

**MINUTES
ORO VALLEY TOWN COUNCIL
REGULAR SESSION
September 2, 2015
ORO VALLEY COUNCIL CHAMBERS
11000 N. LA CANADA DRIVE**

STUDY SESSION AT OR AFTER 4:30 PM

CALL TO ORDER

Mayor Hiremath called the meeting to order at 4:30 p.m.

ROLL CALL

PRESENT:

Satish Hiremath, Mayor
Lou Waters, Vice Mayor
Joe Hornat, Councilmember
Mary Snider, Councilmember
Mike Zinkin, Councilmember

ABSENT:

Brendan Burns, Councilmember
Bill Garner, Councilmember

1. OPEN MEETING LAW TRAINING

Town Attorney Kelly Schwab presented the Open Meeting Law (OML) training and outlined the following:

- What is the Open Meeting Law?
- Notice Requirements
- Purpose of an Executive Session
- Traditional and Electronic Meetings

Pitfalls in OML

- Serial Meetings
- Sending Emails
- Social Media
- Attending Other Meetings

- Calling a Meeting
- What Must be Included on an Agenda?
- What Must be Included in the Official Minutes?
- Penalties

Conflict of Interest

- Remote Interest vs. Substantial Interest
- Public Officer Disclosure Form
- What Happens if the Conflict of Interest Laws are Violated?

Public Records

- What are Public Records?
- Public vs. Non-Public Information

MOTION: A motion was made by Councilmember Zinkin and seconded by Vice Mayor Waters to adjourn the Study Session at 5:35 p.m.

MOTION carried, 5-0.

REGULAR SESSION AT OR AFTER 5:30 PM

CALL TO ORDER

Mayor Hiremath called the meeting to order at 5:36 p.m.

ROLL CALL

PRESENT:

Satish Hiremath, Mayor
Lou Waters, Vice Mayor
Brendan Burns, Councilmember (Appeared after roll call)
Bill Garner, Councilmember (Attended via telephone)
Joe Hornat, Councilmember
Mary Snider, Councilmember
Mike Zinkin, Councilmember

EXECUTIVE SESSION - Pursuant to A.R.S. 38-431.03(A)(7) for discussion and consultation regarding the purchase or lease of real property near James D. Kreigh Park and pursuant to A.R.S. 38-431.03(A)(3) and A.R.S. 38-431.03(A)(4) for legal advice with the attorneys of the public body regarding the Town's Sign Code and a recent U.S. Supreme Court case and regarding possible litigation from the Goldwater Institute

MOTION: A motion was made by Councilmember Snider and seconded by Vice Mayor Waters to go into Executive Session pursuant to A.R.S. 38-431.03(A)(7) for discussion and consultation regarding the purchase or lease of real property near James D. Kreigh Park and pursuant to A.R.S. 38-431.03(A)(3) and A.R.S. 38-431.03(A)(4) for legal advice with the attorneys of the public body regarding the Town's Sign Code and a recent U.S. Supreme Court case and regarding possible litigation from the Goldwater Institute.

MOTION carried, 6-0 with Councilmember Burns absent.

Mayor Hiremath said the following staff members would join Council in Executive Session: Town Manager Greg Caton, Town Attorney Kelly Schwab, Legal Services Director Tobin Sidles and Town Clerk Julie Bower.

REGULAR SESSION AT OR AFTER 6:00 PM

CALL TO ORDER

Mayor Hiremath called the meeting to order at 6:12 p.m.

ROLL CALL

PRESENT:

Satish Hiremath, Mayor
Lou Waters, Vice Mayor
Brendan Burns, Councilmember
Bill Garner, Councilmember (Attended via telephone)
Joe Hornat, Councilmember
Mary Snider, Councilmember
Mike Zinkin, Councilmember

PLEDGE OF ALLEGIANCE

Boy Scout Troop #255 led the audience in the Pledge of Allegiance.

UPCOMING MEETING ANNOUNCEMENTS

Communications Administrator Misti Nowak announced the upcoming Town meetings and events.

COUNCIL REPORTS

Vice Mayor Waters attended a conference in Washington D.C. on July 10 with Police Chief Danny Sharp at which they discussed the image of police in America and the problems police officers faced in the community.

