

**TOWN OF FOUNTAIN HILLS  
MINUTES OF THE REGULAR MEETING OF THE  
FOUNTAIN HILLS TOWN COUNCIL  
FEBRUARY 19, 2019  
REGULAR MEETING**

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

Mayor Dickey called the meeting of February 19, 2019, to order at 5:30 p.m.

**2. INVOCATION** – John Nichols, Harvest Bible Chapel

John Nichols 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 outgoing Board/Commission members.

Mayor Dickey read a brief statement and presented Certificates of Appreciation to the following outgoing commissioners:

Tammy Bell	Strategic Plan Advisory Commission
Jim Judge	Community Services Advisory Commission
Patt Canning	Community Services Advisory Commission
Klaus Schadle	McDowell Mountain Preservation Commission
Ken Thornton	McDowell Mountain Preservation Commission

Councilmember Magazine thanked them for their time and effort put in for the Town.

**B. REPORT ON** creation of an ad hoc committee to plan the 30<sup>th</sup> Anniversary of the Incorporation of the Town and the 50<sup>th</sup> Anniversary of the Founding of Fountain Hills.

Mayor Dickey reported that this idea had been brought up by a citizen and she wanted to let everyone know that she would like to move forward. She asked Council and the public to let the Town know if they were interested in serving on

an ad hoc committee. She said that anyone interested should notify Nancy Walter with the Town Manager's Office.

**5. SPECIAL PUBLIC APPEARANCES/PRESENTATIONS**

A. Monthly Report by Captain Larry Kratzer of the Maricopa County Sheriff's Office.

Mayor Dickey reported that she and Councilmember Spelich had recently met with the Town Manager and representatives from the Maricopa County Sheriff's Office. One idea was to have Captain Kratzer give a monthly report at a Council meeting, so she invited Captain Kratzer to come forward.

Captain Kratzer reported on the following:

On 02/10/19 at Fountain Park three vehicles were broken into to steal personal property that had been secured. He said that MCSO wanted to remind everyone to be cognizant of their surroundings and if they do need to secure personal property in their vehicle (which he advised against altogether) that it be placed in the trunk. He said that if anyone saw suspicious persons or activities taking place they should notify MCSO immediately.

He reported that MCSO participated with the Fountain Hills High School, participating with their STEM (Science, Technology, Electronics, Mathematics) program focusing on forensic science.

He reported that there would be a Coffee with a Cop on March 9, 2019, from 8:00 a.m. to 10:00 a.m. in the Sheriff's Office Parking Lot and he encouraged anyone interested to come out. He said that they are also looking into have a representative from the Maricopa County Attorney's Office out there.

Councilmember Tolis thanked Captain Kratzer on his report and asked, after reading disturbing reports online through Fountain Hills Connection, if there was a way to have someone monitor the posts and debunk or confirm statements being made.

Captain Kratzer said that there have been some talks with the Town Manager about a way to respond to social media, and they will probably need to discuss that further. Councilmember Leckrone said that she understands that the public loves to have information about those types of things, but as a law enforcement officer, they are probably needing to protect the information as well. Captain Kratzer said that there are certain things they could not put out there, but they will definitely have a conversation on the matter.

Captain Kratzer said that there had been a rumor that Fountain Hills had been singled out as far as media not having access to the MCSO reports. He clarified that Sheriff Penzone has a Public Information Officer, and all media requests are expected to go through that office. He said that in talking with the Fountain Hills Times and hearing of their frustration in not receiving responses in a timely manner, he has discussed the issue with the PIO's office and they are working on a way to provide more timely responses. He said that oftentimes information has to be redacted and that can take time. He said that they are working with the

Administrative Sergeant about providing a summary report to the local media. They will continue to work on that process.

Mayor Dickey thanked Captain Kratzer, Chief Lopez and Chief Bailey for their meeting last week. She said that they discussed several issues such as pedestrian safety and intersections. She also noted that there is a new software program for providing tips.

