

**TOWN OF FOUNTAIN HILLS  
MINUTES OF THE REGULAR MEETING OF THE  
FOUNTAIN HILLS TOWN COUNCIL  
JANUARY 15, 2019**

**1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE – Mayor Ginny Dickey**

Mayor Dickey called the Regular Meeting of January 15, 2019, to order at 5:30 p.m.

**2. INVOCATION – Dr. Bobby Brewer, Pastor of North Chapel**

Pastor Brewer gave the invocation.

**3. ROLL CALL – Mayor Ginny Dickey**

COUNCILMEMBERS PRESENT: Mayor Ginny Dickey; Vice Mayor Art Tolis; Councilmembers Mike Scharnow, Dennis Brown, Alan Magazine, Sherry Leckrone and David Spelich.

COUNCILMEMBERS ABSENT: None.

STAFF PRESENT: Town Manager Grady Miller, Town Attorney Aaron D. Arnson, and Town Clerk Elizabeth A. Burke.

**4. MAYOR'S REPORT**

**A. RECOGNITION of MCSO Deputy Chief Henry Brandimarte.**

Town Manager Grady Miller read the biography of MCSO Deputy Chief Henry Brandimarte, who had served as Commander of the Fountain Hills substation until his recent promotion. He said that he was a pleasure to work with and wished him the best. Several Councilmembers agreed.

Chief Brandimarte thanked everyone stating that it had been a pleasure working in Fountain Hills. He said that he appreciated the support of the Council, Town staff and the public. He said that he has never worked anywhere where staff worked together as a team and he credits that to the leadership of Town management.

**5. SPECIAL PUBLIC APPEARANCES/PRESENTATIONS**

**A. PRESENTATION by Republic Services to Fearless Kitty Rescue for the Republic Services' Community Grant.**

Stephen Herring with Republic Services said that they were the current contractor for solid waste collection services in town for residential pick-up and as part of their contract they provide a grant program for nonprofits. This year he presented a check in the amount of \$10,000 to the Fearless Kitty Rescue. Members came forward and accepted the check and had their picture taken.

## 6. CALL TO THE PUBLIC

*Pursuant to A.R.S. 38-431.01(H), public comment is permitted (not required) on matters NOT listed on the agenda. Any such comment (i) must be within the jurisdiction of the Council and (ii) is subject to reasonable time, place, and manner restrictions. The Council will not discuss or take legal action on matters raised during "Call to the Public" unless the matters are properly noticed for discussion and legal action. At the conclusion of the Call to the Public, individual councilmembers may (i) respond to criticism, (ii) ask staff to review a matter, or (iii) ask that the matter be placed on a future Council agenda.*

None

## 7. CONSENT AGENDA ITEMS

*All items listed on the Consent Agenda are considered to be routine, non-controversial matters and will be enacted by one motion and one roll call vote of the Council. All motions and subsequent approvals of consent items will include all recommended staff stipulations unless otherwise stated. There will be no separate discussion of these items unless a councilmember or member of the public so requests. If a councilmember or member of the public wishes to discuss an item on the Consent Agenda, he/she may request so prior to the motion to accept the Consent Agenda or with notification to the Town Manager or Mayor prior to the date of the meeting for which the item was scheduled. The items will be removed from the Consent Agenda and considered in its normal sequence on the agenda.*

- A. APPROVAL OF the minutes of the Special Meeting of December 18, 2018, and the Regular Meeting of December 18, 2018.
- B. CONSIDERATION OF approving a Special Event Liquor License application submitted by Boris Biloskirka representing the Fountain Hills VFW Post No. 7507 Veterans who will be hosting a beer garden located at North Saguaro Blvd. and Avenue of the Fountains, in conjunction with the Great Fair on February 22-24, 2019, from 7:00 AM to 10:00 PM.
- C. CONSIDERATION OF approving a Special Event Liquor License application submitted by Debra Biloskirka representing the Fountain Hills VFW Post No. 7507 Veterans Foundation who will be hosting a beer garden located at North Verde River Drive and Avenue of the Fountains, in conjunction with the Great Fair on February 22-24, 2018, from 7:00 AM to 10:00 PM.
- D. CONSIDERATION OF approving a Special Event Liquor License application submitted by Merita Kraya representing Euro Pizza Café located at 12645 North Saguaro Blvd, Fountain Hills, AZ who will be hosting a beer garden in conjunction with the Mountain 2 Fountain race on March 3, 2019, from 7:00 AM to 12:00 PM.
- E. CONSIDERATION OF approving a Fair/Festival License Application for Desert Diamond Distillery, Inc. (John Patt) to participate as a vendor along the Avenue of the Fountains, in conjunction with the Fountain Hills Art and Wine Affaire, from 10:00 AM to 5:00 PM daily, Friday, March 8 through Sunday, March 10, 2019.
- F. CONSIDERATION OF approving a Special Event Liquor License application submitted by Kim Kamins representing Fearless Kitty Rescue located at 16832 E. Avenue of the Fountains, Fountain Hills, AZ for the purpose of a fundraiser to be held on March 1, 2019, from 5:30 PM to 8:00 PM.
- G. CONSIDERATION OF approving a Fair/Festival License application for Odyssey Cellars (John McLoughlin) to participate as a vendor along the Avenue of the

