



## Legislation Text

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**File #:** 17-367, **Version:** 1

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**TO:** Mayor Collins and Town Council Members

**FROM:** Kevin Burke, Town Manager

**DATE:** October 26, 2017

**DEPARTMENT:** Town Manager

**AGENDA TITLE:**

**Governance - Discussion #4**

**Town Value(s):**

- Primarily one-acre, residential community
- Limited government
- Creating a sense of community
- Partnerships with existing schools and resorts to enhance recreational opportunities
- Improving aesthetics/creating a brand
- Preserving natural open space

In order to more effectively and efficiently manage the limited municipal government of Paradise Valley, the Town Council has embarked upon a review of numerous policies and procedures.

**Council Goals or Statutory Requirements:**

**Governance** - Review and seek improvement to processes and procedures for our community.

**RECOMMENDATION:**

Review topics and provide direction.

**SUMMARY STATEMENT:**

Mayor and Council have identified 13 Governance topics to be discussed this term. They have prioritized the first six as:

1. Use of Consultants
2. Transparency
3. Cost Estimating
4. Defining Limited Government
5. Rules of Procedure; and,
6. Appointment Process.

The Governance topic has been scheduled as a study session item to last not more than one hour each Council meeting in order to accomplish as much of the list as possible each meeting. The

following represents staff material on each topic, but as this is a Council initiated topic, the agenda provides flexibility to allow the Members to more fully explain intent, introduce concepts or solutions, and provide overall guidance on outcomes. It is anticipated that this one hour study session will resolve no more than the items addressed below:

### **Collective Definition/Framework of Limited Government**

The term Limited Government is used frequently in Paradise Valley policy discussions, but it may mean different things to different people. The Mayor and Town Council embarked upon defining or framing this topic at its October 12 meeting. The discussion identified a series of concepts or statements that the Mayor and Council use to identify how limited government is implemented in Paradise Valley. These included:

- The least government is the best government
- Less regulations, mean less staffing, mean less taxes
- Be the least burden on residents
- Being reactive rather than proactive
- More specific rules require less time which means less government
- Live within our means
- Focus on health and safety issues
- Less time in session means less government

The Mayor and Council then spent time identifying those government services that the Town is more fully immersed in order to preserve the quality of life. These include:

- Public Safety - Police
- Land Use
- Streets
- Health and Safety
- State and Federal Mandates

The Limited Government subtopic will continue at the October 26 meeting with a focus on two possible questions: 1. Is there any further discussion regarding interpreting what limited government means; and 2. What do you want to do with this material? Is it a definition or statement? Is it a series of threshold tests for future policy questions? Is there a set of actions to be taken? Etc.

### **Rules of Procedure**

The Town Council has a standing set of Rules and Procedures. These are attached to this agenda item. The Rules of Procedure establish “how” the government will conduct its business. This is an important compliment to the goal setting activity that occurs each term to establish “what” business they want to focus upon. But the two overlap in the area of Agenda Setting.

The first subcategory to this topic is the issue of how a member of the Council may place an item on the agenda. Currently Section VIII(b)(13) of the Rules requires a majority of the members (4) to agree to place something on the Town Agenda for discussion or action. Council Member Dembow introduced the following proposed amendments at the June 8, 2017 meeting:

- 13) Requests for Future Agenda Items - Requests for future agenda items are topics or

issues of interest that at least four **three** Council Members would like to have considered for discussion at a future meeting. Any member of the Council may move to have the Town Manager add a new agenda item to a future **the next meeting or a specific** agenda. Upon the concurrence of three **two** more Members, which may include the Mayor, the item shall be added to the **next meeting by the motion or a** list of future agenda items and scheduled by the Town Manager as a future agenda item within sixty days. In the event that the Town Manager determines such a future agenda item request should be moved to a later date due to the need for the Council to address more critical agenda items, the Town Manager may move the requested **needs the approval of the three Council members who voted for the item to move the** item to a later Council Meeting date, but only to the next scheduled Council Meeting date. Any discussion on the motion to add a future agenda item shall be limited to the propriety of placing such item on a future agenda and not on the merits of such agenda item.

Staff compared this rule to other cities in the east valley (see attached chart). The proposal to move to three councilmembers is consistent with the majority of other municipalities in this survey.

The Town Manager has had experience with a variety of thresholds and offers these pros and cons.

The pro to four is that it represents a majority of Council and is therefore consistent with giving direction to staff through majority rule. The con is that if four people commit to putting something on the agenda, it questions the deliberative process of an agenda item because the majority has already stated an intent by placing an item on the agenda and the assumption is the outcome is a forgone conclusion.