Vice Mayor Waters asked Chief Sharp what he thought about what was happening in the United States today and how it applied to the Oro Valley Police Department.

Chief Sharp said the conference focused on concerns of trust between the community and police officers. To resolve issues of trust, there would need to be a strengthening of community relations with the police department. Chief Sharp was concerned with the hardships faced by law enforcement families during these times and about the retention and recruitment of police officers.

Vice Mayor Waters said the Task Force on 21st Century Policing recommended the use of body cameras on all police officers as part of the solution to strengthen community

relations with police officers. Chief Sharp said Oro Valley was the first agency in southern Arizona to start using body cameras but the rollout of the program had taken some time due to the importance of drafting and implementing an effective policy.

Councilmember Zinkin said that he had received legal advice from the Town Attorney regarding his proposal to recognize private businesses at Town Council meetings and this item would be discussed at the next Council meeting on September 16.

DEPARTMENT REPORTS

Town Clerk Julie Bower announced that new artwork was on display in the Council Chambers by artist Chris Hutter.

ORDER OF BUSINESS

Mayor Hiremath said Regular Agenda item #9 would be continued to a meeting in December at the request of Councilmember Zinkin.

INFORMATIONAL ITEMS

1. Letter of Appreciation - Oro Valley Police Department
2. Vice Mayor Waters - PERF Meeting Trip Report
3. Public Safety Providers Quarterly Reports (April - June 2015)

CALL TO AUDIENCE

Oro Valley resident Gerri Ottoboni encouraged all Oro Valley residents to vote "No" on the Pima County bond election questions on November 3, 2015.

Greg Patchen thanked the Town Council for the work they had done for the community. Mr. Patchen was concerned with the rate and speed of certain projects within the town and the cost of overhead they would bring.

PRESENTATIONS

1. Presentation - Plaque of Appreciation for Oro Valley Motorcycle Officer Michael Kleinberg

Chief Sharp recognized Officer Michael Kleinberg for assisting resident Oz Stolz at the scene of an accident and later checking up on him at the hospital. Mr. Stolz insisted on presenting Officer Kleinberg with a Plaque of Appreciation for going above and beyond the call of duty to ensure his safety.

2. Results from Colorado Explorer Competition

Sergeant Pierce and Officer Mattocks, lead advisers to the Oro Valley Police Explorers Post, spoke about the results from the Colorado Explorer Competition and congratulated the Explorers for receiving 16 different awards at the competition.

3. Proclamation - Grandfamily/Kinship Care Month

Mayor Hiremath proclaimed September, 2015 as Grandfamily/Kinship Care Month.

Arizona Grandparent Ambassador's Luara Hasso and Becky Duncan accepted the proclamation and said 177,000 children were being raised by kinship families in Arizona.

4. Proclamation - National Preparedness Month

Mayor Hiremath proclaimed the month of September, 2015 as National Preparedness Month.

Lieutenant John Teachout accepted the proclamation on behalf of the Oro Valley Police Department.

CONSENT AGENDA

Vice Mayor Waters requested to remove item (B) from the Consent Agenda for discussion.

Councilmember Zinkin requested to remove items (C) and (F) from the Consent Agenda for discussion.

- A. Minutes - July 1, 2015
- D. Visit Tucson Quarterly Report: April 1, 2015 - June 30, 2015
- E. Greater Oro Valley Chamber of Commerce Quarterly Report: April 1, 2015 - June 30, 2015
- G. Request for approval of a Final Plat for the Eagles Rest subdivision, located north of Moore Road approximately one-quarter of a mile east of La Cañada Drive
- H. Request for approval of an amended Final Plat for Blocks 1-4 of Stone Canyon VIII, located north of Tortolita Mountain Circle approximately one-quarter mile west of Rancho Vistoso Boulevard
- I. Resolution No. (R)15-55, authorizing and approving an Intergovernmental Agreement (IGA) between the Town of Oro Valley and the Pima County Recorder to provide election services for the November 3, 2015 special recall election

