



Minutes
Regular Session
Queen Creek Town Council
Queen Creek Town Hall, 22350 S. Ellsworth Road
Council Chambers
April 19, 2006
7:00 p.m.

1. Call to Order

The meeting was called to order at 7:03 p.m.

2. Roll Call

Council Members present: Coletto-Cohen, Hildebrandt; Holloway; Valenzuela; Vice Mayor Wootten and Mayor Feldman-Kerr. Council Member Barney was attending the APA Conference.

3. Pledge of Allegiance

Led by Mayor Feldman-Kerr.

4. Ceremonial Matters: Presentations, Proclamations, Awards, Guest Introductions and Announcements.

A. Front Porch Bench award – postponed

Mayor Feldman-Kerr read a proclamation proclaiming April as “Child Abuse Prevention Month” in Queen Creek.

5. Public Comment: Members of the public may address the Town Council on items not on the printed agenda and during Public Hearings. Please complete a “Request to Speak Card”, located on the table at the rear of the Council Chambers and turn it in to the Town Clerk prior to the beginning of the meeting. There is a time limit of three minutes for comments.

6. Consent Calendar: Matters listed under the Consent Calendar are considered to be routine and will be enacted by one motion and one vote. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Calendar and will be considered separately.

A. Consideration and possible approval of the April 5, 2006 Work Study and Regular Session Minutes.

B. Consideration and possible approval of the continuance of Resolution 559-06 Wastewater Service Area Modification to the May 3, 2006 Town Council Meeting.

C. Consideration and possible approval of **SP01-06** “Burger King at Power Marketplace”, a request from Mark Abel of Mark Abel Architects on behalf of Broatch Management for a Burger King restaurant. The project includes 3,105 sq. ft. on 1.17 acres and has a zoning

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designation of C-2 General Commercial and is located in the Power Market Place I Commercial Center at the northeast corner of Germann and Power Roads.

D. Consideration and possible approval of **S15-05** "Condominium Plat for Power Marketplace Professional Plaza, a request from Rahib Sarela of EMC2 Group Architects & Planners on behalf of Desert Shadows Holdings, LLC for a condominium plat for Power Marketplace Plaza. The project includes two buildings with a total of 14 condominiums on approximately 37,207 sq. ft of building area. The site has a zoning designation of C-2 General Commercial and is located in the Power Marketplace II Commercial Center at the northeast corner of Power and realigned Rittenhouse Roads.

E. Consideration and possible approval of a proposal from Regional Pavement Management not to exceed \$47,000 to crack seal Town streets.

F. Consideration and possible approval of a reallocation of funds within the Street Maintenance Department budget from the Street Maintenance line item (101-431-0220-00000-404301) to the Telecommunications line item (101-431-0220-00000-404155) totaling \$2,000 to allow for unexpected communication expenditures.

G. Consideration and possible approval of a reallocation of funds within the Sewer Utility Enterprise budget from the Travel/Conference/Seminar/Training line item (201-432-2000-00000-403100) to the Telecommunications line item (201-432-2000-00000-404155) totaling \$200 to allow for unexpected expenditures.

H. Consideration and possible approval of creating a new CIP project line item to temporarily extend Germann Road for the purposes of connecting it with Rittenhouse Road west of Sossaman Road and the reallocation of funds totaling \$200,000 from line item 102-431-0700-00132-403035-D0005 (Sonoqui Wash-Outfall to Chandler Heights).

I. Consideration and possible approval of **Resolution 565-06** authorizing and directing staff to take all actions necessary to acquire real property from Kenny Johnson, Rodger Johnson and Bert Johnson for Ellsworth Loop Road project right-of-way (Maricopa County Assessors Parcel 304-67-045-A (East).

J. Consideration and possible approval of **Resolution 566-06** authorizing and directing staff to take all actions necessary to acquire real property from Mid-First Bank for Ellsworth Loop Road project right-of-way (Maricopa County Assessors Parcel 304-67-045-A (West).

K. Consideration and possible approval of a Plan Review Service Billing Agreement with Queen Creek Water Company to begin collection of plan review fees on behalf of Queen Creek Water Company.

