



**Friends of Carefree**, the Council held an Executive session on October 1<sup>st</sup>; no details were made available. The regular monthly Town Council meeting was held on October 6<sup>th</sup>.

### **Town Council Meeting, October 6, 2015, 5:00PM**

**Items 1 – 8, Consent Agenda:** All 8 items were related to routine town business (meeting minutes, bills, financial reports, event permit(s), and general agreement(s)). Item #3, Paid Bills, was held for discussion at the request of Councilman Farrar. All other Items were approved 7 – 0.

Councilman Farrar questioned costs related to the previously approved project for 2 Fireplaces in the amount of \$30,030. The town check register has listed 4 payments to Holmes Construction (the winning bid by \$7,000) totaling \$47,080, to date. Mr. Neiss explained that \$10,000 of that amount was for construction of a 'retaining wall' related to the Splash pad project, an expense not previously approved. *[The approved Fireplace project seems to have overlooked the required electric and gas work, which has added at least \$3,500 for electric work, so far. There is also \$14,000 for fireplace furniture (per Councilwoman Price, delivered Wednesday) and a skids of pavers not previously included in the project budget.]*

Councilman Farrar also expressed concern over the slope of the pavers at the west side fireplace saying that there appears to be about a one foot change in elevation. He was assured that the supplier, Councilwoman Price, and Mr. Neiss checked the site and were satisfied it was suitable for furniture placement. Item #3 was then approved 7 – 0.

**Item 9, Call to the Public:** This was a 75 minute session during which the primary topic was the Cellar 13/ Bodega 13 venture. The issues were many and appear to involve disagreements between the owner(s) and the town building inspector regarding applicability of Statutes/codes and presumed violations of such in relation to a 200sf renovation project of the former Cellar 13 premises. During the discussion several individuals were permitted an extended time to speak, well in excess of the routine 3 minute speaking limit. Here is a brief outline:

**Gentleman #1** – Spoke in support of Cellar/13.

**Andrew Goulder**, principal of an electrical engineering firm in Carefree, spoke in support of the venture. He knew of no electrical violations and saw no reason the inspector required moving a surface mount electrical panel located on the lower level.

**Jeff Huff**, a realtor doing business in the same complex, just north of Cellar 13, spoke in support of the venture. He said we don't need any more vacancies in town.

**Larry Foppe**, owner of the new venture and imminent owner of the adjacent Cigar store, spoke at length regarding issues his venture has faced since beginning work on converting Cellar 13 into Bodega 13 several months ago. The 200sf renovation project has become an untenable situation, costing him 10s of thousands of dollars more than budgeted, essentially the result of disputes with Mike Tibbets, the inspector. He presented various photos, sections of code and other material in support of his belief that he is being unfairly penalized during what he described as a minor renovation. The dispute apparently began early on when the inspector refused to review the project without electrical plans being sealed (essentially certified), per statutes/code. Mr. Foppe, who also owns an electrical contracting firm, displayed a copy of the item in question and asserted that code did not apply in this situation. He went on to explain many of the specific points of contention he has encountered and how violations have been added piecemeal. In concluding, Mr. Foppe said he believed the inspector was bias from the beginning and biased still.

**Mike Hightower**, former owner of Cellar 13 and partner in the new venture, spoke in support of their efforts to reopen a popular Carefree business. He essentially expressed his dismay over the manner in which their efforts have been hindered by constantly changing requirements. He said he loves Carefree and does not want to relocate the new venture elsewhere.

*[As an aside, it is rumored that the Bodega 13 venture may be at an impasse which could result in abandoning the effort in Carefree and moving into Stagecoach Village. That would be a big loss for Carefree.]*

**Mike Tibbet**, Carefree building inspector, addressed the council regarding the issues raised by the owner(s) of Bodega 13. He began by explaining his requirement for a seal on the plans, citing 'occupancy' as the defining criteria in this instance. The code states the requirement of a seal for occupancy levels over 20; he said Cellar 13 had been 27. He mentioned a variety of other faults and noted that the plans he was given were not well done. When the final inspection was called he said a full building inspection had to be performed. He said he has not been given the final Health department or Rural Metro inspection reports.