Fountains, in conjunction with the Fountain Hills Art and Wine Affaire, from 10:00 AM to 5:00 PM daily, Friday, March 8 through Sunday, March 10, 2019.

- H. CONSIDERATION OF adopting Resolution 2019-01, abandonment of the 10' Public Utility and Drainage Easement at the rear of Plat 505-B, Block 1, Lot 57 (15846 E. Tepee Drive), as recorded in Book 158, Page 43, records of Maricopa County, Arizona, with stipulation. (EA 2018-20)

**Councilmember Brown MOVED to approve the Consent Agenda items 7-A through 7-H; SECONDED by Councilmember Leckrone; passed unanimously.**

With regard to the number of special event liquor licenses approved via Consent, Councilmember Magazine asked if that was something they should consider having staff do administratively. Mr. Miller said that it is something that the larger communities oftentimes have staff approve. He added that staff had recently approached him regarding that thought and they are doing further research. He suggested that they discuss this further at the Retreat.

## 8. REGULAR AGENDA

- A. PUBLIC HEARING and PRESENTATION on the Development Impact Fee Final Report for Fiscal Years 2017 and 2018.

Mayor Dickey opened the Public Hearing. Mr. Miller said that under state law they were required to have either a committee or an outside firm conduct an audit to ensure they are in compliance with state law. He said that Willdan was there to give a brief presentation. There was no action to be taken.

Kevin Burnett with Willdan Associates said that their firm conducted the audit and it was the second time they had worked with the Town of Fountain Hills. He said that, as stated, Arizona Revised Statutes requires that if a city or town collects impact fees that they must either have a committee to review or have an audit performed to address three specific areas. These are: 1) development projections; 2) expending money on things included in the impact fee study; and 3) level of service.

He said that in the audit they found that the residential impact was lower than projected and commercial was a little higher. They did collect impact fees over the two-year period and did not expend any on any projects or debt service. He said that the level of service ties back into expenditures, and the town was not programmed to do anything until 2022 or 2023 so the level of service is where it should be.

Mr. Burnett said that a fourth component, which is not required, was to look at permits issued to double-check math and they found that the fees applied were appropriate. He said that everything looked good overall.

Mr. Burnett was asked if they had noticed any trend in terms of income compared to prior years. He replied that it is not something they look at.

Mayor Dickey closed the Public Hearing at this time.

- B. CONSIDERATION OF awarding contract 2018-002 to Allied Waste Transportation, Inc., dba Republic Services of Phoenix for the Town of Fountain Hills' residential curbside solid waste collection services.

Mr. Miller said that about ten years ago the Town Council had the insight to consolidate all of the private haulers they had in town for residential trash collection. The reason was that they had up to eight haulers driving on the roads, causing wear and tear. He said that staff recently went through a new Request for Proposals and received three proposals; the successful proposal was from Republic Services, the current provider.

Raymond Rees, Facilities and Environmental Supervisor, said that during the past eight years they have been contacted by residents with concerns and they listened and implemented those into the Request for Proposal for new services. He then gave a brief presentation which addressed:

#### SERVICE LEVEL COMPARISON

He said that the Town asked to have at least a few days' separation between those having trash collected twice a week, so they will now be picked up on Monday/Thursday and Tuesday/Friday. He said that they will continue with the annual Hazardous Waste Collection pickup and also an annual Electronics Recycling.

#### PRICING

The current once a week pick up is \$11.58 and the new proposed rate is \$14.37, which is still lower than other communities.

At this time, Marek Crabbs with Republic Services, gave a brief presentation.