L. Consideration and possible approval of a Wastewater Billing Agreement between the Town and H2O, Inc., and the reallocation of funds within the Sewer Utility Enterprise budget to cover the costs of implementing the agreement.

M. Consideration and possible approval of a reallocation of funds from the Public Works Department budget Vehicle Maintenance/Repairs line item (101-431-0200-00000-404310) to

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the Street Maintenance Department budget Vehicle Maintenance/Repair line item (101-431-0220-00000-404310) totaling \$2,500 to allow for the purchase of street sweeper parts for maintenance.

N. Consideration and possible approval of **Resolution 569-06** approving an amendment to a development agreement dated June 15, 2005 with Vestar Arizona, XXXIX, LLC, an Arizona Limited Liability Company, related to the surcharge on transaction privilege taxes and the reimbursable limit and schedule.

O. Consideration and possible approval of **Resolution 570-06** approving an amendment to a development agreement dated January 17, 2001, as amended on May 21, 2003, with the Victoria Lund Investment Group, LLC, an Arizona Limited Liability Company.

P. Consideration and possible approval of **Resolution 571-06** amending that certain Lease/Purchase Agreement dated as of December 20, 2002 (the "Original Lease") between the Town of Queen Creek, Arizona (the "Lessee") and Zions First National Bank (the "Bank") in the amount of \$2,947,500 to finance the purchase of real property by the Lessee (the "Original Leased Property"), by replacing the Original Leased Property for the New Leased Property, and by substituting the description of the Leased Property of the Original Lease, with a description of the New Leased Property and related matters.

Q. Consideration and possible approval of the reallocation of budgeted funds within the Neighborhood Preservation Division in the amount of \$2650 for the purpose of ensuring adequate funds within the Overtime line item for the remainder of the fiscal year.

R. Consideration and possible approval of **Ordinance 351-06** annexing portions of County Right-of-Way (certain portions of Rittenhouse Road.

S. Consideration and possible approval of the reallocation of budgeted funds within the Community Development Department in the amount of \$750 for the purpose of ensuring adequate funds within the Miscellaneous line item for the remainder of the fiscal year.

T. Consideration and possible approval of the Final Plat for Country Park Estates.

U. Consideration and possible approval of **Resolution 560-06** Intention to create a Streetlight Improvement District known as Cortina Parcel 12 Streetlight Improvement District #48 No.2006-0001.

V. Consideration and possible approval of **Resolution 561-06** ordering the improvements for a Streetlight Improvement District know as Cortina Parcel 12 Streetlight Improvement District #48 No.2006-001.

W. Consideration and possible approval of **Resolution 562-06** Intention to create a Streetlight Improvement District known as Cortina Parcel 13 Streetlight Improvement District #49 No.2006-002.

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10. Public Hearing on **TA02-05** (Ordinance 350-06) a Text Amendment for Neighborhood Meeting Notification, a request by the Town of Queen Creek for text amendments to the Town of Queen Creek Zoning Ordinance and Subdivision Ordinance for the purpose of revising neighborhood meeting and notification distance requirements.

Planning Manager Brittingham reviewed the staff report and discussed the purpose and commitment to extensive citizen outreach, including neighborhood meetings. Mr. Brittingham said the text amendment refines the requirements for neighborhood meetings, including posting requirements and notification methods.

The Public Hearing was opened.

No one came forth and the Public Hearing was closed.

11. Discussion and possible action on Ordinance 350-06 (TA02-05).

Motion: Hildebrandt

Second: Coletto-Cohen

To approve Ordinance 350-06 – TA02-05.

Vote: Unanimous

12. Discussion and possible action on adoption of findings required by A.R.S. § 9-500.11(D) related to the approval of a retail development tax incentive agreement with Westcor/Town Center, LLC, and Arizona Limited Liability Company.

Assistant Town Manager Kross reviewed the requirements per state statute for approving development agreements with reimbursements of sales tax for amenities.

