



Minutes
Regular Session
Queen Creek Town Council
Queen Creek Town Hall, 22350 S. Ellsworth Road
Council Chambers
November 18, 2009
7:00 p.m.

1. Call to Order

The meeting was called to order at 7:05pm.

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

Council Members present: Barnes, Brown, Hildebrandt, Wooten, Vice Mayor Mortensen (arrived at 7:38pm) and Mayor Sanders.

3. Pledge of Allegiance: Nick Foote – Boy Scout Troop 825

4. Invocation: Pastor Randy Lung of Journey Christian Fellowship

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

A. Presentation of five-year service award – Marsha Hunt, Sr. Administrative Assistant in the Marketing & Communications Division was presented her five-year award by Department Director Dee Anne Thomas.

B. Scout Recognition: Nine Boy Scout Troops from the Queen Creek LDS Stake Superstition District were recognized for volunteer service cleaning the Queen Creek Wash east of Ellsworth Loop Road.

Chanel Rodriquez was recognized for his Eagle Scout service project installing an irrigation system at the MCSO substation on Ellsworth Road.

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; CAAG. 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.

B. Transportation Advisory Committee – November 5, 2009: Chair Robin Benning reported on the Committee's discussion on possible traffic calming and pedestrian crossings on Village Loop Road South and updates on the CIP and pavement projects using stimulus funds and status of the municipal corporation yard. The next meeting is scheduled for February 4, 2010.

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C. Parks and Recreation Advisory Committee – November 10, 2009: Chair David Dobbs reported on the Committee’s discussion of the Ellsworth to Riggs Road widening project and the Queen Creek Wash connection bridge to Desert Mountain Park.

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 the November 4, 2009 Work Study, Special Session & Regular Session Minutes.

B. Consideration and possible approval of the use of SRP Aesthetic Funds in the amount of \$213,900 for the undergrounding of the overhead electrical lines on Hawes Road at the Sonoqui Wash crossing.

C. Consideration and possible approval of a Change Order to the Loop Road Underpass Agreement with Union Pacific Railroad for ID001 and approval of the final payment in the amount of \$111, 386 for a total cost of \$1,935,195.

D. Consideration and possible approval of an Intergovernmental Agreement with the Maricopa County Flood Control District for the construction of the Sonoqui Wash from Chandler Heights to Crismon Roads.

E. Consideration and possible approval of a settlement agreement between the Town and Lexon Insurance Company providing for payment by Lexon to the Town in the total amount of \$171,030.26; completion of certain public infrastructure by Lexon; and for Lexon to provide related warranties and warranty assurances.

F. Consideration and possible approval to authorize the Town Attorney to file a lawsuit against ASV Family Limited Partnership to enforce the terms of a purchase agreement for property (right-of-way) bordered by Old Rittenhouse Road, Germann Road and 188th Street.

G. Consideration and possible approval of the appointment of Council Members Craig Barnes and Joyce Hildebrandt and Vice Mayor Gordon Mortensen to the Council Executive Committee.

Items C & D were removed for discussion.

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Motion to approve remainder of Consent Calendar as presented
(Wootten/Barnes/Unanimous)

Item C: Council requested information on the UPRR change order. Deputy Town Manager Shane Dille reported that the contracts with the UPRR clearly indicated that the costs were only estimates. Mr. Dille said that staff reviewed all invoices and UPRR claims that the scope of work was followed. Mr. Dille said the invoice indicates final invoice.

Council commented that the UPRR costs were significantly off resulting in a huge impact on the Town and any future contracts should include a “not to exceed” statement. Council asked whether UPRR would pursue litigation if the final change order was not approved. Mr. Dille responded yes.

Motion to approve Item C as presented (Brown/Barnes/Unanimous)

Item D: Council requested clarification on the Town’s portion and County’s portion of project and information on the Ellsworth Road crossing design. There was also discussion on the water flow.

Motion to approve Item D as presented (Wootten/Barnes/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.

None.

The meeting was recessed from 7:28pm – 7:38 pm at which time Vice Mayor Mortensen arrived.

