



Minutes
Regular Session
Queen Creek Town Council
Queen Creek Town Hall, 22350 S. Ellsworth Road
Council Chambers
June 5, 2013
7:00 p.m.

1. Call to Order

The meeting was called to order at 7:10p.m.

2. Roll Call (one or more members of the Council may participate by telephone)

Council Members present: Barnes; Brown; Gad; Oliphant; Wheatley; Vice Mayor Benning and Mayor Barney.

3. Pledge of Allegiance: Led by Vice Mayor Benning.

4. Invocation: Pastor Ron Nelson, Life Link Church

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

A. Proclamation – Dust Awareness Week June 2-8: Mayor Barney provided highlights of the proclamation.

B. Recognition of Service to the Queen Creek Crime Prevention and Mounted Poses: The following were presented with Certificates by MCSO Queen Creek Commander Capt. Randy Brice and Public Safety Coordinator Joe LaFortune:

Queen Creek Crime Prevention Posse: Rich Baker; Mike Bryant; Walter Burks; Steven Conklin; Bill Evans; Jonathon Galant; Nathan Gowan; Chris Graca; Chris Hossele; Roger Hyles; Brian Messenger II; Tim Morgan; George Vasquez; Rick Velotta; and Dave Williams.

Queen Creek Mounted Posse: Michael Barriga; Coy Bronson; Debbie Carey; Ophalia Colahan; David Dumont Jr.; Judi Hay; Shelley Irwin; Cathy Kenworthy; Mary Lynn Maring; John Scot McLaughlin; Sue Murdoch; Aliko Otey; Gary Power; Terry Roberts; Dempsey Short; Lyn Staples and Lee White.

Capt. Brice stated that providing public safety isn't complete without the help of volunteer Posse members who provide thousands of hours of service and go through rigorous training to do so.

C. Queen Creek Citizen Leadership Institute graduation: Mayor Barney presented the 24 members of the 18th graduating class with certificates of completion: Patty Ahern; Doug Amborn; Will Andrews; Cindy Barnes Pharr; Todd Broadhead; Eddie Clark; Karen

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Fabritis; Shane Faulkner; Missy Gunter; Jennette Gutierrez; Tina Jackson; Vinny Mauro; John "Andy" McKinney; Susan Moore; Mary Nickels; Jared Palmer; Margie Payton; Don Porter; Cliff Prentice; Kelly Preston; John Van Etten; Philly Van Etten; Nancy Wiley and Gary Wiley.

6. Committee Reports

A. Council summary reports on meetings and/or conferences attended. This may include but is not limited to Phoenix-Mesa Gateway Airport; MAG; East Valley Partnership; CAG. The Council will not propose, discuss, deliberate or take legal action on any matter in the summary unless the specific matter is properly noticed for legal action.

Central Arizona Association of Governments (CAG) Regional Council – May 8, 2013: Vice Mayor Benning reported on the approval of the 2013-2016 Transportation Improvement Program; ADOT CAG Annual Work Program; and revolving loan application. Ken Hall was introduced as the new Executive Director.

Maricopa Association of Governments (MAG) Economic Development Committee – June 4, 2013: Mayor Barney reported on the following agenda items: report on the impact of Medical Tourism in Arizona; business incubator tours within the MAG region; and the planning for a trip to Obregon & Guaymas in the fall.

Greater Phoenix Economic Council (GPEC) – June 4, 2013: Mayor Barney reported on the following: update on the Brookings Institute Metropolitan Business Plan project; end of year business development report on GPEC assisting with the location of 23 new companies and creating 3,848 jobs; and the Executive Mission to Washington D.C.

Phoenix-Mesa Gateway Airport Authority – May 20, 2013: Mayor Barney reported the Board approved several contracts for insurance broker, short term lease agreement and a professional service agreement for an environmental assessment of the east terminal area. The Board also discussed Apache Junction's request to become a member of the Authority.

Municipal Tax Code Commission – May 24, 2013: Mayor Barney reported on the Commission's approval of amendments to the tax code regarding taxation of prosthetics/orthodontics; commercial leases and health care taxation/municipal reimbursements by the City of Mesa.

Queen Creek Public Safety Retirement Board – May 28, 2013: Mayor Barney reported the Board certified two new full-time firefighters into the retirement system and considered an Accidental Disability Retirement application.