Motion: Holloway

Second: Valenzuela

To adopt the following findings related to the retail development tax incentive agreement with WDP/Town Center LLC (Westcor): (1) the proposed tax incentive is anticipated to raise more revenue than the amount of the incentive within the duration of the agreement; and (2) In the absence of a tax incentive, the retail business facility or similar retail business facility would not locate in the Town in the same, time, place or manner.

Vote: Unanimous

13. Discussion and possible action on Resolution 572-06 adopting a retail development tax incentive agreement with Westcor/Town Center, LLC, and Arizona Limited Liability Company.

Assistant Town Manager Kross gave a brief review of the staff report and development agreement, with one minor amendment under definitions regarding unavoidable delays.

Motion: Holloway

Second: Valenzuela

To approve Resolution 572-06.

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Vote: Unanimous

Council Member Wootten left the Council Meeting due to illness at 7:13 p.m. Council resumed the order of the agenda with Item 8.

14. Public Hearing on RZ17-05/SP19-05 (Ordinance 349-06) “Cornerstone at Queen Creek” (Westcor Project) a request from Ralph Pew of Pew & Lake PLC, on behalf of Westcor Corporation, for Cornerstone at Queen Creek, a 68-acre mixed-use development consisting of a 53-acre shopping center (approximately 389,000 sq. feet building area) and a 15-acre multi-family development. The rezoning is to change the current PAD underlying zoning from C-2 General Commercial, C-1 Light Commercial, TC Town Center and R-4 Multiple Family to C-2 General Commercial (to accommodate the shopping center) and R-4 Multi-Family. The project is located at the northeast corner of Ocotillo and Ellsworth Roads, and adjoining the southern right-of-way of Rittenhouse Road.

Planning Manager Brittingham requested the opportunity to review staff reports for “Cornerstone at Queen Creek” and “Queen Creek Marketplace” at the same time and then hold the public hearing for each individually.

Mr. Brittingham reviewed the site plan, elevations and landscape plans that include courtyard and gathering place amenities for “Cornerstone at Queen Creek”. He also reviewed the site plan, elevations and landscape plans including the street scene and pedestrian walkways for “Queen Creek Marketplace”.

Planner McCauley reviewed the eight PAD amendments requested by the applicant and staff’s comments and recommendations to approve amendments 2-8 as requested.

Ralph Pew, 1930 E. Brown Rd., Mesa, representing Westcor, asked Council to consider approving the applicant’s request that Final Site Plans for Pads 7, 8 and 12 be submitted to and reviewed by the Zoning Administrator and f in substantial compliance with the Council approved final site plan and design guidelines for the project, forwarded to the Council for administrative approval or denial with the option of the applicant applying for a rezoning if the Council denied the site plan. Mr. Pew added that this procedure would streamline future Pad development within the project.

Mr. Pew also requested that the requirement for abandonment of the irrigation easement along Rittenhouse Road not apply to Pad 12. Mr. Pew explained that the Loop Road fronts Pad 12 and would be the first to be developed.

Mr. Pew stated the applicant is in agreement with all other stipulations.

Council asked for additional information on staff’s recommendation on the irrigation easement. Engineer Leubner stated that it is typical to resolve all legal matters prior to final plat and issuance of permits and doesn’t support the applicant’s request.

Mr. Pew stated that Phase 1B (Pad 12) would be delayed until late 2008 if included in the requirement for abandonment. Council asked what the expected start of construction would be if Parcel 12 was excluded. Mr. Pew responded construction could be by end of 2007.

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The Public Hearing was opened. No one came forth and the Public Hearing was closed.

Council discussed the height of the parking lot lights and requested additional information on the lighting plan. Mr. Brittingham explained that to obtain the same illumination, additional lights were required to compensate for the increased amount of trees. Council also discussed the abandonment of the irrigation easement along Rittenhouse Road and the effect on the improvement district. Council also discussed allowing administrative review and approval by the Planning and Zoning Commission before being submitted to the Council. Mr. Pew said that was agreeable.

15. Discussion and possible action on Ordinance 349-06 (RZ17-05/SP19-05) “Cornerstone at Queen Creek”.

Motion: Feldman-Kerr

Second: Holloway

To approve Ordinance 349-06 with the stipulations recommended and PAD amendments as presented and modified by staff & applicant.