Councilmember Scharnow said that being a former editor of the newspaper, he knows firsthand that the paper has always had a good working relationship and he was dismayed when he heard about the change in practice. Captain Kratzer said that there was no issue locally, it is just a change in policy.

He also reported on the P3 program, working with the High School, the drug Coalition, including the School Resource Officer, etc. He said that the new program, which replaces the Text to Tip, provides a five-minute seminar on how to use it.

## 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 Regular Meeting of February 5, 2019, and the Special Meeting of February 7, 2019.
- B. CONSIDERATION OF Resolution 2019-08, abandonment of the 10' Public Utility and Drainage Easement at the rear and westerly side of Plat 204, Block 11, Lot 25 (16921 E. Windchime Drive), as recorded in Book 142, Page 10, records of Maricopa County, Arizona. (EA 2019-02)
- C. CONSIDERATION OF Resolution 2019-07, abandonment of the 10' Public Utility and Drainage Easement at the rear of Plat 212, Block 11, Lot 5 (16217 E. Keymar Drive), as recorded in Book 141, Page 17, records of Maricopa County, Arizona, with stipulation. (EA 2019-01)

- D. CONSIDERATION OF approving a Special Event Liquor License application submitted by Stan Feffer representing Grand Canyon Title Agency located at 3900 E. Camelback Road, Suite 250, Phoenix, Arizona who will be holding a grand opening event for their business located at 16845 E. Avenue of the Fountains, Building D, Suite 110, Fountain Hills, Arizona on March 7, 2019 from 5:00 PM to 7:00 PM.
- E. CONSIDERATION OF approving an application for a Temporary Extension of Premises/Patio Permit submitted by Andy Weiner representing Bone Haus Brewing Company located at 14825 E. Shea Blvd., Suite 101, Fountain Hills, Arizona to hold a lobster boil on March 3, 2019.
- F. CONSIDERATION OF approving a Special Event Liquor License Application submitted by Carol Caroll representing the Fountain Hills Sister Cities Corporation located at 16957 E. Kiwanis Drive, Fountain Hills, AZ for the purpose of a fundraiser to be held on March 9, 2019, from 5:30 PM to 9:00 PM.
- G. CONSIDERATION OF approving a Special Event Liquor License Application submitted by Samuel Coffee representing the Fountain Hills VFW who will be serving beer in conjunction with the Irish Fountain Fest in Fountain Park, on March 16, 2019 from 11:00 AM to 5:00 PM.

Councilmember Brown **MOVED** to approve Consent Agenda Items 7-A through 7-G; **SECONDED** by Councilmember Magazine; passed unanimously.

8. **REGULAR AGENDA**

- A. CONSIDERATION of appointing five (5) citizens to serve on the Community Services Advisory Commission for a two-year term beginning on January 1, 2019, and ending on December 31, 2020.

Councilmember Leckrone **MOVED** to appoint the following commissioners to the Community Services Advisory Commission; **SECONDED** by Councilmember Scharnow; passed unanimously:

Jerry Gorrell  
Sharron Grzybowski  
Natalie Varela  
Sharon Morgan  
Daniel Fecteau

- B. CONSIDERATION OF appointing seven (7) citizens to serve on the McDowell Mountain Preservation Commission for a combination of terms including two-year terms beginning on January 1, 2019, and ending on December 31, 2020, and three-year terms beginning on January 1, 2019, and ending on December 31, 2021.

Mayor Dickey said that she was recommending the following names for appointment, but would not include terms as they desire to work that out as a commission. She noted that the Town is working on conforming changes to the commission and later in the agenda they will be talking about another seat for this

commission. If they decide to do that, then they will make the changes to the by-laws and she can appoint the eighth commissioner.

Councilmember Magazine **MOVED** to appoint the following individuals to the McDowell Mountain Preservation Commission; **SECONDED** by Councilmember Brown; passed unanimously:

Bill Myers  
Bill Craig  
Stan Ruden  
Tom Barberic  
Tom Aiello  
Paul Garvey  
Scott Grzybowski

- C. CONSIDERATION OF appointing one (1) citizen to fill a vacancy on the Municipal Property Corporation for a term beginning on February 19, 2019, and ending on September 28, 2020.

