



**TOWN COUNCIL MEETING
6401 E. LINCOLN DRIVE
PARADISE VALLEY, ARIZONA 85253
MINUTES
Thursday, December 5, 2019**

1. CALL TO ORDER / ROLL CALL

Mayor Bien-Willner called to order the Town Council Meeting for Thursday, December 5, 2019 at 3:05 p.m. in the Town Hall Boardroom.

COUNCIL MEMBERS PRESENT

Mayor Jerry Bien-Willner
Council Member Ellen Andeen
Council Member Paul Dembow
Vice Mayor Scott Moore attended
Council Member Julie Pace
Council Member Mark Stanton
Council Member Anna Thomasson

STAFF MEMBERS PRESENT

Town Attorney Jill Keimach
Town Attorney Andrew Miller
Town Clerk Duncan Miller
Town Engineer Paul Mood
Community Development Director Jeremy Knapp

A motion was made by Council Member Andeen, seconded by Council Member Dembow, to go into executive session at 3:05 PM to discuss item 19-440. The motion carried by the following vote:

Aye: 7 - Mayor Bien-Willner
Council Member Andeen
Council Member Dembow
Vice Mayor Moore
Council Member Pace
Council Member Stanton
Council Member Thomasson

2. EXECUTIVE SESSION

**19-440 Discussion or consultation with the Town Attorney for legal
advice regarding potential cost recovery ordinance as authorized
by A.R.S. §38 431.03(A)(3.)**

Note: Minutes of Town Council meetings are prepared in accordance with the provisions of Arizona Revised Statutes. These minutes are intended to be an accurate reflection of action taken and direction given by the Town Council and are not verbatim transcripts. Video recordings of the meetings along with staff reports and presentations are available online and are on file in the Office of the Town Clerk. Persons with disabilities who experience difficulties accessing this information may request accommodation by calling 480-948-7411 (voice) or 480-348-1811 (TDD).

- 19-447 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 items listed on the agenda as authorized by A.R.S. §38-431.03(A)(3).**

3. STUDY SESSION ITEMS

Mayor Bien-Willner reconvened the public meeting at 3:22 p.m.

STAFF MEMBERS PRESENT

Town Attorney Jill Keimach
Town Attorney Andrew Miller
Town Clerk Duncan Miller
Town Engineer Paul Mood
Police Chief Peter Wingert
Community Development Director Jeremy Knapp
Public Works Director Brent Skoglund
Chief Information Officer Steven Brunasso
Planner George Burton

19-452 Discussion of Cost Recovery Ordinance

Town Attorney Andrew Miller and outside counsel Jeff Blilie, of Beus Gilbert PLLC, summarized Ordinance 2019-13 which codifies a process in Town Code that allows the Town Council to adopt resolutions or ordinances providing for development agreements that incorporate conditions, terms, restrictions and requirements for public infrastructure and the financing of public infrastructure and subsequent reimbursements over time, including for the construction of streets and sidewalks.

There was Council consensus to consider adoption of the ordinance later in the business meeting.

19-443 Discussion of the Results of the Town's FY2018-19 Financial Audit

Chief Financial Officer Douglas Allen summarized the results of the Fiscal Year 2019 Financial Audit. The Council discussed the two "audit findings" and the Corrective Action Plan.

19-448 Discussion of a Lot Line Adjustment request on Five Star Area C - Located at 7000 E. Lincoln Drive

Planner George Burton presented a request for a non-administrative land modification for a lot line adjustment on the Five Star Development Project Area C, to modify the property lines on Lots 35-37. Mr. Burton stated that the request meets development standards.

19-445 Discussion of Ordinance No. 2019-12, amendment to Chapter 10, Offenses, by adding Article 10-14, adding a registration requirement by the property owner(s) of short-term rental properties and other related regulations

Mr. Miller presented draft Ordinance 2019-12 adding a registration requirement for owners of short-term rental properties (STR) consistent with the provisions of HB 2672 signed into law by the Governor in May 2019. The registration requirement will help code enforcement officials more easily enforce state and local regulations governing short-term rental properties.

He explained that the ordinance requires responses from the STR responsible party to complaints in a “timely manner” which is defined as:

- within two hours for an incident where the police are “on scene” (at the STR property) at the time of the attempted contact with the contact person
- within 24 hours where the attempted first contact is made subsequent to the police (or code enforcement officer) leaving the scene of the STR property

There was Council consensus to schedule the ordinance for a vote at the next meeting.

19-431 Discussion and Consideration of a Resident Mediation Program

Community Development Director Jeremy Knapp provided information on mediation programs and discussed in-house and third-party program options.

