



# Town of Paradise Valley

6401 E Lincoln Dr  
Paradise Valley, AZ 85253

## Meeting Notice and Agenda Town Council

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Tuesday, March 17, 2020

10:00 AM

Town Hall Boardroom

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### SPECIAL MEETING

#### 1. CALL TO ORDER / ROLL CALL

*Notice is hereby given that members of the Town Council will attend either in person or by telephone conference call, pursuant to A.R.S. §38-431(4).*

*Members of the public who would like to participate in the meeting are encouraged to view the live stream at [www.https://paradisevalleyaz.legistar.com/Calendar.aspx](https://paradisevalleyaz.legistar.com/Calendar.aspx), utilize the eComment tool on the online agenda, or email comments directly to [dmiller@paradisevalleyaz.gov](mailto:dmiller@paradisevalleyaz.gov). Comments will be shared with the Town Council and read into the record.*

#### 2. ACTION ITEMS

*The Town Council May Take Action on This Item. Citizens may address the Council regarding any or all of these items. Those making comments are limited to three (3) minutes. Speakers may not yield their time to others. Please fill out a Speaker Request form prior to the start of the meeting and indicate which item you would like to address.*

**20-132**

#### **Adoption of Resolution Number 2020-08; Authorizing Public Meeting Action Plan**

**Staff Contact:**

Andrew Miller, 480-348-3691

#### 3. ADJOURN

**AGENDA IS SUBJECT TO CHANGE**

*\*Notice is hereby given that pursuant to A.R.S. §1-602.A.9, subject to certain specified statutory exceptions, parents have a right to consent before the State or any of its political subdivisions make a video or audio recording of a minor child. Meetings of the Town Council are audio and/or video recorded, and, as a result, proceedings in which children are present may be subject to such recording. Parents in order to exercise their rights may either file written consent with the Town Clerk to such recording, or take personal action to ensure that their child or children are not present when a recording may be made. If a child is present at the time a recording is made, the Town will assume that the rights afforded parents pursuant to A.R.S. §1-602.A.9 have been waived. The Town of Paradise Valley endeavors to make all public meetings accessible to persons with disabilities. With 72 hours advance notice, special assistance can also be provided for disabled persons at public meetings. Please call 480-948-7411 (voice) or 480-483-1811 (TDD) to request accommodation to participate in the Town Council meeting.*



## Action Report

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**File #:** 20-132

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**TO:** Mayor and Town Council

**FROM:** Jill Keimach, Town Manager  
Andrew Miller, Town Attorney

**DATE:** March 17, 2020

**CONTACT:**

**AGENDA TITLE:**

**Resolution No. 2020-08; Authorization for Public Meeting Action Plan**

**BACKGROUND:**

On March 11, 2020 the World Health Organization officially declared a pandemic due to the COVID-19 outbreak, which has also affected Arizona with infections now being documented here. On March 11, 2020 Governor Doug Ducey declared that a State of Emergency exists in Arizona due to the COVID-19 outbreak in Arizona. The Centers for Disease Control and Prevention is now urging a nationwide halt to gatherings of people for the next eight weeks, citing the risk of the spread of COVID-19.

It is necessary and appropriate for the Town of Paradise Valley to follow the recommendations of the public health agencies and take actions to ensure that the spread of COVID-19 is controlled and that the residents of Arizona remain safe and healthy. Given this need to curtail exposure to COVID-19 to the extent possible the Town should conduct its meetings by remote access and electronic means while still providing for the electronic accessibility of public meetings of the public bodies by electronic access, or other means, that will still include public participation and engagement while limiting potential COVID-19 exposure to the public. The access for the public will be consistent with the guidance provided by the Attorney General (see attached AG Opinion re COVID-19 and OML).

The Town Manager, Town Attorney, and Town Clerk should prepare means and methods of ensuring that remote public participation by members of the public and members of the public bodies can be enacted and publicized so that the public is aware of the alternate means of remote or electronic participation available for public meetings until such time that public health officials advise that the need to avoid large gatherings is no longer recommended.

Additionally, based on recommendations from the Centers for Disease Control and Prevention, Congress, or the State of Arizona the Town Manager should encourage Town employees to work remotely whenever possible and provide special leave provisions for certain staff members during this current COVID-19 situation.

Because of the imminent public health risks at issue an emergency exists such that Resolution No. 2020-08 should take effect immediately upon its adoption.

### **NEXT STEPS**

Until otherwise advised by public health agencies, the Town Manager, Town Attorney, and Town Clerk should prepare means and methods of:

1. Ensuring that remote public participation by members of the public and members of the Town's public bodies can be enacted and publicized so that the public is aware of the alternate means of remote or electronic participation available for public meetings.