Conversely, the con with three is that any three members can communicate on an issue without an Open Meeting violation occurring. This then questions the transparency of the process if the three can communicate outside of the meeting about placing an item on the agenda. The pro is that the action is merely placing an item on the agenda, but its outcome as an action requires another member to support and therefore requires a public deliberative process.

The next question in this sub-topic is the form in which the members place the item on the agenda. The Rule as written contemplates it as an action at a convened Council meeting. Does Council want to limit such requests to this forum, or can three members of Council deliver a request in writing (including email) to the Town Manager any time prior to a prescribed deadline (which is currently "Tuesday of the week prior to the Council meeting" (Section III))?

The last question under this sub-topic is the time-frame for placing it on the agenda. Councilmember Dembow's proposal notes that the three members making the motion (or sending the written request) may specify the next meeting, a specific date, or some time in the next 60 days at the Manager's discretion. There are some concerns from staff regarding "the next meeting" option. First, it is assumed that by Council placing an item on the agenda, that this item will receive staff resources to research and/or prepare material related to the agenda topic. If this is a false assumption, then the burden would shift to the member making the motion to prepare the agenda material and lead the Council discussion. A second, lesser, concern is the surprise element. If the agenda item can be delivered in writing after the last meeting with a direction for the next meeting, it will appear with no prior notice to the Town Council. This is not inconsistent with the Mayor and Manager's ability to place an item on the agenda that was not on the "working calendar." Lastly, this ability to direct the time scheduled likely impacts the overall priorities of the Council as established through the retreat and goal setting process. It could thereby have the effect of placing a new topic at the top of the list

established by the majority of Council. Conversely, it may be a very time sensitive issue because of a pending action, submittal or transaction and would become moot if delayed.

Also related to this topic was a proposed discussion by Councilmember Pace regarding limiting agenda setting authority to the Manager. A survey of east valley municipalities and Flagstaff showed that 6 of the 9 surveyed granted agenda setting authority to the Mayor. In those cities where authority is not granted to the Mayor, typically the Mayor must work through the same rule as other Councilmembers to place an item on the agenda.

The next sub-topic is the practice of reviewing an item in study session prior to placement on the business meeting agenda. Also related to this is the review occurring at least one meeting prior to the action. Staff is requesting this practice be captured in the Rules of Procedure, if so continued, for greater clarification. The current Rules of Procedure require “new ordinances shall be reviewed as a study session item prior to consideration for adoption” (Section VIII(b)(2)). Further, the Zoning Code only requires that a new or amended Special Use Permit (SUP) be “reviewed” prior to hearing. This has been interpreted to mean a study session. All other planning and policy reviews in study session prior to action have been done as a matter of practice and not by rule. Staff requests that Council discuss which other items should be subject to this rule. Classification of items that are acted upon (but not necessarily recommended) include:

1. Plats
2. Lot Splits
3. Resolutions
4. Procurement Contracts
5. Statements of Direction; and,
6. Appointments

Likewise, the current Rule requires the review of an ordinance in study session occur “at least one meeting in advance of its adoption” (VIII(2)(b)) unless waived by Council. Does Council wish to apply this rule to all items added to the list?

Group speaking times was another rule staff requested Council clarify and codify. Currently, the rule addresses individual public comment and is limited to three minutes (Section XI). The Rules also limit an Applicant to fifteen minutes (Section XV(3)). Both of which can be extended at the discretion of the Mayor. In order to provide greater predictability to residents who come in groups and designate a representative to speak on their collective behalf, staff suggests adding the following rule to Section XI under “Oral Communication:”

“Speakers may defer their time to another individual and that time shall be accumulated up to a maximum of fifteen minutes (examples: 1 speaker representing 3 individuals including themselves would have 9 minutes assuming 3 minutes per person. A group of 20 deferring their time to one speaker would be limited to 15 minutes). All individuals deferring their time must be present in the audience. A speaker representing a group shall identify those individuals deferring time on the Speaker Request Card.”

Other items to be discussed under this topic, but not yet prepared include:

- Updating Rules of Procedure for Planning Commission and Board of Adjustments
- Writing Rules of Procedures for Hillside Building Committee
- Establishing a deadline for submittals by an applicant presenting to Council including

presentation materials.

**BUDGETARY IMPACT:**

No budgetary impact associated with conducting these discussions.

**ATTACHMENT(S):**

Town Council Rules and Procedures

Summary of Survey of Nine Arizona Municipalities