



**Minutes**  
**Regular Session**  
**Queen Creek Town Council**  
Queen Creek Town Hall, 22350 S. Ellsworth Road  
Council Chambers  
December 1, 2010  
7:00 p.m.

**1. Call to Order**

The meeting was called to order at 7:02pm.

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

Council Members present: Alston; Benning; Brown; Oliphant and Wheatley. Vice Mayor Barnes and Mayor Barney were present via telephone.

Council Member Brown was designated Acting Mayor at the Work Study Session.

**3. Pledge of Allegiance:** Council Member Benning

**4. Invocation:** Pastor Gwartney, Christ's Church Free Will Baptist

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

A. Webelo Pack 738 Volunteer Service Recognition – continued to the January 19, 2011 meeting

**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.

Vice Mayor Barnes stated that he was attending the National League of Cities conference and reported on several of the meetings and sessions he had attended to date.

**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.

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**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.

B. Consideration and possible approval of the renewal of the Emergency Base Station Agreement with Catholic Healthcare West (Mercy Gilbert Medical Center).

C. Consideration and possible approval of a Contract Change Order in the amount not to exceed \$25,400 with Dibble Engineering for the Sossaman Road Drainage project.

D. Consideration and possible approval of an Intergovernmental Agreement between Maricopa County and the Town of Queen Creek for the Data Recovery Phase II Archaeological Investigation and Design Modification of Riggs Road from Ellsworth Road to Meridian Road.

\*E. Public Hearing and possible approval of an amendment to the CDBG Project applications and **Resolution 868-10** authorization of projects and funding amounts for the FY2011-2012 Community Development Block Grant (CDBG) applications.

\*F. Public Hearing and possible approval of **Resolution 869-10** supporting a HOME application by Housing Our Communities, Inc., for the FY2011-2012 HOME Grant application cycle.

\*G. Public Hearing and possible approval of **CU10-072/SP10-071** "AT&T Cell Site" a request for a Conditional Use Permit and site plan for a 71 ft. tall wireless communication tower to be located on an existing light pole located at 20061 S. Rittenhouse Rd. (/Rite of Passage/Canyon State Academy).

Staff requested Item E removed for discussion.

**Motion to approve remainder of Consent Calendar as presented**  
(Wheatley/Alston/Unanimous)

**Item E:** Management Assistant Tracy Corman stated staff recommends the amendment to the previously approved Resolution 868-10 for CDBG Project application that includes additional sidewalk west Loop Rd and north and south of Ocotillo Rd. She provided information on the additional funding and costs of the sidewalk.

Council discussed the priority order of projects on the application and Public Works Division Manager Troy White stated that completion of the sidewalks would provide safe access to Town facilities and shopping.

**Motion to approve Item E with amendments as presented** (Oliphant/Benning/Unanimous)

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Note: Item 15 was heard before Item 9.

**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 approval of **Ordinance 491-10/RZ10-078/SP10-079** "Sunwest Dental" a request by Adam Cosman for approval of a rezoning from R1-6 to C-1, site plan, landscape plan and building elevations for a dental office located at 22211 S. Ellsworth Rd.

Planner Mike McCauley reviewed the rezoning application and site plan/elevation plans which were recommended for approval by the Planning and Zoning Commission.

Council discussed how the project would be a Town Center improvement and requested that the stone wainscoting shown on the original application approved by the Planning and Zoning Commission remain. The applicant stated that the stone wainscoting will be included on the updated elevations.

Council asked for clarification on the 15ft extension to the front elevation and impact on the setback. Mr. McCauley explained that the setback would not be impacted and some variations within the setback should be expected with redevelopment projects.

Planning Manager Wayne Balmer added that the existing homes on the east side of Ellsworth Road are transitioning to commercial and fit in with the Town Center plan showing diversity, character and long-term investment.

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

**Motion to approve Ordinance 491-10/RZ10-078/SP10-079 "Sunwest Dental" with the conditions as recommended by the Planning and Zoning Commission and subject to design review with staff (Benning/Oliphant/Unanimous)**

10. Public Hearing and possible action on **Resolution 871-10 GP10-039** Major General Plan Amendment, a Town initiated major general plan amendment to incorporate the updated Town Center Plan as an element of the General Plan. *(A continuance to December 15, 2010 will be requested)*

Planning Manager Wayne Balmer reviewed the statutes governing general plan amendments and the process followed for GP10-039. Mr. Balmer then reviewed the updated Town Center plan approved by Council in April 2010. He reported that there have been no comments received on amendment.