2. Arrange for any and all public meetings to be held remotely, including having a quorum of the public body attend remotely, as deemed necessary in order to avoid the outbreak of COVID-19 or for other public health reasons.

3. The Town should continue to follow the recommendations of the Centers for Disease Control and Prevention, the Arizona Department of Health Services, and other public health agencies regarding limiting public gatherings until such time as the risk of spreading COVID-19 is deemed unnecessary.

4. Consistent with the recommendations from the CDC, the United States Congress, and the State of Arizona, the Town Manager should implement remote working provisions for employees of the Town whose in-person workplace attendance is not essential to the ongoing conduct of essential Town services and the Personnel Handbook should be amended to provide for limited Public Emergency Health Leave for those situations where the Town Manager deems such leave necessary based on CDC or Congressional input.

Concomitant with the adoption of Resolution No. 2020-08, the Mayor has asked that a Proclamation be prepared so that, among other things, the Town can adopt emergency measures as are deemed necessary for public health and safety and so that county, state, and federal assistance can be actively pursued. A copy of the Mayor's draft proclamation is also attached at the request of the Mayor.

It is recommended that the Council approve Resolution No. 2020-08 and establish the Public Meeting Action Plan.

### **ATTACHMENTS:**

Resolution No. 2020-08

Mayor's Proclamation

AG Opinion re COVID-19 and OML

1 When recorded, return to:  
2 Paradise Valley Town Attorney  
3 6401 East Lincoln Drive  
4 Paradise Valley, Arizona 85253  
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7 **RESOLUTION NUMBER 2020-08**  
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10 **A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE**  
11 **TOWN OF PARADISE VALLEY, ARIZONA, AUTHORIZING A**  
12 **PUBLIC MEETING ACTION PLAN**  
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14 **NOW THEREFORE BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL**  
15 **OF THE TOWN OF PARADISE VALLEY, ARIZONA AS FOLLOWS:**

16 WHEREAS, on March 11, 2020 the World Health Organization officially declared a  
17 pandemic due to the COVID-19 outbreak; and

18 WHEREAS, COVID-19 infections have been confirmed in Arizona; and,

19 WHEREAS, on March 11, 2020 Governor Doug Ducey declared that a State of  
20 Emergency exists in Arizona due to the COVID-19 outbreak in Arizona;

21 WHEREAS, it is necessary and appropriate to take actions to ensure that the spread  
22 of COVID-19 is slowed throughout the United States, Arizona, and Paradise Valley, and  
23 that the illness is prevented from spreading as much as practicable; and

24 WHEREAS, the Centers for Disease Control and Prevention ("CDC") has  
25 increasingly recommended smaller group gatherings and has most recently urged a  
26 nationwide halt to gatherings of more than 50 people for the next eight weeks, citing the risk  
27 of the spread of COVID-19, and as of March 16, 2020, the President of the United States of  
28 America has urged groups of no more than 10 in close proximity; and

29 WHEREAS, given the current need to curtail exposure to COVID-19 to the extent  
30 possible the Town should provide for the provisions of electronically accessible public  
31 meetings of the public bodies of the Town so that measures can be put in place to provide

1 for the public and the members of the Town's public bodies to attend public meetings by  
2 remote access, electronic access, or other means that will still include public participation  
3 and engagement while limiting potential COVID-19 exposure to the public; and

4 WHEREAS, the Town Manager, Town Attorney, and Town Clerk should prepare  
5 means and methods of ensuring that remote public participation by members of the public  
6 and members of the public bodies can be enacted and publicized so that the public is aware  
7 of the alternate means of remote or electronic participation available for public meetings  
8 until such time that public health officials advise that the need to avoid public gatherings is  
9 no longer recommended; and

10 WHEREAS, the Town Manager should implement means of having essential  
11 personnel and others as needed working at Town Hall and other Town facilities within  
12 healthy guidelines as recommended by CDC, Congress, the State of Arizona and/or other  
13 governmental bodies with expertise in and knowledge of the COVID-19 outbreak, and  
14 encourage employees to work remotely whenever possible and provide special leave  
15 provisions for certain staff members during this current COVID-19 situation; and

16 WHEREAS, given the public health concerns noted above this resolution should take  
17 effect immediately upon its adoption.

18 NOW, THEREFORE, BE IT RESOLVED that:

19 1. Until otherwise advised by the CDC and other public health agencies, the  
20 Town Manager, Town Attorney, and Town Clerk should prepare means and methods, to the  
21 extent practicable, of ensuring that remote public participation by members of the public and  
22 members of the Town's public bodies can be enacted and publicized so that the public is  
23 made aware of the alternate means of remote or electronic participation available for public  
24 meetings.