Councilmember Magazine **MOVED** to appoint Debbie Skehen to the Municipal Property Corporation for a term ending on September 29, 2020; **SECONDED** by Councilmember Brown; passed unanimously.

- D. ORDINANCE 19-01 (Case #Z2018-09)

- i. PUBLIC HEARING to receive comments on Ordinance 19-01, a text amendment to the Fountain Hills Zoning Ordinance, Chapter 12.02.A, to allow residential dwelling units as a Use Subject to Special Use Permits within the "C-0 – Commercial Office" zoning district.

Senior Planner Marissa Moore provided a PowerPoint presentation on Items D-i, D-ii and E regarding a zoning text amendment and an associated Special Use Permit for property located at 16857 East Saguaro.

#### BACKGROUND

She explained that they have asked to be able to have a residence in an office building and she determined that there were two options to address this:

- 1) Rezone both of the parcels to C-1, however some of the uses in a C-1 zone were not compatible with the surrounding neighborhood; or
- 2) Request to add single-family and multi-family resident to the existing use, through a Special Use Permit.

#### CONSIDERATIONS

She said that they would need to have some upgrades to provide for a residence upstairs because the Uniform Building Code requires fire separation and it would need a different entrance/exit. She said that the

property owner is aware of that. She said that they could have five dwelling units on their property at this time, but if they wanted to request more than the one, they would have to request a Special Use Permit which requires two public hearings.

#### LEGAL STIPULATIONS OF APPROVAL

Ms. Moore said that if the zoning text amendment is approved, it would not take effect for 30 days. It would require a building permit and Certificate of Occupancy for anyone to live there. The Special Use Permit said that the building permit has to be applied for within six months of the Permit. Additionally, the Special Use Permit would run with the property, not the owner. They do not expire.

Mayor Dickey opened the public hearing for Items D-i, D-ii and E.

Ms. Moore said that they did have one e-mail from a resident who owns the property next door and they wanted to know what was going on. At the Planning and Zoning Commission meeting there was one individual

She said that the property was already set up as a residence illegally at some point, most likely before the current property. The property owner communicated to the Town about the use of the second floor. She said that the property owner is there if they had any questions. Her understanding was that they are Creative Prosthetics and sometimes they have patients there to be fitted. While they are waiting for work to be done or adjustments to be made, he likes to have a nice place for them to rest. The property owner said that he is planning to use it for single residence now. If he decides to turn it into multi-family, it would come back to the Town for approval.

Vice Mayor Tolis said that there were two separate examples of things they have approved—one off of Fountain Hills Blvd. and the other on Saguaro. Ms. Moore said that the first item is off of El Pueblo and they did not pull a building permit. It has expired and they are looking into different options. The other one, on Saguaro, had a Special Use Permit for a business on the first floor with a condition that the residence on the second floor be vacated, and it was. She said that fencing was required for that particular business.

She said that the main reasons why they want to look at the residential requests is that the Special Use Permit allows an extra level of scrutiny to see if its use fits into an area, such as the one on Saguaro was near an auto body shop and the School's Bus Barn. They were concerned with future residents that may have young children. Ultimately, the decision would be up to the Council. She said that the one on El Pueblo had a school and daycare nearby so it made sense.

Mayor Dickey closed the public hearing.

- ii. Consideration of Ordinance 19-01.

Councilmember Leckrone **MOVED** to adopt Ordinance 2019-01; **SECONDED** by Vice Mayor Tolis; passed unanimously.

E. SPECIAL USE PERMIT (Case #SU2018-03)

- i. PUBLIC HEARING to receive comments on a proposed Special Use Permit pursuant to Fountain Hills Zoning Ordinance, Chapter 12.02.A. to allow a single family residential dwelling at 16857 E. Saguaro Blvd. (AKA APN#176-10-207), located in the "C-O – Commercial Office" zoning district.

- ii. Consideration of proposed Special Use Permit.