Vote: Unanimous

The meeting was recessed from 8:35pm – 8:45 pm.

16. Public Hearing on RZ18-05/SP20-05 (Ordinance 348-06) “Queen Creek Marketplace” (Vestar Project) a request from Ralph Pew of Pew & Lake PLC, on behalf of Vestar Development for the Queen Creek Marketplace commercial shopping center consisting of approximately 133.01 acres (approximately 1,200,000 sq. ft. building area). The rezoning is to amend the current PAD with existing C-2 General Commercial underlying zoning and approval of a site plan, landscape plan and building elevations. The project is located at the southeast and southwest corners of Rittenhouse Road the proposed Ellsworth Loop Road.

Planner Cady reviewed the eight PAD amendments requested by the applicant and staff and Planning and Zoning Commission’s recommendations. Mr. Cady reviewed the recommendation for Zoning Administrator site plan and elevation review for those buildings/parcels shown on the final approved site plan. The revised parking lot design with 10 ft. parking stalls located nearest to buildings was reviewed.

Ralph Pew, 1930 E. Brown Rd., Mesa, representing Vestar, discussed the concept site plan for Phase 2 that includes a theatre and shops. Mr. Pew requested the approval of the same condition regarding site plan/elevation review as “Cornerstone at Queen Creek”. Mr. Pew also requested deletion of Stipulation #29 requiring a resubmittal of rear elevations along Victoria Blvd and the western boundary of the project. Mr. Pew stated that the applicant believes they are in conformance with Town requirements. He also addressed concerns regarding the location of the fast-food/drive-thru Pads on the western boundary of the project adjacent to Project Challenge and Canyon State Academy. Mr. Pew said those concerns should be resolved by the eight-foot wall and increased landscaping that would provide shielding. He also stated that the utility lines are located on Project Challenge property, not Vestar and the closed dormitory is 130 ft. or more from the fast-food/drive-thru locations.

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The Public Hearing was opened.

Larry Cox, 20395 E. Rittenhouse Rd., representing Project Challenge, stated he was concerned specifically with the drive-thru locations and the impact on the dormitories. He stated that it would be a disruption to the quality of life for the students.

Barbara Ross, 9490 S. Beck Ave., Tempe, representing Canyon State Academy, stated her concerns of possible problems with students going to the fast food restaurants and congregating. She stated that the campus is non-secure.

The Public Hearing was closed.

Mr. Pew explained why the fast-food Pads were located in the particular parcels and that the sit down restaurants couldn't be relocated because of liquor license requirements. Mr. Brittingham also provided clarification on speaker box zoning requirements that require a noise study be completed to show that the noise won't go past the property line.

Council discussed the location of realigned Rittenhouse Road along Canyon State Academy and Project Challenge; sound walls and road materials. Council asked for clarification on staff and Planning and Zoning's recommendation for rear elevations. Mr. Brittingham suggested that some of the vertical elements on the front elevations be incorporated on some upper portions of the rear elevations.

17. Discussion and possible action on Ordinance 348-06 (RZ18-05/SP20-05) "Queen Creek Marketplace".

Motion: Feldman-Kerr

Second: Coletto-Cohen

To approve Ordinance 348-06 with the recommended stipulations as modified by staff and Condition 1(A) and Condition 29 requiring additional relief to the rear elevations viewable above the 8-foot wall line, including pilasters, ornamental grillwork and parapet articulation, using materials consistent with the front elevations