There was Council consensus for staff to develop a third-party Resident Mediation Program that incorporated a small user payment. The Council directed staff to verify that the process used to identify mediators was consistent with procurement regulations.

4. BREAK

5. RECONVENE FOR REGULAR MEETING

Mayor Bien-Willner reconvened the meeting at 6:00 PM.

6. ROLL CALL**COUNCIL MEMBERS PRESENT**

Mayor Jerry Bien-Willner
Council Member Ellen Andeen
Council Member Paul Dembow
Vice Mayor Scott Moore
Council Member Julie Pace
Council Member Mark Stanton
Council Member Anna Thomasson

STAFF MEMBERS PRESENT

Town Attorney Jill Keimach
Town Attorney Andrew Miller
Town Clerk Duncan Miller
Police Chief Peter Wingert
Community Development Director Jeremy Knapp
Public Works Director Brent Skoglund
Chief Information Officer Steven Brunasso

7. PLEDGE OF ALLEGIANCE*

Teddy Miller led the Pledge of Allegiance.

8. PRESENTATIONS**19-437 Historical Advisory Committee Update**

Historical Advisory Committee Chair Catherine Kauffman presented the Committee's annual report to Council. She highlighted plans for the Town's 60th Anniversary and the Historic Property Recognition Program.

19-413 Board of Adjustment Update

Board of Adjustment Chair Eric Leibsohn presented the Board's annual report to Council. He acknowledged that variances for hillside properties must be in place before Hillside Committee action. He also suggested that the Council consider Code language to enable the Hillside Committee to determine if/when screen of solar panels are required.

19-414 Planning Commission Update

Planning Commission Chair Jonathan Wainwright presented the Commission's annual report to Council. He stated that the Statement of Direction process seems to be working and that the current members of the Planning Commission provide the right mix of expertise. He stated that the Commission will provide a list of topics the Council may wish to consider at the upcoming Council Planning Retreat.

Mayor Bien-Willner departed the meeting.

9. CALL TO THE PUBLIC

There were no public comments.

10. CONSENT AGENDA

Council Member Dembow removed item 19-456 from the Consent Agenda for separate discussion.

A motion was made by Council Member Thomasson, seconded by Council Member Pace, to approve the Consent Agenda with the exception of Item 19-456. The motion carried by the following vote:

Aye: 6 - Council Member Andeen
Council Member Dembow
Vice Mayor Moore
Council Member Pace
Council Member Stanton
Council Member Thomasson

Absent: 1 - Mayor Bien-Willner

19-454 Minutes of Town Council Meeting November 21, 2019

19-434 Cancellation of December 19, 2019 Council Meeting

Recommendation: Consider cancelling the December 19, 2019 regular Council meeting.

**19-450 Approval of Design Change Order No. 3 for Roadway & Utility
Improvements: Lincoln Dr, Mockingbird Ln, and Indian Bend Rd**

Recommendation: Authorize the Town Manager to execute Change Order No. 3 of the design contract with T.Y. Lin International Inc. in the amount of \$52,005, of which \$23,655 will be paid by the Town and the remaining \$28,350 paid by Five Star Development.

**19-456 Adoption of Resolution 2019-27 Approving the 2020 Legislative
Agenda**

A motion was made by Council Member Dembow, seconded by Council Member Pace, to adopt Resolution 2019-27. The motion carried by the following vote:

Aye: 6 - Council Member Andeen
Council Member Dembow
Vice Mayor Moore
Council Member Pace
Council Member Stanton
Council Member Thomasson

Absent: 1 - Mayor Bien-Willner

11. PUBLIC HEARINGS

19-446 Consideration of Ordinance 2019-07 Article XI, Section 1102.2.B. of the Zoning Ordinance; Medical Marijuana Dispensary Regulations

Town Attorney Andrew Miller stated that the Town received a letter from the Rose Law Group contending that the draft ordinance was illegal under the terms of the Arizona Medical Marijuana Act. The Town Attorney's Office is researching the claim of illegality. He recommended that the Town Council continue the public hearing to allow time for additional legal research.

Vice Mayor Moore opened the public hearing. There were no public comments.
Vice Mayor Moore closed the public hearing.

There was no Council discussion.

A motion was made by Council Member Pace, seconded by Council Member Stanton, to continue the public hearing on draft Ordinance 2019-07 to March 12, 2020. The motion carried by the following vote:

Aye: 6 - Council Member Andeen
Council Member Dembow
Vice Mayor Moore
Council Member Pace
Council Member Stanton
Council Member Thomasson

Absent: 1 - Mayor Bien-Willner

12. ACTION ITEMS

19-442 Adoption of Resolution 2019-25 Accepting the FY2018-19 Comprehensive Annual Financial Report (CAFR) and Associated Financial Reports

Chief Financial Officer Douglas Allen summarized the Comprehensive Annual Financial Audit Report, Annual Expenditure Limitation Report, Highway User Revenue Fund Report, Auditor Communication letter, and the Internal Control Communication.