- J. Resolution No. (R)15-56, authorizing and approving a task force agreement between the Drug Enforcement Administration (DEA) and the Town of Oro Valley for the participation of one (1) Oro Valley police officer in the Pima County HIDTA Investigative Task Force (PCHITF)
- K. Resolution No. (R)15-57, authorizing and approving a task force agreement between the Drug Enforcement Administration (DEA) and the Town of Oro Valley for the participation of two (2) Oro Valley police officers in the DEA Tucson Task Force
- L. Resolution No. (R)15-58, authorizing and approving a license agreement between the Town of Oro Valley and Lennar Arizona, Inc. for installation and maintenance of improvements within the Moore Road right-of-way
- M. Resolution No. (R)15-59, requesting authority for the town manager to proceed with the purchase of 8.8 acres of land, located near Canyon Del Oro High School and James D. Kriegh Park, for the purpose of various municipal uses, to include a police substation and other public safety or recreational-related uses

MOTION: A motion was made by Vice Mayor Waters and seconded by Councilmember Zinkin to approve Consent Agenda items (A), (D)-(E) and (G)-(M).

MOTION carried, 7-0.

B. Fiscal Year 2014/15 Financial Update Through May 2015

Vice Mayor Waters asked about the overall health of the Town's financials for FY 2014/15.

Finance Director Stacey Lemos said the ending fund balance for the General Fund was \$10.2 million, which was higher than original estimates. Revenues were under budget by approximately \$352,000 at year end but expenditures were down by approximately \$726,000 due to vacancy savings and lower departmental operation and maintenance costs.

The Highway Fund was over on revenues and under on expenditures with an ending fund balance of approximately \$3.3 million which came in above estimates.

The Bed Tax Fund ended the year with a positive fund balance of approximately \$500,000.

The Community Center & Golf Fund ended the fiscal year with a positive fund balance of approximately \$1 million.

Ms. Lemos said retail sales tax collections for FY 14/15 came in right on

budget. Restaurant/bar collections came in a little bit over budget and utility tax collections came in on target.

Councilmember Zinkin was concerned with on-going golf course expenses and requested that future financials include a break-down of the restaurant expenses and revenues.

MOTION: A motion was made by Councilmember Zinkin and seconded by Vice Mayor Waters to approve item (B).

MOTION carried, 7-0.

C. Fiscal Year 2014/15 Financial Update Through June 2015 (Year-End)

MOTION: A motion was made by Councilmember Zinkin and seconded by Vice Mayor Waters to approve item (C).

MOTION carried, 7-0.

F. Request for approval of a Final Plat for block 5 of the Maracay at Vistoso subdivision, located north of the Pebble Creek Drive and La Cañada Drive intersection

Councilmember Zinkin asked if two-story homes were allowed.

Senior Planner Rosevelt Arellano said one and two-story homes were allowed per the approved Conceptual Site Plan.

MOTION: A motion was made by Councilmember Zinkin and seconded by Vice Mayor Waters to approve item (F).

MOTION carried, 7-0.

REGULAR AGENDA

1. PUBLIC HEARING: DISCUSSION AND POSSIBLE ACTION REGARDING AN APPLICATION FOR A SERIES 12 (RESTAURANT) LIQUOR LICENSE FOR DRAGON VILLAGE RESTAURANT, LOCATED AT 12152 N. RANCHO VISTOSO BLVD. #C-180

Town Clerk Julie Bower presented item #1.

Mayor Hiremath opened the public hearing.

No comments were received.

Mayor Hiremath closed the public hearing.

MOTION: A motion was made by Vice Mayor Waters and seconded by Councilmember Zinkin to recommend approval of the issuance of a Series 12 liquor license to the Arizona Department of Liquor Licenses and Control for Billy Choy for Dragon Village Restaurant located at 12152 N. Rancho Vistoso Blvd. #C-180.

MOTION carried, 7-0.

2. PUBLIC HEARING: DISCUSSION AND POSSIBLE ACTION REGARDING AN APPLICATION FOR A SERIES 6 (BAR) LIQUOR LICENSE FOR VISTOSO GOLF CLUB, LOCATED AT 955 W. VISTOSO HIGHLANDS DRIVE

Ms. Bower presented item #2.

Mayor Hiremath opened the public hearing.

No comments were received.

Mayor Hiremath closed the public hearing.