Councilmember Brown **MOVED** to approve the Special Use Permit; **SECONDED** by Vice Mayor Tolis; passed unanimously.

F. ORDINANCE 19-02 (Case #2018-11)

- i. PUBLIC HEARING to receive comments on Ordinance 19-02 pursuant to Stipulation #2 of the Town Council approval on June 19, 2018, in reference to reverting the zoning designation of 0.36 acres located at 11639 N. Saguaro Blvd. (AKA APN#176-08-448) from C-3 – General Commercial zoning district to C-1 – Neighborhood Commercial and Professional zoning district.

Ms. Moore briefly reviewed this item indicating that the property was rezoned from C-1 to C-3, with stipulations that the applicant apply for a building permit within six months or it would revert back to C-1. A building permit was not applied for, but Arizona Revised Statutes requires that a reversion of zoning come back before the Council; it does not happen automatically.

LOCATION MAP

RECOMMENDATION

Ms. Moore explained that because the stipulation was approved by Council, and no building permit had been applied for, staff was recommending that it revert back to the previous C-1 zoning. She said that the property owner is present and there was a letter submitted today that requests that the property remain zoned C-3 with the stipulations removed.

The owner of the property, Roger Kuechler, said that the property was under contract to put in an automotive extension of an existing building. A problem with parking and how many cars could fit on the lot became apparent and the buyer backed out.

Ms. Moore gave a brief account of the difference between the C-1 and C-3 zones. She said that C-1 is commercial neighborhood, which has less than ten uses. It uses less of the property. The C-3 includes all of the C-1 uses

and has additional uses added to it. It enables businesses with more noise and traffic; it is a more intense use of the property.

Councilmember Magazine noted that he opposed the original rezone request. He had gone up and down the road and counted the number of auto-related services, and he thought there were enough. He did not think they needed C-3 in that location.

Vice Mayor Tolis said that one of the arguments he made was that they have a glut of commercial office space that is vacant, and they had an auto dealer interested in expanding their business. He said that they want high-dollar items to be sold as it increases the Town's revenues. He said that the reason it did not work was the parking. He said that by keeping the property C-3 it allows the Town and the property the ability to market to a much broader base. Councilmember Brown said that he could not say it better; he completely agreed.

Councilmember Magazine said, with all due respect, that it seemed that very often they look at applications and say, "we have to increase our tax base," when they really need to look at the whole area and the impact on it.

Councilmember Scharnow said that he had mixed feelings as he is pro-business and the tax base, but he is concerned about other potential uses that could go in there that Council would have no say on. If someone brought in a plan that Council agreed with they could always change the zoning in the future.

Mayor Dickey said that she was there when the property was rezoned before—it was approved 5-2. She said that part of the conversation at that time included Councilmember DePorter talking about kids playing soccer and the increased traffic. She said that she would prefer to see what is going to be planned rather than keeping it in abeyance.

Ms. Moore explained that if the Council approved the property staying at C-3, then any use permitted within the C-3 zone would be allowed and the Council would have no input.

Roger Kuecher, the property owner, said that they would prefer to keep it C-3. He noted that his realtor was present and he could answer any questions Council may have. Ms. Moore noted that the property owner was requesting that the property remain zoned C-3 and the stipulations be removed.

Mr. Dzintars Grauds, the property owner's realtor, said that he has had the lot listed for sale for two and a half years; most of the time the rejection is because of the C-1 zoning.

Mr. Grauds said that Rex Foley wanted to change the property into C-3. His cost was \$9,000 and then found that the parking did not work for his

use. He said that someone is not going to come in and request a change because of the added costs and time required.

Vice Mayor Tolis said that he would welcome all of the property owners in town moving forward and being proactive with their zoning. He said that it was noteworthy to address the fact that the lot has restrictions with the space. He said that they are not going to get a scary C-3 building. There are a lot of stipulations that would have to be approved, and variances. He would support keeping it C-3.

Ms. Moore noted that if a buyer applied for a variance, that request would go before the Board of Adjustment and an appeal of that decision would go to the Superior Court.