He reported that:

- Revenues closed 8.0% (\$2,658,613) higher than estimated; revenue estimates were purposefully flat to protect the Town form over extending expenditures.
- Expenditures were 2.3% (\$687,687) higher than estimated; included \$3 million additional PSPRS payment

- Transfers out ended the year 9.2% (\$505,141) more than estimated; driven by Town policy.
- Ending operating fund balance is 1.4% (\$439,563) higher than estimated; meeting expectations.

Daros Zahn, Senior Auditor with CliftonLarsonAllen, reported on the results of the annual audit. The firm issued an Unmodified Opinion on the Financial Statements and a clean opinion on the Annual Expenditure Limitation Report. A Material Weakness was reported. The Firm proposed and the Town subsequently recorded an entry to restate beginning net position of the governmental activities for an error in deferring pension contributions in the previously issued financial statements. (In the prior year, the Town made pension contributions to the Public Safety Personnel Retirement System in excess of the required contributions; however, the excess contribution was recognized as an expense in the governmental activities and should have been reported as a deferred outflow of resources.) A Significant Deficiency was reported relating to two management level employees having full user access rights to the financial accounting software. They recommended maintaining segregation of duties and limitation on user access rights to mitigate the threat of management override of controls in financial reporting.

Responding to a question from Council, Mr. Zahn stated that there was no evidence of impropriety regarding user access rights; rather, the recommendation was being made to mitigate risk.

There were no public comments.

A motion was made by Council Member Andeen, seconded by Council Member Pace, to Adopt Resolution 2019-25 Accepting the FY2018-19 Comprehensive Annual Financial Report (CAFR) and Associated Financial Reports. The motion carried by the following vote:

Aye: 6 - Council Member Andeen
Council Member Dembow
Vice Mayor Moore
Council Member Pace
Council Member Stanton
Council Member Thomasson

Absent: 1 - Mayor Bien-Willner

19-441 Adoption of Resolution 2019-24 Accepting the FY2018-19 Popular Annual Financial Report (PAFR)

Mr. Allen presented the FY 2019 Popular Annual Financial Report (PAFR). He said the statements contained in this PAFR condenses and simplifies information derived from the Town's 2019 Comprehensive Annual Financial Report (CAFR). It summarizes the financial activities of the Town with brief analysis of where the Town's revenues come from, where those dollars are spent and trends in the local economy.

The Council discussed options to publicize the PAFR and provide copies to all residents.

There were no public comments.

A motion was made by Council Member Andeen, seconded by Council Member Pace, to Adopt Resolution 2019-24 Accepting the FY2018-19 Popular Annual Financial Report (PAFR). The motion carried by the following vote:

Aye: 6 - Council Member Andeen
Council Member Dembow
Vice Mayor Moore
Council Member Pace
Council Member Stanton
Council Member Thomasson

Absent: 1 - Mayor Bien-Willner

19-417 Adoption of Resolution Number 2019-22 regarding the purchase, sale, or lease of real property in the vicinity of 5600 Block of N. Homestead Lane as authorized by A.R.S. §38 431.03(A)(7).

Senior Planner Paul Michaud presented a request from property owner, Nineteen trust c/o Joshua Kesselman, to abandon an approximate 1,331 square-foot strip of right-of-way adjoining 5664 N Homestead Lane. The purpose for the request was to increase the size of the property to over 2-acres, thus allowing the property owner to have four horses on the property, pursuant to Section 502 of the Zoning Ordinance.

An appraisal was done and the owner has agreed to pay \$22,000 plus closing fees. The owner further agreed to record a deed restriction preventing the lot from being split in the future.

There were no public comments.