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.

9. Discussion and possible action on the award of the Residential Waste Services, Town Facility Services, Neighborhood Recycling Drop-off Site Services, Special Events Services and Self-Haul Services Agreement with Right Away Disposal (RAD) for an initial term through June 30, 2017 with the option to renew for up to three (3) additional (1) one- year terms.

Deputy Town Manager Shane Dille provided an overview of the proposed services to be provided for a negotiated rate of \$15.41/month and a comparison of valley-wide rates show that Queen Creek would have the 2nd lowest rate for comparable services.

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Mr. Dille reported that the Solid Waste Task Force was created to study community wide solid waste services and determined that benefits include safety by reducing the number of trucks on residential streets; environmental impact through recycling; reduced self-haul (dump) rates; reduced monthly rate for services and possible reduction of illegal dumping in the parks and washes.

Mr. Dille also reported on the Council's request for an additional public comment period from October 7 through November 18, 2009. He said information was included in water bills, Channel 11, flyers, brochures and website. Mr. Dille said that 302 responses and one petition with 92 signatures of Town residents had been received to date with various comments and concerns.

Council asked for information on the phasing in of services. Mr. Dille explained that the initial implementation would occur in May 2010 and continue through May 2013 as HOA contracts expire. Other questions from Council included how residents would handle once-a-week pick-up and whether the up-front expenditure for purchasing the containers should wait.

Mr. Dille responded that other municipalities had been contacted regarding once-a-week pickup and learned that it depends on how well the recycling is used. Mr. Dille said that 50% or more of weekly garbage generated is recyclable and Queen Creek's proposed recycling is considered "friendly recycling", requiring just a rinse of any recyclable containers.

Assistant Town Manager Patrick Flynn responded to the expenditure question by explaining how the General Fund reserves would fund the Solid Waste Enterprise Fund which would pay back the General Fund over a 10-year period at 4% interest. Mr. Flynn further explained how the Town would be using the Town's own money to operate the program and the funds would purchase the containers.

Council requested information on how the Town would be protected in the event the provider defaulted on the contract. Mr. Dille responded that as part of the contract negotiations and contract requirements a performance bond for one-year of service in the amount of \$800,000 was required.

Council also asked how the electronics and tire pick-up program would work. Management Assistant Ramona Simpson responded that the vendor would deliver roll-offs at Town specified locations and residents would be notified of the event through the media, billing inserts and website.

Public Comment was accepted.

H.A. Cole, Queen Creek, said he was against mandatory service but liked the reduction of trucks on the road. He said he takes his garbage to the landfill every 6 months and recycles everything. He suggested a voluntary program.

Kyle Robinson, Queen Creek, spoke in support of the program. He thanked the Town and staff for negotiating for a superior service and rate. He said he was a current customer of RAD and was completely satisfied.

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Mike Terrill, Queen Creek, said he was disappointed when he found out that Queen Creek didn't offer recycling and he currently uses Mountain View Recycling. He said that the proposed Town service would be a cost savings to him and wouldn't notice a once-a-week pick up since he recycles 50-70% of his garbage. He also said that the proposed service wouldn't satisfy or accommodate all residents.

Eric Kerr, Queen Creek, said he supports the recycling part of the proposal but is opposed to mandatory solid waste containers for large lots with animals. He said he has a 3-yard container and doesn't need a can. He said a provision should be made for those who want to recycle but don't want a solid waste container.

Robert Longone, Queen Creek, said that Queen Creek is the only place he has lived that didn't offer solid waste or recycling service. He said it would be progress to have one provider for once-a-week solid waste and recycling pick-up and the price will increase if the Town waits longer.

Lea Ann Ferguson, Queen Creek, submitted written comments in opposition, stating the program was inadequate for a rural setting with livestock and the price would be twice as much as she is paying now.

Roseann Sweet, Queen Creek, said the proposal was good but not for large lot owners. She said she has a contract for a 2-yard dumpster but would like a recycling container. She said there should be an opt-out for large lot owners with animals.