25 2. Until otherwise advised by the CDC and other public health agencies, any

1 and all public meetings that can be arranged to be held remotely, including having a quorum  
2 of the public body attend remotely, may, at the direction of the Mayor, or in the Mayor's  
3 absence the Vice-Mayor, be postponed or continued, as deemed necessary in order to reduce  
4 opportunities for spread of COVID-19 or for other public health reasons.

5 3. Due to the public health emergency that has been declared by the State of  
6 Arizona and pursuant to Town Code Section 3-7-3 which relates to the Town's and Mayor's  
7 emergency powers, the Town and persons within the Town should continue to follow the  
8 recommendations of the CDC, the Arizona Department of Health Services, and other public  
9 health agencies regarding limiting public gatherings and other health guidance that may  
10 emerge until such time as is deemed unnecessary in relation to COVID-19. This may  
11 include the temporary closing or limitation of use of Town or other facilities as deemed  
12 necessary and appropriate by the Mayor upon consultation with relevant authorities and to  
13 the full extent allowed by the authority vested in Town Code 3-7-3(2).

14 4. Consistent with the recommendations from the CDC and/or the United States  
15 Congress and/or the State of Arizona or other relevant governmental bodies, the Town  
16 Manager is authorized to implement remote working provisions for employees of the Town  
17 whose in-person workplace attendance is not essential to the ongoing conduct of essential  
18 Town services and the Personnel Handbook is hereby amended to provide for managerial  
19 authority to add limited Public Emergency Health Leave for those situations where the  
20 Town Manager deems such leave necessary based on CDC or Congressional input.

21 5. An emergency is hereby declared to exist such that this resolution shall take  
22 effect immediately upon its adoption.

23 PASSED AND ADOPTED by the Mayor and Council of the TOWN OF  
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1 PARADISE VALLEY, Arizona, this 17th day of March, 2020.

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6 Jerry Bien-Willner, Mayor  
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8 ATTEST:  
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11 Duncan Miller, Town Clerk  
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16 APPROVED AS TO FORM:  
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19 Andrew M. Miller, Town Attorney  
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# **Proclamation of Emergency**

## **PROCLAMATION BY JERRY BIEN-WILLNER, THE MAYOR OF THE TOWN OF PARADISE VALLEY, ARIZONA**

WHEREAS, on March 11, 2020, the Governor of the State of Arizona, Douglas A. Ducey, determined that the COVID-19 outbreak presents conditions in Arizona that justified his declaration of a State of Emergency based upon the outbreak's threat to human health and safety; and

WHEREAS, on March 13, 2020, the President of the United States of America, Donald J. Trump, found and proclaimed that the COVID-19 outbreak in the United States constituted a national emergency based upon the outbreak's threat to human health and safety; and

WHEREAS, on March 15, 2020, the national Center for Disease Control and Prevention and the Arizona Department of Health Services recommend that (1) for the next 8 weeks organizers cancel or postpone in-person events that consist of 50 people or more, (2) Statewide closures of Arizona schools through Friday, March 27, 2020, and (3) recommend telework and other alternatives when available (the "CDC Instructions"); and

WHEREAS, on March 16, 2020, President Trump issued his "Coronavirus Guidelines for America: 15 Days to Slow the Spread" (the "March 16, 2020 Presidential Directive") which provides guidance to avoid social gatherings of more than 10 people (and direction to "Listen to and follow the directions of your state and local authorities"); and

WHEREAS, the Mayor of the Town of Paradise Valley is authorized under the current circumstances by Town Code §3-7-4(2), A.R.S. §26-307, and/or A.R.S. §26-311.A to proclaim that a local emergency exists and, thereafter, to impose all necessary regulations to preserve the peace and order of the Town of Paradise Valley.

### **IT IS HEREBY PROCLAIMED AND IMPOSED AS FOLLOWS:**

1. The COVID-19 outbreak and the instructions in the above-listed declarations, proclamations, and recommendations – present conditions in the Town of Paradise Valley that justify this proclamation of an emergency.

2. The March 16, 2020 Presidential Directive and CDC Instructions are hereby incorporated by reference, and compliance with the guidance and instructions therein is hereby ordered, with the Town giving deference, to the extent applicable, to the State of Arizona and the County of Maricopa in their interpretation or further instructions regarding the March 16, 2020 Presidential Directive and CDC Instructions, given their superior knowledge of, expertise in, and greater responsibility for public health matters.



3. Along with the CDC Instructions and March 16, 2020 Presidential Directive, given the fluidity of the current situation, other instructions that may emerge from qualified governmental public health officials related to COVID-19 and reducing its spread shall be followed to the extent applicable.

4. The Town Manager, in consultation with the Mayor, is ordered, directed, and authorized to implement any procedures and take any actions that she deems necessary to carry out the intent of this Declaration.