Maricopa Association of Governments Regional Council – May 22, 2013: Mayor Barney reported the Council approved new boundaries and adding the Town of Florence and City of Maricopa into the region. The Council also approved the FY13/14 MAG Unified Planning Work Program and Annual Budget.

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Mayor Barney also reported on several events that he attended:

Day at the Legislature – May 21, 2013: Meetings were held with Sen. President Biggs, Sen. Crandall and Rep. Fann to discuss proposed transaction privilege tax legislation and the negative impact on Queen Creek.

East Valley Partnership/Leadership Event – May 29, 2013: Several Mayors spoke about their communities with the keynote speaker Dr. Crow, ASU President.

East Mark VIP Grand Opening – May 30, 2013: The event was hosted the developer, DMB.

B. Partner agencies quarterly or periodic updates to Council. This may include but is not limited to Queen Creek Chamber of Commerce; Queen Creek Performing Arts Center; Boys & Girls Club of East Valley; and Maricopa or Pinal County Board of Supervisors or other governmental agencies. The Council will not propose, discuss, deliberate or take legal action on any matter in the summary unless the specific matter is properly noticed for legal action.

None.

7. 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.

None.

8. Consent Calendar: Matters listed under the Consent Calendar are considered to be routine and will be enacted by one motion and one vote. Public Hearing items are designated with an asterisk (*). Prior to consideration of the Consent Agenda, the Mayor will ask whether any member of the public wishes to remove a Public Hearing item for separate consideration. Members of the Council and or staff may remove any item for separate consideration.

A. Consideration and possible approval of Expenditures over \$25,000:

1) Dana Kepner – meters, meter fittings and services - \$30,000 (*budgeted item*)

B. Consideration and possible approval of the Final Plat for Dorada Estates (formerly known as Vaquero Estates), a request by Vaquero Estates, LLC.

C. Consideration and possible approval of **DR13-015 – Richmond American Homes at Crismon Heights Subdivision**, a request by Richmond American Homes for approval of eight (8) new floor plans with three (3) elevations each to be constructed on

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60 lots in the Crismon Heights subdivision located at the northeast corner of Crismon and Ocotillo Roads.

D. Consideration and possible approval of **DR13-017 – Toll Brothers at Dorada Estates**, a request by Toll Brothers for approval of six (6) new floor plans with three (3) elevations each to be constructed on 112 lots in the Dorada Estates subdivision (formerly known as Vaquero Estates) located at the southeast corner of Recker and Ocotillo Roads.

E. Consideration and possible approval of **DR13-018 – K. Hovnanian Homes at Cielo Noche Subdivision**, a request by K. Hovnanian Homes for approval of eight (8) new floor plans with three (3) elevations each to be constructed on 164 lots in the Cielo Noche subdivision located at the southwest corner of Hawes and Queen Creek Roads.

F. Consideration and possible approval of a 2nd Amendment to extend the term of and add to the Scope of Services and additional funding in the amount of \$33,000 to the Professional Services Contract with TischlerBise to update the Town's development fees pursuant to SB1525.

G. Consideration and possible approval of a 2nd Amendment for a one-year extension to the Design Services Master Contract with Sunrise Engineering, Inc., for on-call engineering services for the Utilities Department. (*budgeted item*)

H. Consideration and possible approval of a 3rd Amendment for an extension up to six (6) months from date of approval to the Professional Services Contract with Brown & Associates for plan review and inspection services. (*budgeted item*)

I. Consideration and possible approval of the Design Concept Report and Letter of Support for Meridian Road from Empire Boulevard to Ocotillo Road.

J. Consideration and possible approval of **Resolution 943-13** authorizing Town staff to apply for 5000 acre feet of Non-Indian Agriculture (NIA) Central Arizona Project Water (CAP) through the Arizona Department of Water Resources Reallocation application process.

K. Consideration and possible approval of **Resolution 944-13** canvassing the results of the May 21, 2013 Special Election.

L. Consideration and possible approval of Council Committee assignments.

M. Consideration and possible approval of two (2) easements to be granted to SRP for installation of an underground line for electric service to the AT&T cellular facility at Horseshoe Park & Equestrian Centre.

N. Consideration and possible approval of an Amendment to the Regional Emergency Medical Transportation Service Agreement relating to liquidated damages and performance standards.

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O. Consideration and possible approval of authorizing and directing the Town Attorneys to file a lawsuit against Merchants Bonding Company and Accelerated Construction Technologies, formerly known as Modular Technology, Inc.

