



**Minutes**  
**Regular Session**  
**Queen Creek Town Council**  
Queen Creek Town Hall, 22350 S. Ellsworth Road  
Council Chambers  
January 19, 2011  
7:00 p.m.

**1. Call to Order**

The meeting was called to order at 7:03pm.

Mayor Barney asked that Vice Mayor Barnes chair the meeting.

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

Council Members present: Alston; Benning (arrived late); Brown; Wheatley; Vice Mayor Barnes and Mayor Barney. Council Member Oliphant was absent.

**3. Pledge of Allegiance:** Webelo Pack 738 presented the Colors and Scout Steven King led the Pledge of Allegiance.

**4. Invocation:** Chaplain Donald Francis, Banner Ironwood Hospital – unable to attend. A moment of silence was held.

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

A. Recognition of Webelo Pack 738: The Pack was recognized for planting trees and shrubs at the entrance to Founders Park.

B. Recognition of Eagle Scout Jonathon Rogers: Eagle Scout Jonathon Rogers was recognized for his service project of creating a rest area along the Sonoqui Wash Trail that included benches, shrubs, hitching post and granite.

C. Recognition of Boy Scout Troop 610 Leader Ian Somes: Leader Somes was recognized for his leadership of a group of 23 volunteers that cleared an equestrian trail along the Queen Creek Wash.

D. Annual State of the Town Address-Mayor Barney: Attached as part of the official minutes.

\*There will be a brief reception following

Mayor Barney left the meeting at this time and participated by telephone beginning at 7:48pm. for the remainder of the meeting.

The meeting was recessed from 7:25 – 7:48pm.

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**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.

Council Member Wheatley attended the State of our State Conference held January 7. Topics included budget discussions. Ms. Wheatley also reported on attending an Audit & Accounting Workshop for Elected Officials that focused on government financing.

B. Town Center Committee – January 12, 2011: Chair Jason Gad reported on the Committee’s vision & branding activities, including brainstorming and roundtable discussions that focused on the Town Center Work Plan. The next meeting is scheduled for February 9, 2011.

**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 December 1, 2010 Work Study and Regular Session Minutes.

B. Consideration and possible approval of the December 15, 2010 Work Study and Regular Session Minutes.

C. Consideration and possible approval of budget line item reallocations.

D. Consideration and possible approval of expenditures over \$25,000.

E. Consideration and possible approval of **Resolution 843-10** declaring that certain right-of-way located within the Town of Queen Creek and described as a portion of the Old Rittenhouse Road right-of-way located adjacent to Assessor’s Parcel Nos. 304-61-033S, 314-02-901 and 304-61-988 is no longer necessary for public use as a roadway; and vacating said right-of-way subject to all existing encumbrances and uses. (*Continued from December 15, 2010*)

F. Consideration and possible approval of **Resolution 874-11** supporting Luke Air Force Base

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G. Consideration and possible approval of an easement with Salt River Project (SRP) for underground power to the new T-Mobile cell tower equipment building at Desert Mountain Park.

H. Consideration and possible approval of a lease agreement with Tuck Hollimon for a renewable one-year lease of premises located at 22249 S. Ellsworth Road.

I. Consideration and possible approval of the re-appointment of Gregory Arrington and Kimberly Mlazgar to the Transportation Advisory Committee.

**\*J.** Public Hearing and possible approval of **Resolution 872-11** determining and ordering that portions of Ellsworth Road between Rittenhouse and Ocotillo Roads should be improved before the development of adjacent property; directing that plans, specifications and cost estimates be finalized; and a call for Sealed Bids be made; defining the boundaries and parcels included within the Town of Queen Creek's "Assessment District SS #002"; and providing and approving the manner of assessing the property.

**\*K.** Public Hearing and possible approval of a Series 12 Restaurant Liquor License application (#12078575) submitted by Lawrence Joseph Hoel, Jr., on behalf of Queen Creek Café and Sports Lounge, located at 22002 S. Ellsworth Rd. The establishment has a current Series 7 Beer & Wine Bar license.

Item J was removed for Public Hearing.

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

**Item J:** Community Services Director Tom Condit gave an overview of the Scalloped Streets program previously adopted by the Council and the Planning and Zoning Commission's unanimous recommendation for approval of the Assessment District SS#002 on January 12, 2011. Mr. Condit also provided the project's specifications and properties included in the district.

The Public Hearing was opened.

Jack Hilton, Glendale, AZ, representing the owner's of the northern parcel, stated they were non-voluntary owners of the property through a trustee's sale. He said he believed the property has been devalued with the opening of Ellsworth Loop Road and the property value won't increase with an improved road. Mr. Hilton stated that his recourse would be a lawsuit in Superior Court if the improvement district was approved.

The Public Hearing was closed.

Council asked whether ½ street improvements would be required if the property were developed. Mr. Condit responded yes.

Council also asked for clarification on the threat of a lawsuit by Mr. Hilton. Town Attorney Fredda Bisman stated that the Town had followed the procedure outlined in the State Statutes regarding the formation of Improvement Districts.