Councilmember Leckrone said that she agreed with what Councilmember Scharnow said; she would prefer to hear a proposed project and then change the zoning if necessary.

Vice Mayor Tolis said that the whole reason why the permit was not pulled for Rex Foley was because of the parking requirements. He thinks that the Council should do anything they can to bring in business. He said that this was not a residential area. It was adjacent to plenty of other commercial businesses.

Councilmember Brown said that, as they discussed in the Retreat, if they are going to help this town grow they are going to need to do some rezoning. This is a perfect example of an opportunity to do that, and he would agree with the Vice Mayor. He said that they need to start looking at zoning differently than they have for the past 50 years.

Mayor Dickey closed the public hearing.

ii. Consideration of Ordinance 19-02.

Vice Mayor Tolis **MOVED** to allow the property to stay C-3 and that they remove the restrictions currently on the property and allow it to be marketed as a C-3 property; **SECONDED** by Councilmember Brown; vote passed with a roll call vote of 4-3:

Councilmember Magazine	NAY
Councilmember Leckrone	AYE
Councilmember Spelich	AYE
Mayor Dickey	NAY
Vice Mayor Tolis	AYE
Councilmember Brown	AYE
Councilmember Scharnow	NAY

- G. DISCUSSION AND POSSIBLE DIRECTION to staff to amend McDowell Mountain Preservation Commission by-laws to allow for one additional commission seat and the designation of Emeritus status for one or more members.

Mr. Miller said that during the most recent interview process by the subcommittee for appointments to the McDowell Mountain Preservation Commission, it was recommended that they add an eighth member to the Commission and that up to two of its members be emeritus members. He said that if the Council was okay with that direction, staff would bring back the necessary changes to the Commission by-laws.

Councilmember Brown said that this came about while they were interviewing the applicants. He said that they had eight outstanding people and they struggled as a committee to find any one that they did not want to appoint. Councilmember Leckrone said that not only were they qualified, but they each brought different things to the board and they felt that the diversity was beneficial.

Mr. Miller said that based on the feedback, he heard a consensus from Council to move forward so staff would bring back the necessary changes.

- H. DISCUSSION WITH POSSIBLE DIRECTION 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.

Councilmember Magazine reported that he and the Mayor participated in the Monday morning legislative phone call and they then reviewed some of the proposed legislation. Brief discussion was held on how to participate in the future and the need to review the entire wording of proposed legislation.

Councilmember Brown **MOVED** to have staff report that the Council supported S1165 (Distracted Driving) and H2672 (Short-term Rentals); **SECONDED** by Councilmember Magazine; passed unanimously.

Councilmember Scharnow **MOVED** to recommend that the Council also support the League's position to oppose S1460 (TPT Digital Goods and Services); **SECONDED** by Councilmember Magazine; passed unanimously.

**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.

Vice Mayor Tolis reported that he attended the car show and it was well attended. He said that Rachael and Grace did a great job with planning events and tourism, and he saw the billboard on Beeline which is being paid for by grant funds.

Mayor Dickey reported that the video of the Retreat is now on the website and was 5-1/2 hours long.

She reported that she and Councilmembers Spelich and Scharnow attended the First Time Piece Solution event. She thanked them for attending and also thanked Scott and Mike in Economic Development.

She said that they have been attending a lot of ribbon cuttings and on February 26, 2019, she and the Vice Mayor and Councilmember Scharnow would be holding the Town Talk at the Community Center.

She said that Council was going to hold a special meeting on March 12, to discuss revenues, but not all could attend so it has been changed to March 26, 2019.

**11. ADJOURNMENT.**

Councilmember Brown **MOVED** to adjourn; **SECONDED** by Vice Mayor Tolis; passed unanimously.

The Regular Meeting of the Fountain Hills Town Council held February 19, 2019, adjourned at 7:20 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 19<sup>th</sup> day of February, 2019. I further certify that the meeting was duly called and that a quorum was present.

DATED this 5th day of March, 2019.

  
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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.