A motion was made by Council Member Pace, seconded by Council Member Dembow, to Adopt Resolution 2019-22, abandoning an approximate 1,331 square-foot portion of Homestead Lane adjoining the property located at 5664 N Homestead Lane (Assessor Parcel No. 170-03-026C). The motion carried by the following vote:

Aye: 6 - Council Member Andeen
Council Member Dembow
Vice Mayor Moore
Council Member Pace
Council Member Stanton
Council Member Thomasson

Absent: 1 - Mayor Bien-Willner

19-453 Consideration of Cost Recovery Ordinance

Mr. Miller presented Ordinance Number 2019-13. The ordinance relies on the authority found in Arizona Revised Statute § 9-500.05 (the "DA Statute") which provides that the Town Council may adopt resolutions or ordinances providing for development agreements that incorporate conditions, terms, restrictions and requirements for public infrastructure and the financing of public infrastructure and subsequent reimbursements over time, including for the construction of streets and sidewalks. The Ordinance uses the approach taken by many cities to provide that if the Council determines that certain public improvements (including streets, sidewalks, water lines, sewer lines, storm sewer lines and systems, curb, gutter, street lights, traffic signals and public landscaping) are necessary before the development of a "benefitted" property, the Council may either order these improvements to be constructed by the Town at its expense or by a developer (who enters into a repayment agreement) and to thereafter assess the expense against the benefitted property.

After consideration of the ordinance during the study session, Mr. Miller suggested deleting section 5-10-6(c) because it was redundant.

There was no public comment.

A motion was made by Council Member Pace, seconded by Council Member Stanton, to Adopt Ordinance Number 2019-13 with the following amendment: delete Section 5-10-6(C). The motion carried by the following vote:

Aye: 6 - Council Member Andeen
Council Member Dembow
Vice Mayor Moore
Council Member Pace
Council Member Stanton
Council Member Thomasson

Absent: 1 - Mayor Bien-Willner

13. FUTURE AGENDA ITEMS

19-439 Consideration of Requests for Future Agenda Items

Town Manager Keimach summarized the future agenda schedule.

There were no motions to add any items to the future agenda list.

14. MAYOR / COUNCIL / MANAGER COMMENTS

Ms. Keimach provided an update on the Town Hall remodel project. A ribbon cutting will be planned for January 9, 2020.

Council Member Andeen announced that December 7 is Over The Edge at Cityscape benefiting the Special Olympics.

Council Member Dembow announced that January 22, 2020 was the Arizona Distracted Driver Summit from 9 a.m. to 3 p.m. at Wesley Bolin Plaza.

Council Member Pace provided an update on anticipated conservation easement donations to the Paradise Valley Mountain Preserve Trust.

Vice Mayor Moore reported on Experience Scottsdale breakfast Board meeting.

15. STUDY SESSION CONTINUED**STAFF MEMBERS PRESENT**

Town Attorney Jill Keimach
Town Attorney Andrew Miller
Town Clerk Duncan Miller
Police Chief Peter Wingert
Community Development Director Jeremy Knapp
Deputy Town Attorney Deborah Robberson

19-436 General Plan Update Process Overview

Community Development Director Jeremy Knapp presented an overview of general plan adoption requirements and timing necessary to comply with state law. The Council discussed the public participation plan and what was done in previous years.

There was consensus for staff to research what the Town has done in the past and what other communities do and bring back options for Council consideration.

19-455 Overview of New Functional Organizational Chart and Reporting Structure, Changing Finance and IT Divisions to Departments, Requesting a Change in Authorized Positions from a Deputy Town Manager Position to an Entry Level Planner, Promotion of Community Development Director and Reclassifications of Existing Planning Staff; and Extending the Option of an Alternative Work Schedule to All Staff

Ms. Keimach reported on changes to the organizational structure, the elimination of the deputy town manager position, and addition of an entry level planner. The new structure:

1. Combines the Engineering Department within Community Development;
2. Establishes the Community Development Director as the lead of the newly combined department that includes Planning, Building/Inspection and Engineering;
3. Adds reporting relationships with Community Development, Public Works and the Post Office to the Town Manager;
4. Changes two divisions, Finance and IT, previously under the management of a Deputy Town Manager into departments directly reporting to the Town Manager; and
5. Retains the authority, breadth, and responsibility of all department (and former division) heads.

She presented an alternative work schedule plan for the Town Hall staff to provide the option to stagger a 9/80 workweek where an employee would work eight nine-hour work days and one eight-hour work day every two weeks with the following expectations:

1. Each new department adding this option would ensure coverage on Fridays
2. Salaried employees would be reachable by phone on their 'off-Fridays'
3. If and when the Town required additional assistance on a particular Friday, the employee would endeavor to assist in having additional coverage when needed

4. All Post Office staff would work on high volume peak periods during the holidays and tax day, for example.

16. ADJOURN

A motion was made by Council Member Stanton, seconded by Council Member Pace, to adjourn. The motion carried by the following vote:

Aye: 6 - Council Member Andeen
Council Member Dembow
Vice Mayor Moore
Council Member Pace
Council Member Stanton
Council Member Thomasson

Absent: 1 - Mayor Bien-Willner

Vice Mayor Moore adjourned the meeting at 9:14 PM

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 5, 2019.

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