Dan Crookston, Queen Creek, submitted written comments in favor stating that there is cans out every day for each provider and one provider would eliminate the problem.

John Webb, Queen Creek, President of the Villages HOA, said he wrote a letter in support of the petition that was previously submitted and appreciated the Town's representatives presenting the proposal to an HOA meeting.

Council discussed the length of time the Town has been working on the solid waste program and proposal. Mr. Dille said there had been many meetings, open-houses, surveys and community outreach but that the full proposal and contract was first presented at the October 7, 2009 Council meeting because negotiations are not publicly released.

Council had additional questions on how services would be billed; whether green waste disposal and an opt-out was considered. Mr. Dille responded that service and billing would be per household (occupied homes) and tied to an active water meter. He also explained that green waste service was included as an option in the RFP but vendors had indicated that it is difficult to provide the service since there is only one location valley-wide that accepts green waste. Mr. Dille then explained that providing an opt-out would reduce the leverage of accounts and that large lot services were considered and roll-offs were being included in the proposal at a negotiated rate.

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Mr. Dille provided information on temporary absences and the \$15 administrative fee to activate/deactivate an account. Scott Holcomb, Attorney for the Town, added that the customer would only have to notify the Town one time.

Council asked how many large lots/horse lots there were in Town. Mr. Dille said the count was between 300 and 350 that had been identified as having large animals or could have large animals. There was discussion on the possibility of further negotiations with the vendor for large lot services. Mr. Dille said the vendor has extended the negotiated rate until the end of December. Mr. Dille also said that if the contract was approved, public education would continue. Town Manager John Kross added that an opt-out (appeal) provision could be evaluated. Council discussed limiting the opt-out provision to certain circumstances.

Further discussion was providing recycling but not solid waste services. Mr. Dille explained that the number of pick-ups on a street was part of the negotiated price. He said the Council could move forward and direct staff to develop an opt-out process or provide additional information on why one wouldn't work.

Mayor Sanders allowed additional public comment.

Bob Cason, Queen Creek, said he believes there are more horse owners than stated and that they don't have a voice in the decision. He said he would like the negotiations to continue and cover everyone.

Council Member Barnes discussed a response he provided to an e-mail inquiry and concerns with horse property issues.

Vice Mayor Mortensen stated that the Council was elected to represent the whole community and discussed the merits of the proposal and on-going education.

Council Member Wootten had the following concerns: enforcement of bagged and dried manure; inconveniences to large lot owners; and starting a Town provided service that is already provided by others.

Council Member Brown discussed the need to protect current general fund reserves that may be needed to pay existing debt service.

Mr. Dille stated that the bagged and dried manure requirements only applied to the 95 gallon containers.

Motion to approve the proposed contract but with further review of an opt-out provision and further research on manure services by February 2010 (Mortensen/Hildebrandt)

There was further discussion on large lots and HOA's. Council also asked if it would be possible to pay RAD individually. Mr. Holcomb responded no.

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Roll Call Vote:

Aye: Sanders, Hildebrandt, Mortensen

Naye: Barney, Wootten, Brown

Motion failed 3-3.

Mr. Dille briefly discussed other options in the RFP including neighborhood recycling drop-off.

Mr. Holcomb requested Council to give direction to staff or provide an alternate motion.

Motion to continue consideration of the proposed contract until the further review of an opt-out provision and further research on manure services is brought back to Council in February 2010 (Mortensen/Hildebrandt)

Vote: 5-1 (Brown)

Motion passed.

Mr. Holcomb asked Council to confirm the time limit of February 2010. RAD confirmed their agreement with a continuation to February 2010.

10. Discussion and possible action to approve **Resolution 811-09** declaring as a public record the certain document title “Town Code Chapter 10 Health and Sanitation, Article 10-8: Residential Waste Services; Solid Waste Services; Bulk Waste Services; Recycling Services and Animal Waste Services for Residential Dwellings”.

