



**Friends of Carefree**, We have decided to supplement the Newsletter with the addition of a website which is appropriately named, [CarefreesFutureMatters.com](http://CarefreesFutureMatters.com). Subsequent editions of the newsletter will be sent from CFM@CarefreesFutureMatters.com, so please be on the lookout for it next time. In order to avoid the dreaded 'junk mail' folder please add, **CFM@CarefreesFutureMatters.com** to your Address Book or Contacts folder.

I sincerely apologize in advance for the length of this edition. This council meeting was over 3 hours in length and touched upon several important issues. It highlighted a very clear division among the 5 council members present. At some points the meeting was contentious. Please read on to learn more about the meeting and the issues.

### **Town Council Meeting, March 3, 2015**

All Council members were present excepting Marty Saltzman who resigned from the Council on March 2nd. The 7 member Council is now down to 5.

**Items 1 – 8, Consent Agenda:** There were 4 items relating to routine town business (minutes, bills, and financial reports) and 4 for festival or special event permits – Approved 5 – 0

**Item 9, Call to the Public:** Prior to anyone from the public speaking Councilman Miller went to the podium to read a prepared statement. He essentially accused Councilman Farrar of conflict of interest citing his profession as a commercial broker and his participation in proceedings/votes relating to certain economic development projects being considered by the town. The statement was overtly pointed, and at the conclusion Councilman Miller requested the Town Attorney to promptly provide a written opinion regarding conflict of interest, pursuant to A.R.S. 38-507, stating that Councilman Farrar should be prevented from participating in any discussion of Economic development within the town, and should not be permitted to participate in selecting candidates to fill vacant council seats. He advised that he was prepared to file a complaint with the Attorney General.

Vice Mayor (VM) Peterson asked the Town Attorney if it was customary to allow a response and was advised it was not. In point of fact, A.R.S 38-431.1H states, ***“At the conclusion of an open call to the public, individual members of the public body may respond to criticism made by those who have addressed***

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***the public body, may ask staff to review a matter or may ask that a matter be put on a future agenda. “***

Later in the meeting Councilman Crane made reference to another unspecified legal maneuver that had been withdrawn shortly before the meeting. He gave no details.

Jerry Wetta – provided the Council with documentation relating to a now defunct NASCAR Museum in Charlotte which left the city on the hook for up to \$10M. He cautioned that if the Lewis project moved forward, it should stand on its own. In regard to Mr. Lewis developing his property, Mr. Wetta stated “He needs us more than we need him.”

Aaron Grenley – expressed his feeling that residents should be given the opportunity to vote whether or not they even want a cultural center. Making another point, he went on to say that he felt the town should lower its sales tax so that business owners could compete with Scottsdale on a level playing field.

Jim Van Allen – stated he was sorry to learn Marty Saltzman had resigned from the council. Since there were now two vacancies on the council he asked that the timeframe to submit applications be extended 7 – 10 days. He added that his reasons for previously having to resign from the council (07/31/2012) no longer existed and therefore he would now be interested in being a candidate.

John Traynor – I mentioned the official recordings of the council meetings were essentially unusable because most microphones were either turned off or not used, including those for the Town Attorney and staff. I asked that going forward all microphones be on and used. Next I advised that I learned from Jim Van Allen that the procedural problem, which kept all email directed to [council@carefree.org](mailto:council@carefree.org) from reaching council members, had been corrected. The town administrator confirmed that the procedure had been corrected. In conclusion I pointed out that, contrary to a statement by the Mayor at the 2/3/15 meeting, A.R.S 38-431.H allows the public to address the public body “***on any issue***”, whether on the agenda or not.

#### **Item 10, Current Events:**

- VM Peterson announced that Marty Saltzman had indeed resigned on March 2nd, due to physical problems.

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- Representatives from the town met with the Arizona Corporation Commission last Friday to continue discussions regarding sewer rates for restaurants (initiated by Venues) in the hope of changing how rates for restaurants are calculated. At present the sewer company is using the number of seats to calculate sewerage quantities rather than on water consumed. Data provided by the Carefree Water Company showed that actual water consumption coming in was 1/3 of the calculated sewerage quantities going out [and being billed]. VM Peterson said he didn't want to be cautiously optimistic but he believed they would come around to accepting our reasoning. [\[The desired outcome would be more equitable rates for Carefree's restaurants.\]](#)

- There was a fair amount of discussion about expanding the search for the 2 vacant seats on the council. Councilmen Miller and Price wished to proceed with filling the seats quickly, while Councilmen Crane, Farrar, and VM Peterson favored extending the timeframe a bit to give more residents the opportunity to apply. It was ultimately decided [by vote of 5 - 0] to solicit more candidates and to hold a special meeting on 3/17 to fill the 2 vacancies from the candidate pool that applied by 3/11.

**Item 11, Legal opinion by outside counsel** – municipal law attorney Bill Sims presented his formal opinion regarding the process to fill the position of mayor. He addressed the council, outlining his opinion and findings based on review of the Arizona Constitution, Arizona Revised Statutes, Carefree Town Code, and Arizona Case Law. His presentation was followed, at length, by spirited discussion regarding interpretation of the various Statutes referenced. When asked if any Statutes or anything else he just hear had changed his opinion, Mr. Sims said no. He offered, "I'm saddened to see the division on the council."