#### WHO WE ARE

Mr. Crabbs thanked the Town Manager, Mr. Rees and the new Town Attorney for their assistance with the process. He said that Republic Services is based in Phoenix with over 1,500 people in Arizona, and over 32,000 people nationally. He said that many with Republic Services live and/or have retired in Fountain Hills and there is a connection and economic development within the community. He said that they recently acquired the recycling center at the Salt River Landfill.

#### WE ARE A COMMUNITY PARTNER

- Recycling and Trash

- Service provider

- Community partner

- Invested and donated a lot to different events

- Make a Difference Day - Independence Day - Christmas Ice Rink

- Chamber of Commerce

- Support Community Activities

#### RATES COMPARISON –Old/New

#### REASON FOR INCREASE

He said that they have had a great agreement for the past eight years, over which time the rates have only increased \$.24. He said that when they first signed, trucks were \$200,000; now they are \$400,000. Additionally, there have been major changes in the recycling market driven by China who is no longer accepting recycling materials. He said that they have increased capital and have had changes to minimum wages, etc.

Mr. Crabbs said that they have pulled some of the other contracts within the state to see where services lay compared to others. He said that the largest city is Buckeye at \$16.87 (with less services) and the HOA in Anthem pays \$18.09.

Mr. Crabbs thanked staff, the Council, and all of the residents. He said that it has been a pleasure and honor to be partners.

Mr. Crabbs was asked what they were doing for recycling with China refusing to accept materials. He replied that they are finding different markets. He said that the big change is that when they shipped back to China, costs were near zero; now they are paying shipping costs.

Mr. Miller said that both the town and Republic Services negotiated in good faith, but with all of the back and forth of the contract, the most recent copy that was signed included an annual increase associated with CPI, rather than the agreed-upon annual flat rate of 3.5%. With Council's approval, staff was requesting that clarification be made in the motion.

Mr. Rees said that at the end of the five-year contract the rate would be at \$16.49, which is still far below any of the original bids received.

Mayor Dickey said that she was recently asked if it was possible to get smaller containers for those with limited space. Mr. Crabbs said that they do have smaller bins and if the residents prefer, they can request those, but there would be no cost difference.

**Councilmember Brown MOVED to award contract 2018-002 to Allied Waste Transportation, Inc. dba Republic Services of Phoenix for the Town of Fountain Hills' residential collection services as presented, with the one correction that rates will be increased annually at 3.5% rather than tied to CPI; SECONDED by Councilmember Magazine; passed unanimously.**

- C. CONSIDERATION OF approval of two budget transfers: 1) Development Services in the amount of \$44,413 to contractual services from salaries and benefits to allow for more third-party inspections; and 2) Town Clerk in the amount of \$11,827.50 to part-time salaries from professional services to allow for the use of a temporary employee.

Mr. Miller said that from time to time needs change and before the Council were two requests for changes. He said that they are requesting to move \$44,413 from salaries/benefits in Development Services to contractual services so they may continue to utilize a contractor for inspection services. He said that this was the second request to do this in this year, and they will probably be back with a further request before the end of the fiscal year. He said that they will be holding further discussions during the Retreat as they will be requesting funding for full-time staff.

He said that the second request is for the Town Clerk's Office which had budgeted funds for the preparation of minutes, but she would prepare to do that herself and use those funds for optical imaging of permanent records.

**Councilmember Leckrone MOVED to approve the budget transfers as presented; SECONDED by Councilmember Scharnow; passed unanimously.**

- D. CONSIDERATION OF Ordinance 18-15 amending Section 5.06.G of the Fountain Hills Zoning Ordinance relating to large detached accessory buildings in single-family residential zoning districts; amending Section 1.12 to create a definition for the front plane of a primary building and the street side plane of a primary building; and amending Sections 1.12, 5.06.F, 5.06.H, 5.09.B, 10.03.A.8 and 15.03.A.8 for consistency. (Case #Z2018-08)

Mr. Miller noted that the Council discussed this item last month and a few members were uncomfortable with moving forward at that time. Since then, staff has met with them to further explain the proposal and also to provide a tour.

Senior Planner Marissa Moore gave a summary from last time. She said that one change was in the colors and materials, there was a difference between "match" and "same". She said that after further conversations, it was noted that it was a subtle difference, but given their line of work, they make a difference. She said that "match" meant that they could complement a color, while "same" meant that the material and color had to be the same.

Ms. Moore said that the other issue related to kitchen facilities. She said that this is something that staff would like to investigate further. She said that because of the laws on how they publish public hearing notices, such a change would need to go through the Planning and Zoning Commission and come back to the Council.

