

## **Recap for September 17, 2024, City Council Meeting**

### **TALUS BANKRUPTCY UPDATE**

City Manager Jon McMillen and City Attorney Bill Ihrke gave an update on the status of the petition for Chapter 11 bankruptcy protection filed in August by SilverRock Development Company and entities (collectively, SDC) in a federal court in Delaware.

On August 5, 2024, SDC petitioned for Chapter 11 bankruptcy in U.S. Bankruptcy Court in Delaware, which automatically put froze the foreclosure sale scheduled for August 6 and any plans to move forward with a new developer of Talus La Quinta, formerly known as the SilverRock Resort.

Following the City Council's unanimous direction during its August 6, 2024, meeting, the city manager and city attorney's office have worked together with special counsel to protect La Quinta's interests.

McMillen said protecting those interests have included and will continue to include, among other items:

- Ensuring the City's right to approve any developer of the project going forward.
- Maintaining the city's oversight and approval rights for the development of the project, which includes phasing, scheduling and financing.
- Facilitating, through the bankruptcy court proceeding, an expeditious plan to secure and protect the site, update estimates and appraisals, and create a plan to identify new qualified development entities that can fully fund and resume construction of the project as soon as possible.

City Attorney Bill Ihrke explained that bankruptcy proceedings are "highly specialized" and governed by federal law.

The filing of a petition for Chapter 11 bankruptcy automatically freezes all pending state and federal lawsuits, all property transfers and foreclosures.

While the state protects SDC (the debtor) from having to pay certain obligations SDC must get court orders to do any business, which is why it is important for the City to be involved as a defendant, Ihrke said.

Most importantly, the court must approve SDC's plan to move out of bankruptcy, he said.

Bankruptcy cases tend to move "very quickly, particularly in the beginning," Ihrke said.

As of Tuesday, there had already been three hearings on SDC's petition for bankruptcy protection since it was filed on August 5.

In one hearing, SDC received a one-week extension to midnight Wednesday, September 18, to file its financing statements and schedules required under bankruptcy law to move the proceedings forward.

The court temporarily appointed a chief restructuring officer (CRO) who was not associated with any parties involved. The CRO acts as an independent supervisor overseeing expense payments while the bankruptcy case is pending. The CRO works with all parties to determine and recommend a plan to emerge from bankruptcy to the court.

Ihrke said that he, McMillen and the City's special counsel for the bankruptcy proceedings have been "significantly involved with communicating with the CRO" to ensure that the Talus site does not fall into further disrepair, that project construction can restart as soon as possible and to protect the City's right to approve the next developer once it's out of bankruptcy.

McMillen and Ihrke will provide regular updates at Council meetings to keep everyone informed.