Motion to table pending additional information in February 2010
(Mortensen/Brown/Unanimous)

11. Discussion and possible action to approve **Ordinance 464-09** amending Town Code Chapter 10 “Health and Sanitation” by creating and adopting a new Article 10-8 Residential Waste Services; Solid Waste Services; Bulk Waste Services; Recycling Services and Animal Waste Services for Residential Dwellings and providing penalties.

Motion to table pending additional information in February 2010
(Mortensen/Brown/Unanimous)

12. Discussion and possible action to approve **Resolution 812-09** establishing the schedule of rates, charges, and fees for residential waste service authorized by the Town Code Chapter 10 Health and Sanitation, Article 10-8, Section 10-8-12.

Motion to table pending additional information in February 2010
(Mortensen/Brown/Unanimous)

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

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13. Introduction and discussion on 2009 Major General Plan Amendment **GP09-57/RZ09-59** a request by Ralph Pew on behalf of Taylor Morrison Homes to amend the General Plan Land Use Map for 125± acres (Victoria Parcels 10 & 11) at the northeast corner of Ocotillo and Hawes Roads from Medium Density Residential (2-3 dwellings per acre) to Medium High Density Residential-A (3-5 dwellings per acre).

Planning Manager Wayne Balmer introduced the proposed major general plan amendment and reviewed the Planning and Zoning Commission's recommendation for approval. Mr. Balmer explained that the rezoning would provide a base zone for the project and a development agreement would be required to ensure an active adult community was developed and as well as a PAD requirement because the streets would be private.

There was discussion on the Economic Development Commission's recommendation that the project provide easy access to the shopping centers. Ralph Pew, representing the applicant responded that the issue is being worked on.

14. Introduction and discussion on 2009 Major General Plan Amendment **GP09-58/RZ09-60** a request by Ralph Pew on behalf of Barney Farms to amend the General Plan Land Use Map designation for 257 acres at the northwest corner of Queen Creek and Meridian Roads from Employment Type B to Employment Type A (20 acres), Community Commercial (20 acres), Medium High Density Residential-A (3-5 dwellings per acre)(138 acres) and Medium High Density Residential-B (5-8 dwellings per acre) (79 acres).

Mr. Balmer introduced the proposed major general plan amendment and some outstanding concerns related to the master-planned "East Park" adjacent to the property and the Council resolution relating to the realigned Signal Butte/Meridian providing future access to the 802 freeway. Mr. Balmer stated that the applicant submitted a revised plan late in the process showing a new road design that goes through the park site. The Planning and Zoning Commission recommended a continuance to allow the development of a transportation plan for the square mile and options for the park redesign.

Council asked if the park would have the same acreage if redesigned. Mr. Balmer responded that it could be more or less, depending on the results of the study.

There was some discussion on the over-flight concerns.

Further discussion was in regard to the revised park location and layout and the need to have a park planner involved in the redesign. Town Manager John Kross provided some background information on how the park land was acquired and master-planned through public involvement and the former Parks, Trails and Open Space Committee.

Discussion on the extension of infrastructure to the northeast part of Town to accommodate employment including developer responsibility and options of development agreements and buy-in agreements for funding the infrastructure.

Council discussed the proposed timeline for a full review including committee review, public participation process and Planning and Zoning Commission hearings. Mr. Balmer said that two

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options would be provided at the December 2, 2009 meeting and possibly a contract for a park planning consultant.

Council requested that a cost benefit analysis for the trade-off of employment to residential be provided also. Mr. Kross added that the cost of employment vs. cost of residential needs to be of equal value.

Ralph Pew, representing the applicant, stated the applicant is committed to the public process but the only change is the park location and road alignment. Mr. Pew requested that the general plan amendment be voted on before the current Council terms expire, and if there is a motion to continue, to select a date certain. He also said that a new economic absorption report will be provided.

15. Adjournment

The meeting was adjourned at 10:23pm.

TOWN OF QUEEN CREEK

Arthur M. Sanders, Mayor

Attest:

Jennifer F. Robinson, MMC

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 November 18, 2009 Regular Session of the Queen Creek Town Council. I further certify that the meeting was duly called and that a quorum was present.

Jennifer F. Robinson, MMC

Passed and approved on December 16, 2009.