When asked if life safety issues existed he said there were and he would not overlook code violations when such existed. He cited a dish washing station without proper clearance around an electrical box and a surface-mount electrical box near a water heater which could pose a life risk to someone working on that electrical box in the future.

He complimented Marty Holmes for providing very good plans for his Black Mountain Coffee Shop venture. *[I'm not sure how this is relevant since it is an entirely unrelated matter. Marty Holmes is a contractor who has recently been used by the town for work on the fireplace and splash pad projects.]*

At the conclusion of general discussion it was decided that *all parties* should meet, as soon as practical, to sort through the issues and try to achieve reasonable resolution. The Mayor made it clear we do not want to lose this business to a neighboring town, but Carefree would not sacrifice any life safety issues in that pursuit.

**Captain Kip Rustenberg** of MCSO sat patiently through more than an hour of public comments to announce a Public Safety Day event on Saturday from 10AM – 2PM at the Desert View Baptist Church, located at 105 W Carefree Hwy. In conjunction with Daisy Mountain Fire Department, MCSO will perform demonstrations and both organizations will have all sorts of equipment on display (helicopter, fire trucks, etc.).

**Lyn Hitchon**, a member of the Planning and Zoning commission, recounted an experience involving the installation of a significant number of solar panels on their property. She said that when obtaining the permit Mike Tibbet advised hiring an architect and an engineer. She said it was a valuable exercise, even though it added cost, because the professionals had offered a number of very worthwhile ideas. They made it a better project.

**Herbert Hitchon**, shared his perspective and expressed respect for building inspectors.

**Marty Holmes**, a local contractor, expressed his support for the building department. He said you don't bend over for safety issues. He seemed to imply that Councilman Farrar had suggested that the Town let some things slide, a comment which Councilman Farrar absolutely refuted and was supported by Councilman Orrico.

**Jim Van Allen** complemented the Mayor for his financial presentation on the Gateway project during the last meeting and for the council making the best choice. He suggested that the town not approve parts of the project on a piecemeal basis, like the \$98,000 - \$118,000 APS cable burial item on the current agenda, but rather identify all related costs and then approve them as one overall project budget. He cited, as an example, the fact that the fireplaces were approved at less than \$31,000 but due to the piecemeal costs being added after the fact the project is now almost double the approved figure. This is not the proper way to control town projects and associated funding.

Jim went on to say that the Mayor is the town CEO and as such he should attend the meeting all parties agreed to during the Call to the Public discussion and then cautioned that social media will treat Carefree harshly if the Town cannot amiably resolve the Bodega 13- Cellar 13 issue.

Councilman Miller, once again, defended the town's spending as being well below budget, citing donations which will offset the town's actual out of pocket expenses.

*[It is true that several generous businesses and organizations have graciously pledged financial support and/or discounts for various projects. However public bodies, which have a fiduciary responsibility to residents, should never overlook the importance of a well-defined and publically approved budget for any major project, be it fireplaces, a*

*splash pad, gateways, or whatever. For example, as outlined earlier in this document, the 'Fireplace' project was approved by the town council for \$30,030 yet substantially more has been spent, so far. To date approximately \$54,580 can be identified as directly related to the Fireplace project (includes furniture but excludes Holmes Construction cost to build a retaining wall for the splash pad, the cost of town staff overtime, and also the cost of a gas line and meter for which no billing has yet been seen. Real government transparency would dictate that a cost estimate closer to the actual \$54,580+ should have been discussed and approved in a public meeting, not simply the base contract bid. Would any rational person actually commit to buying a new car without agreeing to the price for the entire vehicle including wheels and engine? What good would the body and interior be without the components that make it work?]*

**Item 10, Current Events:** I believe these items were discussed, although my hand scribbled notes failed to identify them as such, and the official town voice recording was once again unavailable for verification, due to technical issues.