MOTION: A motion was made by Councilmember Snider and seconded by Councilmember Garner to recommend approval of the issuance of a Series 6 liquor license to the Arizona Department of Liquor Licenses and Control for Philip Green Sr. for Vistoso Golf Club located at 955 W. Vistoso Highlands Drive.

MOTION carried, 7-0.

3. PUBLIC HEARING: ORDINANCE NO. (O)15-07, REZONING 16.3 ACRES NEAR THE NORTHWEST CORNER OF LA CAÑADA DRIVE AND TANGERINE ROAD FROM R1-144 TO R1-7, AND APPROVING AN ENVIRONMENTALLY SENSITIVE LAND FLEXIBLE DESIGN OPTION FOR A MODIFIED REVIEW PROCESS

Mr. Arellano presented item #3 and outlined the following:

- Applicant's Request
- Site Plan Revisions
- Concerns/Issues
- ESL's Modified Review Process
- Public Participation
- Protest Map
- Recommendation

Discussion ensued amongst Council and staff regarding the proposed rezoning request.

Stacey Weeks, representative for Norris Design, presented item #3.

Mayor Hiremath opened the public hearing.

The following individuals spoke in opposition to item #3.

Amber Peterman
Oro Valley resident Don Bristow
Scott Christie
Pat McGowan
Sarah McGowan
Susann Duperret
Laureen Bottazzi
Dr. Chuck Boreson
Greg Patchen
Oro Valley resident Bill Adler
Oro Valley resident Rick Hines

Mayor Hiremath closed the public hearing.

Discussion ensued amongst Council, staff and the applicant regarding the proposed rezoning.

MOTION: A motion was made by Mayor Hiremath and seconded by Councilmember Snider to continue item #3 to the September 16, 2015 regular Town Council meeting.

MOTION carried, 6-1 with Councilmember Zinkin opposed.

Mayor Hiremath recessed the meeting at 8:27 p.m.

Mayor Hiremath reconvened the meeting at 8:36 p.m.

4. ***PUBLIC HEARING: ORDINANCE NO. (O)15-13, REGARDING SUSPENDING ENFORCEMENT OF TOWN ZONING CODE SECTION 28, SIGNS, REGARDING ALL PROVISIONS THAT REGULATE SIGN CONTENT WITHIN PUBLIC RIGHT-OF-WAYS AND PRIVATE PROPERTY FOR THOSE PROVISIONS THAT DO NOT COMPLY WITH THE CURRENT LAW (Amended on 8/27/15 at 3:30 p.m.)**

Mayor Hiremath opened the public hearing.

The following individuals spoke on item #4:

Oro Valley resident Bill Adler
Dave Perry, President and CEO of the Greater Oro Valley Chamber of Commerce and
Oro Valley resident

Mayor Hiremath closed the public hearing.

MOTION: A motion was made by Councilmember Hornat and seconded by Vice Mayor Waters to adopt Ordinance No. (O)15-13, suspending enforcement of Oro Valley Zoning Code Section 28, Signs, regarding all provisions that regulate sign content within the public rights-of-way and private property for those provisions that do not comply with the current law.

MOTION carried, 7-0.

5. DISCUSSION AND POSSIBLE ACTION FOR A CONCEPTUAL SITE PLAN, LANDSCAPE PLAN AND ARCHITECTURE FOR KNEADERS CAFE AND BAKERY, A PROPOSED RESTAURANT TO BE LOCATED NEAR THE NORTHEAST CORNER OF LINDA VISTA BOULEVARD AND ORACLE ROAD

Principal Planner Chad Daines presented item #5 and outlined the following:

- Location
- El Corredor Site Plan
- Conceptual Site Plan/Landscape Plan
- Conceptual Architecture
- Public Participation
- Recommendation

Discussion ensued amongst Council, staff and the applicant regarding item #5.

Austin Smith, representative for Kneaders Bakery & Cafe, answered questions from Council.

The following individual spoke in support of item #5.

Oro Valley resident Larry Kincaid

MOTION: A motion was made by Councilmember Snider and seconded by Vice Mayor Waters to approve the Conceptual Site Plan and Landscape Plan for Kneaders Bakery & Café subject to the conditions in Attachment 1, finding that they are within conformance of the Design Principles and applicable Design Standards and delete Planning Note #5.