**Motion to continue Resolution 871-10 GP10-039 Major General Plan Amendment, a Town initiated major general plan amendment to incorporate the updated Town Center Plan as an element of the General Plan to the December 15, 2010 Council meeting (Oliphant/Alston/Unanimous)**

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11. Public Hearing and possible action on **GP10-040** Minor General Plan Amendment, a Town initiated minor amendment to the Transportation and Circulation Element of the General Plan involving the Signal Butte and Meridian Road Corridor. *(An indefinite continuance will be requested)*

Mr. Balmer stated that alignment options are still being considered and requested an indefinite continuance.

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

**Motion to continue indefinitely GP10-040 Minor General Plan Amendment, a Town initiated minor amendment to the Transportation and Circulation Element of the General Plan involving the Signal Butte and Meridian Road Corridor (Benning/Wheatley/Unanimous)**

12. Public Hearing and possible action on **Ordinance 490-10/TA10-088** a Text Amendment to the Town of Queen Creek Zoning Ordinance Article 6.19 Temporary Uses and Table 4.6-2 Principle Uses Allowed in Non-Residential Districts to allow the display and sale of consumer fireworks.

Planner McCauley stated the proposed text amendment to allow the display and sale of fireworks is in response to HB 2246 allowing fireworks in Arizona effective December 1, 2010. He also stated that the Town Code currently prohibits the use of fireworks in the Town without a permit from the police chief and a future Town Code amendment would change the approval to the Fire Marshall.

Mr. McCauley reviewed the Temporary Use Permit criteria in the Zoning Ordinance and the proposed amendment that would add fireworks sales to the Temporary Use/Retail Sales uses. In addition, sales of fireworks would be prohibited to those under 16 years old and the use of fireworks would remain prohibited as currently in the Town Code.

Council asked whether Section 4.D. was a reiteration of the current code. Mr. McCauley responded yes. Council also asked how the definition of display was crafted. Mr. McCauley stated that it was taken directly from HB 2246.

Council discussed allowing outside sales of fireworks. Town Manager John Kross explained that it would be similar to other seasonal sales such as pumpkin or tree sales. He said that the sale of fireworks has to be permitted by statute, even if prohibited as outside sales. Council asked if inside sales were safer than outside in tents. Fire Chief Van Summers and Fire Marshal Jon Spezzacatena explained the structural and safety requirements for tents.

Additional questions from Council included the sale date limitations. Mr. McCauley explained that under the Temporary Use Permit requirements, there would be approximately a 30-day sale period, depending on the application.

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Planning Manager Balmer reviewed the time and spacing requirements and location limits for fireworks sales. He also showed an example of signage that would be required to be posted anywhere fireworks were sold.

Steve Lurdy, representing Phantom Fireworks, stated he may have one location in Town for New Year's sales and would use a 20x20 tent. He also said that safe and sane fireworks are those that spin, smoke and pop. Mr. Lurdy stated that Phantom Fireworks provides insurance coverage to property owner and municipality during sales periods.

Council asked who would monitor the sales of fireworks. Staff responded that the Building Department, Fire Department and MCSO would monitor.

**Motion to approve Ordinance 490-10/TA10-088 a Text Amendment to the Town of Queen Creek Zoning Ordinance Article 6.19 Temporary Uses and Table 4.6-2 Principle Uses Allowed in Non-Residential Districts to allow the display and sale of consumer fireworks (Wheatley/Benning/Unanimous)**

**13.** Public Hearing and possible action on **Ordinance 492-10/TA10-089** a Text Amendment to the Town of Queen Creek Zoning Ordinance Table 4.6-2 Principle Uses Allowed in Non-Residential Districts and creating a new Section 6.22 Nonprofit Medical Marijuana Dispensaries, Infusion Facilities and Offsite Cultivation related to medical marijuana operations, supplemental use regulations and locations.