**Other speakers:**

Jim Pierce – offered that A.R.S. 16-204, sections E & F provided a basis for holding either a 'Special' or 'Recall' election outside the timeframes now set (since 2014) for the timing of municipal elections during even numbered years. Replacing an elected mayor certainly seems to fit the criteria for a 'Special' election to replace the mayor's position, given that the Mayor had resigned. He pointed out that Cave Creek, under the same statute, was currently exercising their right to hold an election this March 10<sup>th</sup>.

John Traynor – With no disrespect to Mr.Sims, I stated that I too was not in complete agreement with his opinion. There is no dispute that Mayor Schwan

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was forced to resign due to serious health issues. Since he was elected by voters and not 'selected' by the council, I believe that Arizona Statute 16-204 clearly provides a means for Carefree to hold a 'Special' election. Current confusion about procedure arises from Carefree Town Code not being properly updated following the successful initiative for direct election of the mayor. Beyond that, it appears that the current division on the council really boils down to a totally different issue, that being economic development which has strongly divided this group. [I inadvertently omitted the word certain, as in 'certain economic development'. Councilman Farrar and VM Peterson each caught that during their vote comments.

During the vote 4 council members took the opportunity to explain their position. When VM Peterson asked if there were any nay votes, Councilman Miller said he would like to speak. He said "this has nothing to do with economic development". He went on to say, "what this agenda item is all about - is I will not work for Les Peterson. I have my reasons - I'll keep them to myself right now." At her turn, Councilwoman Price said she was a nay.

Ultimately Mr. Sims findings were accepted by a roll call vote 3 - 2, thereby making Les Peterson Acting Mayor to serve out the term of David Schwan. Crane, Farrar, and Peterson in favor, Miller and Price opposed.

**Item 12, Revitalization Plan Update** - The Baker group presented a 1 hour update of their progress on the 'Village Master Plan' which is based upon a 4 point approach [Organization, Design, Economic Restructuring, and Promotion]. A 21 page screen presentation outlined various aspects of their effort, but unfortunately they did not make copies available, which Councilman Miller correctly pointed out. He stated that he would have liked to have had the time to review the material **prior** to the presentation. One unsettling aspect the presenter mentioned was creating the image of Carefree as a 24/7 environment. At points there were questions and discussion by the council. There was a great deal of material covered in this presentation, far too much to include here. When updated material is available on the Town website I'll provide a link.

At a point in the presentation when the subject of economic development surfaced, Acting Mayor Peterson read a one paragraph communication from Ed Lewis he had received early that morning. A copy was not available in the council packet. The content indicated that Mr. Lewis will seriously explore

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other options for his Carefree properties including their sale, so that other developers might have the opportunity to build condos or town homes in a lower price range than his original proposal.

**Item 13, MAG Bicycle Safety Lane Update** – This effort is moving forward. The Grant process is nearing the final stage, with final documents expected by the end of March. Since the longest section of roadway work is within Carefree [8.4 miles], our share of the project increased to 64.7%. The project is capped at \$3.75M of which Federal-aid will cover 94.3% with the combined towns match at 5.7%. Carefree's portion is currently calculated at \$138,415 excluding a share of any project overrun. Affected roads include Cave Creek, Tom Darlington, and Pima. The general work scope will include:

- Maintain existing edge of pavement;
- Slurry seal the project roadways;
- Restriping travel lanes and adding bike lane delineations;
- Pavement marking to designate bicycle lanes; and,
- Resetting survey monuments, manholes, and valves as needed.

It was noted that existing 14 foot road lanes on Cave Creek and Tom Darlington will be narrowed to 11 feet to accommodate the bicycle lanes. Some medians will be smaller, especially near town center locations. Actual construction will begin in July and is expected to be completed in December 2015.

Jim Van Allen spoke regarding the loss of additional landscaping from medians. He said we have already lost a great deal of landscaping (including trees), yet nothing has been replanted in years. Stacey Bridge-Denzak, the town planner, indicated that they are looking at how much more will be affected.

**Item 14, Monsoon Damage Repair** – Last summer we had a record Monsoon, with over 12" of rain in a 3 week period. On 9/8 the Governor declared a state of emergency paving the way for government aid. There is still a good deal of road repair work to be done on Sombrero Road, Tranquil Trail, and Piedra Grande Drive. Aid from FEMA will pick up 75% of the cost with 15% more from the state; Carefree will pay 10% - total estimated cost was \$146,000. Bids ranged from \$119,000 to \$198,000, which include replacing a damaged 6" water line. \$89,000 will come from federal sources, \$18,000 from the state, and \$12,000 from Carefree contingency funds. Greg Crossman checked 6 references for the low bidder, all were very positive. Approval was sought to award the contract to that low bidder.

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Council approved awarding the contract, 5 - 0.

A motion was made to adjourn by Councilman Miller at which point Councilman Farrar took the opportunity to respond to the accusations made by Councilman Miller during Call to the Public. Councilman Farrar defended his personal and professional integrity and expressed his disappointment in the unfounded comments made by Councilman Miller, suggesting those comments were slanderous.

The meeting was adjourned at approximately 8:10PM

**Please don't forget to visit [CarefreesFutureMatters.com](http://CarefreesFutureMatters.com)**

Version 2 changes:

- 1 - Font standardization for readability;
- 2 - Footer tag line added

Respectfully submitted by Jim Van Allen and John Traynor

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