Attachment 1
Conditions of Approval
Kneaders Bakery and Cafe

Planning

1. The Final Site Plan shall include a 3.5 foot masonry wall along the northern boundary of the site to mitigate headlight glare from the adjacent parking area.
2. The Final Site Plan for El Corredor shall be modified in conjunction with the Final Site Plan for Kneaders Bakery and Café to reflect changes to pedestrian and vehicular circulation and other site elements on the Conceptual Site Plan under this application.
3. All off-site improvements adjacent to and in support of this development shall be installed in conjunction with this project including road improvements, entrance drive from Oracle, screen walls and the buffer yard on Oracle Road. The extent of improvements to support this development shall be determined by the Town Engineer and the Planning and Zoning Administrator.
4. The Final Landscape Plan shall include appropriate plant materials along the entire length of the drive-thru lane which will reach a minimum height of 3 feet at maturity, as required by the Zoning Code.

Engineering

5. An updated traffic impact analysis will be required. The update shall include the proposed Kneaders land use and provide recommendations for roadway and intersection improvements on Oracle Road and Linda Vista Boulevard.

Recommendations shall include turn lane geometry and queuing, as well as intersection timing and geometry. Approval of the updated report and proposed offsite improvements will also be required from the Arizona Department of Transportation.

6. A view fence (above 30 inches) shall be placed along the patio area in the area of a sight visibility triangle for vehicles exiting the drive-through.
7. Wheel stops shall be installed at all parking along the front of the store to preserve accessible routes and signage placed within the limits of the 3' vehicular parking overhang area.

Oro Valley Water Utility Condition

8. The location of the water system mains and services shall be coordinated with Oro Valley Water Utility. Structures shall not encroach into public water easements.

MOTION carried, 7-0.

MOTION: A motion was made by Councilmember Snider and seconded by Vice Mayor Waters to approve the Conceptual Architecture for Kneaders Bakery & Café finding that it is in conformance with the Design Principles and applicable building standards.

MOTION carried, 7-0.

6. DISCUSSION AND POSSIBLE ACTION FOR CONCEPTUAL SITE PLAN, LANDSCAPE PLAN AND ARCHITECTURE FOR PIMA FEDERAL CREDIT UNION, A PROPOSED 4,080 SQUARE FOOT BUILDING, LOCATED AT 11025 NORTH ORACLE ROAD WITHIN STEAM PUMP VILLAGE

Planner Robert Kirschmann presented item #6 and outlined the following:

- Site Plan
- Landscape Plan
- Conditions of Approval
- Sidewalk/Street
- Architecture
- Recommendation

Dan Babra, representative for DBSI, presented item #6.

MOTION: A motion was made by Councilmember Snider and seconded by Councilmember Zinkin to approve the Conceptual Architecture for Pima Federal Credit Union finding that it is in conformance with the Design Principles and applicable Design Standards and subject to the conditions of approval in Attachment 1.

Attachment 1
Conditions of Approval
Pima Federal Credit Union

Engineering

1. Construction of dual left-turn lanes from Oracle Road to Steam Pump Way shall commence prior to the issuance of a Grading or Building Permit for Pima Federal Credit Union.
2. Construction of dual left-turn lanes from Oracle Road to Steam Pump Way shall be completed prior to the issuance of a certificate of occupancy for Pima Federal Credit Union.
3. The applicant shall coordinate with ADOT as necessary to obtain approvals for access from Oracle Road.
4. An in-lieu fee will be required for future construction of a 5' sidewalk along the Oracle Road frontage. An easement dedicated to the Town of Oro Valley will also be required for construction of the sidewalk. The fee and easement will need to be in place prior to issuance of a Certificate of Occupancy. The fee shall be held for a period of time not to exceed ten (10) years, after which, if the sidewalk has not been constructed, the in-lieu fee shall be returned to the applicant. (*Town* Subdivision Street Standards: Sec 6.3.2)

Planning

5. The Final Landscape Plan shall include plant materials along the entire length of the drive-thru lane which will reach a minimum of 3 feet at maturity, as required by the Zoning Code.

MOTION carried, 7-0.

MOTION: A motion was made by Vice Mayor Waters and seconded by Councilmember Snider to approve the Conceptual Site Plan and Landscape Plan for Pima Federal Credit Union subject to the conditions of approval in Attachment 1 based on the findings that both are in conformance of the Design Principles and applicable Design Standards.