**Motion to approve Resolution 872-11 determining and ordering that portions of Ellsworth Road between Rittenhouse and Ocotillo Roads should be improved before the development of adjacent property; directing that plans, specifications and cost estimates be finalized; and a call for Sealed Bids be made; defining the boundaries and parcels included within the Town of Queen Creek's "Assessment District SS #002"; and providing and approving the manner of assessing the property (Brown/Benning/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 Resolution 875-11 amendments to the Town's 5-Year Consolidated Plan for the Community Development Block Grant (CDBG) program.**

The Public Hearing was opened. No one spoke and the Public Hearing was closed.

Management Assistant Tracy Corman explained the requirements for a 5-year Consolidated Plan and the opportunity to amend the plan one time per year. She reviewed the proposed amendments:

- a. Water & sewer improvements: for Town Center
- b. Non-profit multi-use center: adding "rehab or purchase" to allow flexibility and opportunities.

Council asked whether there had been any situations in the past 5-years that would have provided for the construction, purchase or rehab of a building. Town Manager John Kross and Ms. Corman responded no. Vice Mayor Barnes, the Town's representative on Community Development Advisory Committee added that there were no non-profit organizations in Town at this time that would qualify but there could be in the future. He also said that sewer and water a line was added to the plan to the failing lines could be repaired.

Council asked whether a non-profit would apply directly to CDAC for funding. Ms. Corman responded that they could apply directly but would need a resolution of support from the Town. There was discussion on concerns if the Town lost input on what projects would be most beneficial to the Town. Mr. Barnes added that the proposed amendment would not affect any funding received directly from CDAC. Ms. Corman briefly reviewed the application and selection process for CDAC funding and non-profit applications are separate from the Town's.

**Motion to approve Resolution 875-11 amendments to the Town's 5-Year Consolidated Plan for the Community Development Block Grant (CDBG) program (Alston/Brown/Unanimous)**

**10. Public Hearing and possible action on RZ10-081/SD10-082 – Ordinance 494-11 "Emperor Estates Phase IV West" a request by Lennar Communities Development, Inc., for approval of a Planned Area Development and Preliminary Plat for a 109-lot residential subdivision located on approximately 34 acres at the northeast corner of Queen Creek and Sossaman Roads.**

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Planner Mike McCauley reviewed the current site plan; fence/wall detail plan and landscape plan. The applicant is requesting a PAD amendment to remove the alley-loaded design; allow for a 6-foot solid fence/wall and a 5-foot garage set-back. The applicant is also requesting that two out of every three homes be allowed along Queen Creek and Sossaman Roads. Mr. McCauley also reviewed the Planning and Zoning Commission's recommendations subject to conditions.

Council discussed their concern with approving a design review element without being presented elevations. Council asked applicant when the project may start.

Jeff Gunderson, representing Lennar Communities, replied that the finalized housing product is not done but the current trend is towards single-story homes.

Council asked whether the proposed fence/wall complied with the fencing requirements and if the previously approved view fence detail plan was eliminated. Mr. McCauley responded that the proposed fence plan does comply and confirmed that view fencing was being eliminated.

Council continued discussing establishing quality developments and being consistent with approved developments.

Mr. Gunderson stated that he would like flexibility for two-story homes along the arterial streets and suggested at least 50% of the homes be allowed to be two-story. He also said he appreciated Queen Creek's desire for quality and uniqueness but believes the approval of a 5-foot garage setback would also allow flexibility when the Design Review submittal was submitted. Council asked whether he had any ideas of what the proposed garage design/setback would look like. Mr. Gunderson said that existing product plans may be upgraded.

Council asked if design review elements were approved at the PAD stage, whether Council would be able to change that element at Design Review stage. Town Attorney Bisman responded no since there was already approval with the PAD. Further discussion was in regard to deleting the alley loaded design and fence detail and landscaping.

**1<sup>st</sup> Motion to approve RZ10-081/SD10-082 – Ordinance 494-11 “Emperor Estates Phase IV West” a request by Lennar Communities Development, Inc., for approval of a Planned Area Development and Preliminary Plat for a 109-lot residential subdivision located on approximately 34 acres at the northeast corner of Queen Creek and Sossaman Roads subject to the Conditions as recommended by the Planning and Zoning Commission with the omission/deletion of Condition #2/Stipulation #31 in Ordinance 228-02: allowing the requirement for a five-foot garage set-back be removed (Benning/Brown)**

**2<sup>nd</sup> Motion to approve RZ10-081/SD10-082 – Ordinance 494-11 “Emperor Estates Phase IV West” a request by Lennar Communities Development, Inc., for approval of a Planned Area Development and Preliminary Plat for a 109-lot residential subdivision located on approximately 34 acres at the northeast corner of Queen Creek and Sossaman Roads subject to the Conditions as recommended by the Planning and Zoning Commission with the modification of Condition #4 no more than two of every three homes can be two-story homes with two next to each other, along Sossaman and Queen Creek Roads (Alston)**

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2<sup>nd</sup> Motion Failed due to lack of Second.

Additional discussion on the garage setback was held. Town Manger John Kross stated that a future PAD amendment can be submitted if necessary at the time of Design Review.

