



Legislation Text

File #: 18-094, **Version:** 1

TO: Mayor Collins and Town Council Members

FROM: Kevin Burke, Town Manager
Andrew M. Miller, Town Attorney

DATE: February 22, 2018

DEPARTMENT: Town Attorney

AGENDA TITLE:

Adoption of Resolution Number 2018-02; Mummy Mountain Preserve Trust Instrument Section Amendments

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

The Town of Paradise Valley makes every effort to enhance the community's unique character for its residents and people from around the world.

Council Goals or Statutory Requirements:

RECOMMENDATION:

Adopt Resolution No. 2018-02 approving of the filing of a Court action to amend certain sections of the Mummy Mountain Preserve Trust Instrument.

SUMMARY STATEMENT:

On November 6, 1997 the Town formed the Mummy Mountain Preserve Trust ("Trust") by adopting Resolution Number 923. The Trust was formed as an irrevocable trust so that mountain areas within the Town that are of significant scenic and environmental value could be preserved as open space and native habitat in perpetuity. Because of circumstances not anticipated at the time of the formation of the Trust, the Town Council desires to make modifications to the Trust Instrument that are consistent with the original intent of the Council in forming the Trust. There are six contemplated changes to the Trust instrument that are proposed:

1. The name of the trust be changed to the “Paradise Valley Mountain Preserve Trust” to help further the understanding that preserving other mountain lands in the Town, such as on Camelback mountain are part of the mission of the Trust.
2. The number of Trustees appointed by the Town Council should be increased from five (5) to seven (7) to provide more help in seeking out new donors and additional ways to obtain more land for the Trust.
3. The end of each trustee’s individual’s term in the office of the Trustee of the Trust end on April 1 of each year instead of October 1 to be consistent with the new appointment cycle for all Town volunteers.
4. Name the Town Council as a “Trust Protector” for the Trust in order to provide flexibility to in the administration of the Trust in a manner consistent with the original intent of the Trust.
5. Add an article to the Trust Instrument that permits the Trust to take full advantage of any and all legal protections it may have form potential claims related to environmental liability, which is now allowed by a change in state statutes.
6. Add an ability for the Trustees to permit Mountain Trust Lands to be used for the development of cell site infrastructure because doing such would aid would assist the “police functions” in the Town by providing improved cell phone reception for residents who need to contact police and fire (911 calls) and for better police phone reception and service as well (in addition to radios the Paradise Valley police officers utilize cellphones and have mobile data terminals linked through cellphone carriers in all police vehicles).

The proposed changes to the sections must be amended through the filing of a Court action. The attached resolution approves the six changes above, authorizes the Town Manager and Town Attorney to file the court action to amend the Trust Instrument and requests that the Trust meet to also approve the filing of the court action in the name of the Trust.

The Trustees of the Trust met on November 8, 2017 and took action to recommend that the Trust Instrument be amended so as to include the first three changes noted above. Upon the Council passing Resolution No. 2018-02 the Trust will then meet to discuss the latter three changes to the Trust Instrument and to authorize the Town Attorney to file the court action needed to amend the Trust Instrument. It is recommended that the Council approve Resolution Number 2018-02.

BUDGETARY IMPACT:

None.

ATTACHMENT(S):

Resolution No. 2018-02.