be used in a careless or reckless manner that poses an apparent or actual threat of harm danger to persons or property
- An UAV shall not be used to transmit any visual images or recordings of any person or property where there is a reasonable expectation of privacy (inside a residence of an enclosed yard is a defined "privacy" area)
- Penalties for violation shall be a Class 1 Misdemeanor or punishable under the provisions of Article 1-9 of the Town Code (which suggests that initial violations be charged as a civil violation)

He said emergency use would be allowed by a law enforcement agency in response to an emergency situation or after obtaining a warrant based upon probable cause that criminal activity is occurring

There were no public comments.

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

15-289 Adoption of Ordinance Number 692 Amending Article 2-3 Council Election

Town Clerk Miller stated that proposed Ordinance Number 692 amends the election provisions of the Town Code to bring it into conformance with recent laws adopted by the state legislature. The first amendment strikes the section regarding the determination of how candidate may be elected at the primary election and replaces it with a formula in state statute. The second amendment strikes the code provision directing the Town Clerk to conduct local elections by all-mail ballot. He said that option would no longer be available in the consolidated fall election cycle.

Responding to a question from Council, he stated that voters on the Permanent Early Voter List may still vote a ballot by mail. Moreover, independent voters will receive a notice 90 days prior to the election notifying them that they may request a party ballot or a ballot with local races only.

There were no public comments.

A motion was made by Council Member Hamway, seconded by Council Member Sherf, to Adopt Ordinance Number 692 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. REQUESTS FOR FUTURE AGENDA ITEMS

15-291 Consideration of Requests for Future Agenda Items

Mr. Burke summarized the items on the future agenda list. He announced that the Town Council would hold a Special Meeting on December 10, 2015 to discuss the Development Agreement regarding The Ritz-Carlton.

13. MAYOR / COUNCIL / MANAGER COMMENTS

There were no reports.

14. PUBLIC HEARINGS

15-303 Consideration of Ordinance Number 694: Special Use Permit Major Amendment for The Ritz-Carlton Paradise Valley

Community Development Director Eva Cutro summarized the Special Use Permit Major Amendment submitted by Five Star Development for a proposed Ritz-Carlton resort. The SUP would replace the SUP approved in 2008 by the Town Council and subsequently by the voters in a referendum election. The development project was divided into six areas:

Area A was the main 200 unit resort on 18 acres.

Area A-1 was the 94 resort villas on 11 acres.

Area B was 72 detached residences on 31.3 acres (although the applicant subsequently reduced the number to 66.)

Area C was 45 detached residences on 22.5 acres.

Area D was a mix of 62 one, two, and three story stacked residences.

Area E was a mix of retail, food and beverage, and gourmet foods on 7.2 acres.

Jason Morris, attorney with Withey Morris representing the applicant Five Star Development, presented the developer's vision for the mixed-use resort/residential/retail plan.

Mayor Collins opened the public hearing.

Residents Linda Peterson Warren, Pat Bondurant, Robert Green (Judson HOA President), Paul Butzler, Cynthia Wasman, Dorothy Smith, Sam Khazen, Susan Cornell, Heather Wagenhals, Blair Ashner, and Virginia Simpson spoke in favor of the project.

Residents Rick Mahrle expressed concern about the density and suggested that the application be sent back to the Planning Commission to study Areas A1 and E. Thomas Campbell expressed concern about the density and setbacks. Ed Winkler suggested that the application be sent back to the Planning Commission to review the recent changes. Joy McClean and Robert Rasmussen expressed concern about the project's density. Al Barhan expressed concern about density, traffic and phasing.

Scottsdale resident Joe Straining spoke in favor of the project.

Scottsdale resident Vernon Parker argued that the application did not need to be referred back to the Planning Commission.

Residents Brooks Vitalone, John Matta, Paul Bowers, Nadin Zysdeh, and Valerie

Crosby did not speak but were in favor of the project.

Planning Commissioner Daran Wastchak reported on the Commission's recommendation.

A motion was made by Council Member Hamway, seconded by Council Member Syms, to continue the Five Star Ritz-Carlton SUP major amendment request to December 17, 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.

Mayor Collins recessed the meeting at 8:30 p.m. and reconvened the Study Session for further discussion of the special use permit stipulations.

A motion was made by Council Member Hamway, seconded by Council Member Bien-Willner, to go into executive session at 9:36 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. ADJOURN

A motion was made by Council Member Hamway, seconded by Council Member Sherf, to adjourn. The motion carried by a unanimous vote.

Aye: 6 - Mayor Collins, Vice Mayor Dembow, Council Member Bien-Willner, Council Member Hamway, Council Member Sherf, and Council Member Stanton

Absent: 1 - Council Member Syms

Mayor Collins adjourned the meeting at 10:40 p.m.

TOWN OF PARADISE VALLEY

SUBMITTED BY:

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 Thursday, December 3, 2015.

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