P. Consideration and possible approval of an Extension of Premises/Patio Permit submitted by Robin Vanessa Walker on behalf of TC's Pub & Grub, 7205 S. Power Rd. (Power Marketplace), for a one-day event on August 17, 2013. The business has a current Series 12 Restaurant License.

*Q. Public Hearing and possible approval of a Series 12 Liquor License (#12079495) application submitted by Andrea Lewkowitz on behalf of Smashburger #1286 (Sunwest Burgers LLC), 21202 S. Ellsworth Loop Rd, #G-7 (Queen Creek Marketplace).

Motion to approve the Consent Calendar as presented:

1st: Wheatley

2nd: Barnes

VOTE: Unanimous

PUBLIC HEARINGS: If you wish to speak to the Council on an item listed as a Public Hearing, please complete a Request to Speak Card and turn it in to the Town Clerk. Speakers will be called upon in the order in which their cards are received. Speakers are limited to three (3) minutes each.

9. Public Hearing and possible action on **TA13-014 – Ordinance 534-13**, a Town initiated amendment to Article 5.6 of the Zoning Ordinance – Off-Street Parking Requirements related to parking requirements for elementary and junior high schools.

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

Motion to approve TA13-014 – Ordinance 534-13 as recommended:

1st: Brown

2nd: Gad

VOTE: Unanimous

FINAL ACTION: If you wish to speak to the Council on an item listed under Final Action, please complete a Request to Speak Card and turn it in to the Town Clerk. Speakers will be called upon in the order in which their cards are received. Speakers are limited to three (3) minutes each.

10. Discussion and possible action on **SP13-016 – Maya Theater Complex** a request for Site Plan approval from Maya Operations Queen Creek LLC., for a 14-screen theater, retail and restaurant uses on 19-acres of Town owned property located north of Maya Boulevard, south of Rittenhouse Road, east of Ellsworth Loop Road and west of Ellsworth Road.

Planning Administrator Wayne Balmer reviewed the project history through the RFP process and the site plan; phasing plan and elevations for the 14-screen theatre. The

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phasing plan includes the theatre and restaurant/retail space, required parking, off-site improvements, landscaping, retention etc., in Phase 1 with additional restaurant/retail and parking in Phase 1 and a hotel in Phase 3. Mr. Balmer reviewed conditions of approval as recommended by the Planning and Zoning Commission and staff, including two new conditions: 1) negotiation for the sale or lease of property must be approved and recorded prior to any construction on the property; and 2) approval of the 11.2 acres for Phase 1 only, as opposed to the entire 19-acre site plan.

Dave Fackler, representing Maya Theatre, provided additional information on the pedestrian access (non-vehicular) from Ellsworth Road.

Council asked about future widening of Ellsworth Road and the location of the pedestrian access. Mr. Balmer explained that the goal of the additional access is to encourage the pedestrian friendly Town Center and the proposed access point is shorter and would be enhanced with landscaping features. He also pointed out that with the close proximity of a signalized intersection, other access points would be too close. Council also discussed the fencing for future phases.

Council asked Mr. Fackler if the applicant would comply with the dark sky ordinance and what type of lighting is proposed. Mr. Fackler responded that exterior walls would be down-lit and other lighting would be worked out with staff, but all lighting would comply with the Town's requirements and would match other lighting in Queen Creek Marketplace.

Council asked for clarification on whether site plan approval included elevation and lighting approval. Mr. Balmer responded that only the site plan was being considered.

Motion to approve SP13-016 with the recommended conditions as recommended by the Planning and Zoning Commission and additional conditions as recommended by staff and as discussed: 1) negotiation for the sale or lease of property must be approved and recorded prior to any construction on the property; and 2) approval of the 11.2 acres for Phase 1 only, as opposed to the entire 19-acre site plan for the 11.2 acres as shown in Phase 1 only:

1st: Benning

2nd: Gad

VOTE: Unanimous

11. Discussion and possible approval of the Notice of Intention to Increase Residential Waste Service Rates, setting the time (7p.m.) and date (August 7, 2013) for the Public Hearing to amend the existing schedule of fees for residential waste services.

Public Works Division Manager Troy White explained the requirements of the Notice of Intention and the scheduled public hearing dates. He also clarified that the rate increase is for solid waste/recycling, not wastewater. Mr. White reviewed milestones of the first 3-years of the Town's solid waste/recycling program including participation at special events and educational opportunities to increase recycling.