Attachment 1
Conditions of Approval
Pima Federal Credit Union

Engineering

1. Construction of dual left-turn lanes from Oracle Road to Steam Pump Way shall commence prior to the issuance of a Grading or Building Permit for Pima Federal Credit Union.
2. Construction of dual left-turn lanes from Oracle Road to Steam Pump Way shall be completed prior to the issuance of a certificate of occupancy for Pima Federal Credit Union.
3. The applicant shall coordinate with ADOT as necessary to obtain approvals for access from Oracle Road.
4. An in-lieu fee will be required for future construction of a 5' sidewalk along the Oracle Road frontage. An easement dedicated to the Town of Oro Valley will also be required for construction of the sidewalk. The fee and easement will need to be in place prior to issuance of a Certificate of Occupancy. The fee shall be held for a period of time not to exceed ten (10) years, after which, if the sidewalk has not been constructed, the in-lieu fee shall be returned to the applicant. (*Town Subdivision Street Standards: Sec 6.3.2*)

Planning

5. The Final Landscape Plan shall include plant materials along the entire length of the drive-thru lane which will reach a minimum of 3 feet at maturity, as required by the Zoning Code.

MOTION carried, 7-0.

7. DISCUSSION AND POSSIBLE ACTION FOR CONCEPTUAL ARCHITECTURE

AND LANDSCAPE PLAN FOR A PROPOSED 4,999 SQUARE FOOT BUILDING, LOCATED WITHIN THE SAN DORADO DEVELOPMENT, LOCATED AT 10556 NORTH ORACLE ROAD

Mr. Kirschmann presented item #7 and outlined the following:

- Location
- Landscape Plan
- North and South Elevations
- East and West Elevations
- Surrounding Architecture Features
- Recommendation

The following individual spoke on item #7:

Oro Valley resident Don Bristow

MOTION: A motion was made by Vice Mayor Waters and seconded by Councilmember Zinkin to approve the Conceptual Architecture and Landscape Plans subject to the condition in Attachment 1 for San Dorado Shops F, finding that both are in conformance with the applicable Design Principles and Standards.

Attachment 1
San Dorado Building F
Condition of Approval

Planning Condition

1. The Final Landscape plan shall comply with the types and locations of plantings as specified in Addendum C.

MOTION carried, 7-0.

8. DISCUSSION AND POSSIBLE DIRECTION TO PROMOTE PRIVATE BUSINESS AT COUNCIL MEETINGS

Councilmember Zinkin requested to waive the attorney/client privilege so that the content of an attorney-client privileged memo to Council regarding a legal opinion pertaining to the promotion of private business at Council meetings could be discussed.

Town Attorney Kelly Schwab said the item on the agenda tonight was not agendized to discuss or take possible action on waiving the attorney-client privilege of the memo and recommended that consideration and action to waive the attorney-client privilege be brought forward as a future agenda item.

Mayor Hiremath continued item #8.

9. DISCUSSION AND POSSIBLE DIRECTION TO INITIATE AN AMENDMENT TO THE ORO VALLEY ZONING CODE REVISED (OVZCR) RELATED TO SECTION 28.3.B.1.D

Mayor Hiremath removed item #9 from the agenda.

FUTURE AGENDA ITEMS

Councilmember Zinkin requested a future agenda item for consideration and possible action to waive the attorney-client privilege for the legal opinion on the promotion of private business at Town Council meetings and discussion of promotion of private business, seconded by Councilmember Burns.

Councilmember Snider requested a future agenda item to discuss the ability for Board and Commission members to speak at council meetings as private residents, seconded by Councilmember Zinkin.

CALL TO AUDIENCE

No comments were received.

ADJOURNMENT

MOTION: A motion was made by Councilmember Snider and seconded by Vice Mayor Waters to adjourn the meeting at 9:15 p.m.

MOTION carried, 7-0.

Prepared by:

Michael Standish, CMC
Deputy Town Clerk

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the study/regular session of the Town of Oro Valley, Arizona held on the 2nd day of September, 2015. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____, 2015.

Julie K. Bower, MMC
Town Clerk