Vote: Unanimous

18. Discussion and possible action on Resolution 573-06 (a) (1) declaring intention to improve, and adopting preliminary plans and an engineer's estimate for the improvement of, certain streets, rights-of-way and easements within the corporate limits of the Town by the construction of paving and concrete, retaining walls, bridges, an underpass, storm drainage facilities, utilities, irrigation, landscaping, signing, striping, street lighting and traffic signals for Ellsworth Loop Road/Rittenhouse Road as shown on such preliminary plans; (2) designating such improvements as for "Town of Queen Creek, Arizona Improvement District No. 001"; (3) determining that improvement bonds will be issued to represent the costs and expenses thereof; (4) declaring such improvements to be of more than a local or ordinary public benefit and that the costs thereof be assessed upon such district; (5) providing that such improvements be performed under the provisions of Title 48, Chapter 4, Article 2, Arizona Revised Statutes, and all amendments thereto and (6) fixing the time and place for hearing of all protests with respect to such improvements and objections to the extent of such district and (b) declaring, for purposes of Section 1.1502 of the Federal Treasury Regulations, official intent to be reimbursed from the

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proceeds of the sale of such bonds in connection with certain expenditures for such improvements.

Transportation Project Manager Schaner reviewed the improvement district process and requirements and the timeline for improvements.

Motion: Holloway

Second: Coletto-Cohen

To approve Resolution 573-06.

Vote: Unanimous

19. Discussion and possible action on proceeding with Town-initiated rezonings for property designated Employment on the General Plan Land Use Map with conflicting underlying zoning located in the northern tier of the Town.

Planning Manager Brittingham reviewed the staff report and requested Council direction to begin Town initiated rezonings. Council discussed the timeframe for the process that is estimated to take approximately 180 days. Council asked if the process would include zoned and/or developed residential properties. Mr. Brittingham said no.

Tom Jambor, 19425 & 19405 E. Germann Rd., said he was concerned with the general plan designations and the possibility of investors creating a speculative market. Mr. Jambor also stated his concerns about mixing residential with industrial zoning.

Further discussion was in regard to the process for property owner and community outreach during the process and the General Plan Update process that will begin January 2007 and go to the voters in 2008. Council had questions regarding protests and property owner changes.

Motion: Valenzuela

Second: Hildebrandt

Direction was given to staff to not initiate rezonings for property designated Employment on the General Plan Land Use Map located in the northern tier of the Town.

Vote: 3-2

Aye: Coletto-Cohen, Hildebrandt, Valenzuela

Nay: Holloway, Feldman-Kerr

Motion Passed.

ITEMS FOR DISCUSSION: These items are for Council discussion only and no action will be taken. In general, no public comment will be taken.

20. Discussion on a possible cell tower by Cingular Wireless on town-owned property at the northeast corner of Chandler Heights and Sossaman Roads.

No further discussion.

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21. Discussion on DR06-026 Cresleigh Homes at Hastings Farms, a presentation of four standard plans, each having three elevations to be built on 136 lots zoned R1-7 within the Hastings Farms Subdivision Parcel "A".

Planner Ramos gave a presentation on the proposed elevations submitted by Cresleigh Homes and reviewed staffs comments.

22. Committee Reports

A. Transportation Advisory – April 12, 2006 – the committee discussed artwork options and commuter rail. The next meeting is scheduled for May 10, 2006.

B. Queen Creek Youth Commission – April 5, 2006 – The Commission members attended the April 5 Council Meeting and received the 2005 Volunteer Organization of the Year Award. Members also reviewed the Relay for Life activity and continued planning the annual retreat and Youth Commission shirt design.

C. Parks, Trails and Open Space Committee – April 11, 2006 – the Committee heard various updates and discussed options on naming future parks and the Arts in the Park project.

D. Fire/EMS Study Committee – April 13, 2006 – the Committee discussed the results of the four focus group meetings and service/funding options to be included in the survey to be put on the Town's website.

23. Adjournment

Motion: Holloway

Second: Coletto-Cohen

To adjourn the Regular Session at 10:08 p.m.

Motion: Unanimous

Jennifer F. Robinson, CMC

TOWN OF QUEEN CREEK

Wendy Feldman-Kerr, Mayor

Attest:

Jennifer F. Robinson, CMC

I, Jennifer F. Robinson, do hereby certify that, to the best of my knowledge and belief, the foregoing Minutes are a true and correct copy of the Minutes of the April 19, 2006 Regular Session of the Queen Creek Town Council. I further certify that the meeting was duly called and that a quorum was present.

Passed and approved on May 3, 2006

Jennifer F. Robinson, CMC