Councilwoman Price announced that another donor has stepped forward with a contribution for concrete and foundation work relating to Gateways.

Vice Mayor Crane reminded everyone that the Enchanted Pumpkin Garden will be open on October 16<sup>th</sup> through October 31<sup>st</sup> and the grand opening and dedication of the Kiwanis Splash Park is scheduled for Sunday, October 18<sup>th</sup> at 1:30PM.

*[As of this meeting there was no update on the ADOT Bike Lane project. Construction was originally expected to commence in July but that date kept slipping. Mr. Neiss said there is a meeting scheduled for today (10/08) but no start date is currently known. With our Festival season already about to begin, residents and visitors can expect some travel disruption into and out of Carefree along major roadways throughout our high season.]*

**Item 11, Annual Audit of the Court:** Although required every 3 years, the Carefree Court has traditionally opted for an annual financial audit. This year's audit was once again a success with no findings noted. Significant accomplishments included the completion of combining the court operations and consolidating into Cave Creek, the hiring of a new judge, and validation of the Inter-Governmental Agreement (IGA) financial model used for the consolidation. Presiding Judge Stephanie Olohan addressed the Council, and Adrienne Larson was recognized for her continued excellent work. Gary Neiss made a presentation which showed the IGA financial model for consolidation had been validated. He concluded that each Town had saved over \$140,000 a year compared to the costs of having two separate courts. Copies of the presentation were not available until this afternoon and will now be available on out [Archives](#) page. Approved for acceptance, 7 - 0

**Item 12, Adoption of the *revised* Maricopa County Multi-Jurisdictional Multi-Hazard Mitigation Plan:** Rural Metro Chief Kratz provided a high level overview of the plan which is to be adopted by approximately 27 jurisdictions within the county. The plan covers a five year period. It calls for Carefree to coordinate with other

County, State, and Federal Agencies in the event of a regional disaster. It also allows Carefree to receive federal emergency funds and grants in the event of a disaster. Approved, 7 - 0.

**Item 13, Lease of 33 Easy Street, 1<sup>st</sup> Floor, to Ed Lewis:** The town will agree to lease the 1<sup>st</sup> floor of the recently purchased 33 Easy Street building to Mr. Lewis for use as a Pre-Sales Center for his now approved luxury condominium project. He requires 20-25% pre-sales in order to obtain project financing. The lease is for 1 year, with a possible 1 year extension, for a base monthly payment of \$2,680. The Mayor thanked Councilman Farrar for his research to determine the 'fair market rent' which amounted to \$12 sf/yr. By comparison, recent & past leases in town show rent from zero to \$22 sf/yr. Mr. Lewis will be responsible for any modifications to the premises to suit his needs. The lease for the current Council Chambers (and other unused space) expires July 31, 2016, so temporary space will be sought for meetings via a short term lease extension or facilities at Spirit of the Desert, the Resort, or the Fire station. Approved, 7 - 0.

**Item 13, Bury APS power lines at Carefree Drive:** In preparation for the Gateway at that entry point into the town core, the town requested an estimate from APS to bury the power lines currently spanning that entry (south side of Cave Creek Road). Mr. Neiss explained that APS is confident the project can be completed for approximately \$98,000 by the end of October. There is a 20% contingency associated with the project which could potentially increase the total project cost by another \$20,000. The immediate start was requested in order to avoid a conflict with the ADOT Bike Lane project. Approved, 7 - 0.

**Item 15, Town Council updates.** There was nothing major to report.

Marty Holmes asked where all the festival and art show vendors will park when the Lewis project gets underway. Councilman Miller stated that is a 'Promoter' problem.

**Item 16, Adjournment:** The meeting was adjourned at approximately 7:14PM.

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Respectfully submitted by Jim Van Allen and John Traynor

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