She said that after their meetings over the past few weeks, she believed that the confusion had been clarified. She said that she did have the previous presentation if anyone wished to see it again.

Councilmember Spelich asked for Councilmember Brown's perspective as to the "match" versus "same" issue. Councilmember Brown said that in his opinion it is more government regulations; however, he thought that what was being proposed was reasonable.

Councilmember Spelich said that his concern is with a neighbor wanting to build a structure out of aluminum or time, like a shed, which could "match" but definitely would not be the "same." He said that he is "Mr. Non-government" but he would also like to protect people's property. Councilmember Brown said that he appreciated that and would totally support the change.

Councilmember Scharnow said that he thought they could argue that it was one more regulation, but it is also a mechanism to allow something that before could not occur.

Staff was directed to bring back through the process the discussion of kitchens in accessory buildings.

**Councilmember Leckrone MOVED to adopt Ordinance 18-15 (noting the change from “match” to “same” for both material and color); Councilmember Spelich SECONDED; passed unanimously.**

- E. CONSIDERATION OF adopting Resolution 2019-06 approving the Town of Fountain Hills’ Lottery Fund Grant application for the Fiscal Year 2018-19.

Administrative Services Director David Trimble briefly reviewed the program, noting that this was a yearly process whereby 26 different cities and towns, and Maricopa County, can claim their share of the portion of the Arizona Lottery Funds designated for public transportation.

He said that Fountain Hill’s portion is approximately \$65,000. He said that the “applications” are made to Valley Metro. This year they had a short window to make application with the process opening up on December 18, 2018, and having until the end of January 2019, so this was the only meeting where it could be brought to Council.

Mr. Trimble said that the projects listed in the application are definitely not set in stone and they do expect that they will change. As long as the money is spent on public transportation they are fine. Each year when it ends in October, Fountain Hills is required to put forth a report to show where the money is spent. He said that as a member of the RPTA, they are entitled to a transit planning study and Valley Metro staff has begun working on it. The priorities they bring forward may drive where the funds are spent.

**Councilmember Scharnow MOVED to adopt Resolution 2019-06; SECONDED by Councilmember Leckrone; passed unanimously.**

- F. CONSIDERATION OF approving a three-year Cooperative Purchase Agreement (C2019-061) with Pipe Line Video Inspections, LLC for storm drain pipe, structure cleaning and television services in the amount of \$150,000.00.

Public Works Director Justin Weldy briefly reviewed the item, noting that it was not only videotaping of the lines, but also cleaning with water and a 12” vacuum to remove debris, as well as removing debris built up in the box culverts.

**Councilmember Brown MOVED to approve the three-year Cooperating Purchase Agreement (C2019-061) with Pipe Line Video Inspections, LLC for storm drain pipe, structure cleaning and television services in the amount of \$150,000.00; SECONDED by Councilmember Magazine; passed unanimously.**

G. CONSIDERATION of status report on old Fire Station #2 property located at 16821 E. Saguaro and other related matters.

Mr. Miller said that near the end of last year Vice Mayor Tolis had asked about the status of the old Fire Station #2, and he told him that there would be a presentation regarding that status at this meeting.

Mr. Weldy said that staff secured a contract for abatement of asbestos. They had a survey completed and are waiting on the final report. The survey is required as part of state law before the Council makes a decision on what to do with the building. He said that preliminary reports show that they have no asbestos and lead; when final it will then be cleared for sale.

He said that Arizona Revised Statutes require that the Town do a sealed bid to sell after advertising which they will do with Fountain Hills Times, Business Gazette, and on the Town's website.

He said that the main question for Council will be whether to clear the site at an estimated cost of \$50,000 or leave it as is. Staff's recommendation is to leave as is.

Mr. Weldy said that they have had discussions with one of the larger realty companies regarding value, and there have been previous discussions about proceeds going back into the capital fund, which would be nice. He said that it will ultimately be the Council's decision and they may have to come back in executive session to discuss specifics.

**Councilmember Magazine MOVED to direct staff to begin steps to sell the property, leaving the structure in place; SECONDED by Councilmember Brown.**

Vice Mayor Tolis asked why it would have to go out to bid. Mr. Arnson said that statutes require either an auction or sealed bid. He was not sure if there could be a minimum bid with an auction, but he would find out and report back to Council. Vice Mayor Tolis said that he has always said that they have to evaluate all of the property in the community and try to zone it for the highest and best use. He said that the adjacent property to this is owned by the Maricopa County Sheriff's Office, but it appears to not be used as it used to be when they had the Posse activity. Staff should contact MCSO and try to package both parcels.