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Mr. White also provided rate information for the first 3-years which remained at \$15.41 even though the contractor was allowed a 5% annual increase based on the CPI. He said the proposed rate increase to \$16.49 would be for the next two-years and staff is recommending continuing the textile recycling program and household hazardous waste program, both are no-cost to residents. Mr. White also stated that the proposed rate would be lower than the average of \$18.82 throughout Maricopa County. He addressed several questions regarding the rate increase:

1. Temporary discontinuance impact on cost recovery? Mr. White state it was minimal, perhaps \$800/annually and the current \$15 fee and is recommended to \$25.
2. Can the \$.21 fee associated with the loan payback be put into the cart replacement fund? Mr. White explained that in years 1-5, \$.17 of the fee goes into operating reserve and years 5-beyond, the \$.17 fee goes into the cart replacement fund.

In addition, Mr. White announced that the contractor submitted a revised rate increase late in the afternoon and is requesting a lower increase making the proposed new rate \$16.22 for the next two-years.

Council had further discussion on decreasing dumping in washes and desert; continuing the public outreach program and opportunities and effective date of a rate increase. Also discussed was increasing the recycling diversion. Environmental Programs Supervisor Ramona Simpson said although there is funding for outreach programs, she is always looking for innovative and free or inexpensive programs.

Motion to approve the Notice of Intention to Increase Residential Service Rates, setting the time (7p.m.) and date (August 7, 2013) for the Public Hearing to amend the existing schedule of fees for residential waste services

**1st: Gad
2nd: Oliphant
VOTE: Unanimous**

Mayor Barney moved Agenda Item #13 up prior to Agenda Item #12.

12. Discussion and possible approval of the FY13-14 Tentative Budget and setting the Public Hearing for June 19, 2013 for consideration of the Final Budget.

Town Manager Kross reviewed the statutory budget adoption requirements including adopting the Tentative Budget which sets the ceiling for expenditures and scheduling a Public Hearing.

He discussed some key recommendations from the Budget Committee:

- Budget ceiling of \$117.4 million, including all funds and H2O Water Utility Inc., acquisition costs
- Budget supplemental to address increased service delivery and to enhance programs

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- Capital projects include a splash pad and dog park
- \$500,000 reserve to address the legislative impact regarding construction sales tax

Assistant Town Manager Patrick Flynn reviewed the general budget forms and discussed how staff and the Budget Committee had to consider the reduced/loss of development fees and construction sales tax revenues and include long range planning costs for many departments. He stated that the Public Hearing and adoption of the FY 13/14 Budget would be scheduled for June 19, 2013 and the adoption of the Tax Levy for primary and secondary (Streetlight Improvement Districts) would be scheduled for July 17, 2013.

Budget Committee Chair Oliphant thanked and gave appreciation to the staff and Budget Committee members for the thoroughness in developing the FY13/14 budget and stated that the Committee recommended some additional items in order to give something back to the community.

The meeting was recessed from 9:05p.m. – 9:16p.m.

Motion to approve the Tentative FY13/14 Budget as amended and recommended:

1st: Barnes
2nd: Benning

Additional comments from Council were in regard to having information available on the website. Mr. Kross responded that the schedules would be revised and posted on the website.

VOTE: Unanimous

13. Discussion and possible approval of the appointment of Dawn Oliphant to serve as Vice Mayor for a 12-month time period.

Mayor Barney thanked Vice Mayor Benning for serving in the position for the past year and in keeping with the Town's policy, nominated Council Member Oliphant to serve as the Vice Mayor for the next 12 months.

Motion to appoint Council Member Oliphant to serve as Vice Mayor for the next 12 months:

1st: Barney
2nd: Benning

VOTE: Unanimous

Council Member Benning expressed his thanks for serving as Vice Mayor.

Vice Mayor Oliphant thanked her family and the Council for their support.

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

14. Presentation and discussion on the Design Concept Report for Meridian Road from Empire Boulevard to Ocotillo Road. *(If necessary)*

None.

15. Discussion on a scope of services for a peer review study of the Queen Creek Chamber of Commerce. *(If necessary)*

None.

16. Motion to adjourn to Executive Session: The Council may reconvene the Executive Session for any of the items listed on the Work Study Executive Session Agenda.

None.

17. Adjournment

The meeting was adjourned at 9:28p.m.