Planning Manager Balmer provided background information on Proposition 203 approved by voters at the November 2, 2010 General Election. The Arizona Department of Health Services (ADHS) will be the licensing and enforcement agency. The proposition does allow local municipalities to implement reasonable zoning regulations. Mr. Balmer reviewed the following components of the proposed text amendment to the Zoning Ordinance:

- Definitions
- Distance requirement-1500 ft.
- Conditional Use Permit requirement
- Security plan requirement
- Hours of operation
- Additional standards/conditions
- Off-site cultivation without an associated dispensary is prohibited
- One dispensary to one cultivation site

Mr. Balmer said that depending on what regulations the ADHS develops, additional amendments may need to be made in order to comply.

Council discussed size limitations of off-site cultivation locations; care-giver category and ratio of dispensaries to licensed pharmacies and possible locations in Town limits of dispensaries.

Council also discussed Conditional Use Permits vs. allowing by right. Mr. Balmer explained that the Zoning Ordinance would regulate "by right" and the Conditional Use Permit allows more public input and Council approval vs. staff/administrative approval.

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

**Motion to approve Ordinance 492-10/TA10-089** a Text Amendment to the Town of Queen Creek Zoning Ordinance Table 4.6-2 Principle Uses Allowed in Non-Residential Districts and creating a new Section 6.22 Nonprofit Medical Marijuana Dispensaries, Infusion Facilities and Offsite Cultivation related to medical marijuana operations, supplemental use regulations and locations with the removal of reference to Town Center designation (Brown/Wheatley)

Additional discussion was on the exclusion of the Town Center district.

**VOTE: 5 – 2 (Barney/Barnes)  
MOTION PASSED.**

**14.** Public Hearing and possible action on **Ordinance 493-10/TA10-090** a Text Amendment to the Town of Queen Creek Zoning Ordinance Section 6.16.B.20 Temporary Use Signs regarding Special Event Signs.

Planning Manager Balmer reviewed the proposed text amendment for special event signs based on previous discussion and direction from Town Council. Council discussed the visibility of the proposed standard sign size of 16sq.ft. (4x4) and the possibility of increasing the size to 32sq.ft for better visibility and advertising of the special event. Mr. Balmer explained that the current zoning ordinance requires the larger signs to be on private property and the proposed amendments would allow the smaller signs to be in the right-of-way. Council concurred that the size of the signs could be readdressed if the smaller signs are found to be ineffective.

Council asked how many signs would be allowed per event and what the cost would be. Mr. Balmer responded that there would be a signage plan as part of the Special Event Permit application and would be reviewed and approved by staff, and the number would be dependent on the event also. Mr. Balmer added that there would be a \$10/per sign fee which is considerably less than the current sign fees.

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

**Motion to approve Ordinance 493-10/TA10-090 Text Amendment to the Town of Queen Creek Zoning Ordinance Section 6.16.B.20 Temporary Use Signs regarding Special Event Signs** (Alston/Barnes/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.

**15.** Discussion and possible approval of the ground lease agreement between the Town of Queen Creek and the Maricopa County Community College District on behalf of Rio Salado College.

Assistant Town Manager Patrick Flynn stated that the previously approved Memorandum of Understanding (MOU) between the Town and Maricopa County Community College District

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included broad framework for an annual lease agreement. Mr. Flynn reviewed key points in the ground lease agreement including a 50-year lease term and design/construction submittal and review criteria.

Todd Fitzsimmons, representing MCCD stated that Rio Salado College was looking forward to the Queen Creek project which is planned to be open no later than Fall 2012. He said that with the approval of the ground lease agreement, staff can move forward with the design of the facility that will be compatible with the Queen Creek Library. Mr. Fitzsimmons said that initial cost estimates are lower than expected but that \$4.4 million is committed to the building.

**Motion to approve the ground lease agreement the Town of Queen Creek and the Maricopa County Community College District on behalf of Rio Salado College (Alston/Wheatley/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.

None.

**16. Adjournment**

The meeting was adjourned at 8:55pm.

TOWN OF QUEEN CREEK

Craig S. Barney, Mayor  
Gail Barney, Mayor

Attest:

Jennifer F. Robinson  
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 December 1, 2010 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  
Jennifer F. Robinson, MMC

Passed and approved on January 19, 2011