Mr. Miller said that they had that discussion about two years ago and staff made contact with MCSO. He said that all of their properties are managed by the County Real Estate Department. At that time, they had no interest, but timing is good to

check in with them again. Mr. Miller said that he would get with the County and attorney and they will schedule an executive session to share that information.

**Motion passed unanimously.**

- H. DISCUSSION with possible direction to staff relating to any item included in the League of Arizona Cities and Towns' weekly Legislative Bulletin(s) or relating to any action proposed or pending before the State Legislature.

Mayor Dickey reported that the Legislative Session just started and the Town will be getting legislative bulletins each week to keep them abreast of potential legislation. She said that she had requested that the Policy Statement be provided with this item and as new bulletins come in they will be placed on the agenda for Council discussion. Additionally, from time to time items may come up that have not yet made it into the bulletin but are being discussed by the Legislature, so they may discuss those as well during this item.

Mayor Dickey explained how the Policy Statement is developed each year. She said that there are 91 cities and towns, and they each have one vote. Resolutions are presented for consideration and are voted on during the Annual Business Meeting. The adopted resolutions form the basis for the Policy Statement.

She noted that the proposed resolution on short-term rental came from Fountain Hills last year and she congratulated the former Mayor and Council as they are not often accepted. She said that as the Council is out and about, they should be advocating for these issues.

**9. COUNCIL DISCUSSION/DIRECTION to the TOWN MANAGER**

Item(s) listed below are related only to the propriety of (i) placing such item (s) on a future agenda for action or (ii) directing staff to conduct further research and report back to the Council:

None

**10. SUMMARY OF COUNCIL REQUESTS and REPORT ON RECENT ACTIVITIES** by the Mayor, individual Councilmembers, and the Town Manager

Mayor Dickey thanked everyone involved with the holiday activities, including the Balloon Glow and others.

She reported that she was happy to be invited to meet with Senator Martha McSally along with the east valley mayors. They discussed public safety, transportation, infrastructure, housing, opioids, and water. She said that it was a good meeting and the Senator was very receptive.

Mayor Dickey reported that she attended the Opening Day of the State Legislature with State Representative Butler, who had also invited Paradise Valley Mayor Jerry Bien-Willner. She said that these are all good opportunities to communicate the things that are important to them.

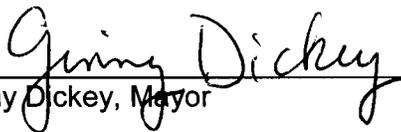
She reported that the State of the Town is scheduled for Thursday, January 17, 2019, at 7:30 a.m. at the Community Center and it is sold out. She said that it will be live-streamed on Facebook. The next Regular Council Meeting will be February 5, 2019, and the Retreat will be February 7, 2019, from 9:00 a.m. to 3:00 p.m. at the Community Center. She encouraged members of the public to attend the Retreat.

**11. ADJOURNMENT.**

**Councilmember Brown MOVED to adjourn; SECONDED by Councilmember Magazine; passed unanimously.**

The Regular Meeting of the Fountain Hills Town Council held January 15, 2019, adjourned at 6:58 p.m.

**TOWN OF FOUNTAIN HILLS**

  
Ginny Dickey, Mayor

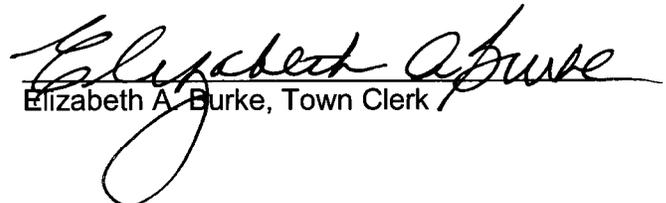
ATTEST AND PREPARED BY:

  
Elizabeth A. Burke, Town Clerk

**CERTIFICATION**

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Session held by the Town Council of Fountain Hills in the Town Hall Council Chambers on the 15<sup>th</sup> day of January 15, 2019. I further certify that the meeting was duly called and that a quorum was present.

DATED this 5th day of February, 2019.

  
Elizabeth A. Burke, Town Clerk

**NOTE:** For further details on the discussion of a particular agenda item, please visit <http://www.fh.az.gov/agendacenter> to view a video of the entire Council Meeting.