5. These emergency regulations shall remain in full force and effect until such time as the emergency declared herein abates and is withdrawn, or a subsequent Proclamation is issued with amendments.

6. The Town requests that financial, mutual aid, and in-kind assistance be obtained from the County of Maricopa, the State of Arizona, and the Federal Government of the United States of America as may be necessary and appropriate under the circumstances.

7. In accordance with ARS §26-307(B), this Proclamation shall be effective when a copy thereof is filed in the office of the Town Clerk. Existing laws, ordinances, orders, rules and regulations in conflict with the same are hereby suspended during the time and to the extent that they conflict.

**IN WITNESS WHEREOF**, I have set my hand and caused to be affixed the seal of the Town of Paradise Valley this 17<sup>th</sup> day of March 2020.

Attest:

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Jerry Bien-Willner, Mayor

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Duncan Miller, Town Clerk



MARK BRNOVICH  
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ARIZONA

March 13, 2020

Re: Concerns Relating To Arizona's Open Meeting Law and COVID-19

The Office has received multiple inquiries concerning the impact of COVID-19 in light of public bodies' responsibilities under Arizona's Open Meeting Law (the "OML"), including whether public bodies may conduct public meetings remotely through technological means. This informal opinion addresses these concerns.

The OML permits a public body to hold a remote meeting through technological means. *See generally Arizona Agency Handbook* § 7.10 (Ariz. Att'y Gen. 2018);<sup>1</sup> Ariz. Att'y Gen. Op. I08-008 ("after providing proper notice and an agenda in accordance with the Open Meeting Law and implementing procedures designed to safeguard the public's access to the meeting, a public body can conduct an online meeting to allow deliberation and discussion about matters within the public body's jurisdiction").

Providing the public as much notice in advance is key. "Notice enables members of the public to attend public meetings by informing them of when and where to go, and how to get information regarding the matters under consideration." *Arizona Agency Handbook* § 7.6.1. At a minimum, a public body must provide its notice and agenda at least 24 hours in advance, absent an emergency. *See* A.R.S. § 38-431.02(C), (G). If a public body chooses to hold a remote meeting, then the public body should follow best practices and provide as much advance notice

as is reasonably practicable. For example, a public body could:

- Post a statement on its website informing the public that a meeting will be held remotely through technological means;
- Provide a website location for a video conference and post directions on how to access a meeting;
- Provide a conference call number for telephonic meetings; or
- Provide technical support for questions, concerns, or difficulty accessing a meeting.

The Open Meeting Law also establishes a right for the public to attend and listen to a public body's deliberations and proceedings. A.R.S. § 38-431.01(A). This requires the public body to ensure that both the public and any members attending by technological means can hear any discussion from the public body and/or other persons making statements to the body. *Arizona Agency Handbook* § 7.10.3. Depending on how a public body chooses to conduct a remote meeting (i.e. the public body members attend the meeting at their normal meeting place and no members of the public are present, or if the individual members and staff also remotely attend a meeting), a public body should review the guidelines listed in § 7.10.3 of the *Arizona Agency Handbook*.

Public bodies that conduct remote meetings should consider implementing procedures to minimize any difficulties arising from remote conferencing. For example, a public body could:

- Ask members of the public body, staff, presenters, and members of the public to identify themselves each time they begin speaking;
- Include copies of any presentations, documents, etc. that will be discussed at a meeting with the agenda, and post any information relevant to the public meeting on the public body's website;
- Ask all participants to ensure microphones/phones are muted when not speaking;
- Record the meeting; or

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<sup>1</sup> The Office's 2018 edition of the Arizona Agency Handbook is available at <https://www.azag.gov/outreach/publications/agency-handbook> (last visited on March 13, 2020).

- Take any additional steps the public body deems necessary to ensure that its meetings are conducted publicly and openly.

The OML permits, but does not require, a public body to include a call to the public on its agenda. A.R.S. § 38-431.01(H). (There may be other statutes not analyzed in this opinion that require public participation and comment.) If the public body holds a remote meeting, the public body may still choose to conduct a call to the public. The OML does not prohibit members of the public from addressing a public body through technological means. *See* A.R.S. § 38-431(4). But if the public body does agendize a call to the public, the public body should consider the above guidelines.

\* \* \*

In sum, the OML generally permits public bodies to conduct remote meetings through technological means. Nonetheless, the public body must conduct such meetings in a way that satisfies the above notice and access requirements, which are designed to further the OML's underlying purpose. *See* A.R.S. § 38-431.09 ("It is the public policy of this state that meetings of public bodies be conducted openly ... any person or entity charged with the interpretations of [the OML] shall construe this article in favor of open and public meetings."). Transparency is the core of legality. Throughout any circumstance, the government must remain accountable to the people.



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Mark Brnovich  
Attorney General