**VOTE on 1st motion: 4-2 (Alston; Wheatley)  
MOTION PASSED**

**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.

**11.** Discussion and possible action on an amendment to the 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 which was approved December 1, 2010.

Public Works Division Manager Troy White stated the Council approved an intergovernmental agreement with Maricopa County Department of Transportation on December 1, 2010 and the County has subsequently requested an amendment stating Queen Creek would annex the road in the future and when construction is complete, which is a relatively new requirement from MCDOT. Mr. White added that once the road is annexed, the Town would be responsible for all maintenance in perpetuity. He also said that staff had requested the County to take authority for federal funds.

Council asked what the alternative to not approving the amendment would be. Mr. White responded that the Town would have to move ahead on construction on its' own. Council then asked if a consultant would have to be hired. Mr. White responded yes.

Council discussed that the Riggs Road alignment is mostly located in unincorporated Maricopa County and concerns of annexing roadway without having control of development along the road; and unfunded mandates from Maricopa County for Queen Creek to annex and maintain a roadway of regional significance (identified as 6 lanes). Community Services Director Tom Condit reminded Council of a previous General Plan amendment approved for the northeast corner of Riggs and Rittenhouse/Gary consisting of 40 acres.

Mr. White said that the new annexation policy came as a result of the roadway improvements in Buckeye.

Town Manager John Kross stated that while staff was recommending approval of the amendment, it was important to remember that roads of regional significance are roads that provide regional/economical benefits between counties. He explained that this type of roadway improvements are usually done through bonding but Maricopa County doesn't operate that way and it was desirable to have Maricopa County fund and maintain Riggs Road.

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There was discussion on drafting a letter to the County stating the Council's concerns regarding the County's shift in policy requiring annexation with a copy sent to Supervisor Brock. Council also further discussed costs and timing of construction.

**Motion to approve an amendment to the 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; and directing staff to send a letter under the Mayor' signature stating concerns as noted during discussion** (Wheatley/Alston/Unanimous)

**12.** Discussion and possible action on **Ordinance 489-10** amending Town Code Chapter 9 Offenses, Article 9-1 Offenses by adding regulations for the sale and use of fireworks. (*This item was continued at the December 15, 2010 meeting*).

Assistant Fire Chief Ron Knight and Fire Marshall Jon Spezzacatena reviewed the proposed ordinance that would allow the use of legal fireworks on December 31, January 1 and July 3, 4, and 5 on private property. The use of fireworks would be prohibited on all public property and facilities. Mr. Spezzacatena reviewed additional permitting requirements regarding licensing, occupancy permits and liability insurance.

Council discussed how having consistent days with surrounding communities could make enforcement easier and avoid confusion.

Arik Friesen, Queen Creek, asked that the Council approve no more restrictions than what the State allows.

Council briefly discussed prohibiting legal fireworks.

**Motion to approve Ordinance 489-10 amending Town Code Chapter 9 Offenses, Article 9-1 Offenses by adding regulations for the sale and use of fireworks** (Brown/Alston/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.

**13.** Discussion on permitting the posting of American flags in observance of certain nationally recognized holidays by third-parties in the downtown area.

Community Services Director Tom Condit presented the estimated cost of \$4,500 - \$11,000 for the Town to install flags/poles/brackets on the 72 light poles in the downtown area. Council asked for clarification on costs paid by the Town and by a third-party or non-profit. Vice Mayor Barnes stated that the American Legion's proposal to hang and remove flags included the existing 15 pedestrian light poles and the 57 future pedestrian light poles but the Town would have to install the brackets. There was discussion on opening the flag service up to other non-profits to bid on. There was additional discussion on the American Legion's proposal for the Town to purchase the flags and be reimbursed by the Legion.

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There was discussion on a future policy; Town's liability for having others climbing poles; and alternative for a no cost flag service such as an Eagle Scout project. Council also discussed the positive aesthetics of the flags and the costs.

Staff stated that additional information would be brought back at a future meeting.

**14. Discussion on and follow-up on items from the National League of Cities Conference.**

Town Manager John Kross reported this item was placed on the agenda by Vice Mayor Barnes and Council Member Oliphant for discussion about a bicycle rental program along the washes, and if directed by Council, staff will do further research and bring back to Council.

Vice Mayor Barnes provided information on the program that he learned about at the National League Conference in Denver. He talked about the possibility of having bicycle rental stations at the library, trailheads, ASU East and possibly a "bike with the Mayor" program. Council asked for more information on costs, security of bicycle stations and privately run bicycle rental programs. Vice Mayor Barnes also requested that staff spend no more than two hours getting the information.

**15. Motion to adjourn to Executive Session:** The Council may reconvene the Executive Session for any of the items listed on the Executive Session Agenda.

The Council re-adjourned to Executive Session at 10:13pm.

**16. Adjournment**

The meeting was adjourned at approximately 11:10pm.

TOWN OF QUEEN CREEK

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Gail Barney, Mayor

Attest:

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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 January 19, 2011 Regular Session of the Queen Creek Town Council. I further certify that the meeting was duly called and that a quorum was present.

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Jennifer F. Robinson, MMC

Passed and approved on February 16, 2011.