

**TOWN OF FOUNTAIN HILLS
MINUTES OF THE REGULAR MEETING OF THE
FOUNTAIN HILLS TOWN COUNCIL
MARCH 5, 2019
REGULAR MEETING**

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

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

2. INVOCATION – Pastor Bill Good, Fountain Hills Presbyterian Church

Pastor Good 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

None

5. SPECIAL PUBLIC APPEARANCES/PRESENTATIONS

None

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.

Bob Shelstrom, Fountain Hills, voiced concerns with the bidding process used by the Town and the need for a quality improvement approach. He said that their process was a big fail.

Councilmember Magazine said that he was waiting for the day that Mr. Shelstrom comes before Council and tells them they have done something right.

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 19, 2019.
- B. CONSIDERATION OF adopting Resolution 2019-09, abandonment of the 10' Public Utility and Drainage Easement at the rear and a portion of the southerly side of Plat 204, Block 11, Lot 6 (11012 N. Walsh Drive), as recorded in Book 142, Page 10, records of Maricopa County, Arizona. (EA 2019-03)
- C. CONSIDERATION OF approving a Special Event Liquor License Application submitted by the Fountain Hills Cultural and Civic Association (Vicky Derksen), for the Dark Skies Fest event to be held at the Community Center and Centennial Circle, 13001 N. La Montana Drive, Fountain Hills, AZ from 4:00PM to 9:30 PM on Saturday, March 30, 2019.

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

8. REGULAR AGENDA

- A. CONSIDERATION OF:
 - i. Approval of a Special Event Liquor Application for the Town of Fountain Hills to provide and serve alcohol within Fountain Park, located at 12925 N. Saguaro Boulevard in Fountain Hills, in conjunction with the Town's Fountain Hills Music Fest Celebration, from 4:00 PM to 9:30 PM, on Saturday, April 6, 2019; and

Town Manager Miller said that this was a request for a Special Event liquor license for the Town's upcoming Music Fest on April 6. He said that in the past they have had residents requesting to have beer and wine at this event. Staff reached out to a company that is a local microbrewery, but because they are not a nonprofit they could not obtain a license.

He said that the State now allows Special Event licenses for governments so this item is to approve the Special Event liquor license application on behalf of the Town, and then to approve an agreement between the Town and Bone Haus Brewery. He said that any sales over \$4,000 will be split between the Town (60%) and Bone Haus (40%). He said that the Town has also taken out a modest-priced insurance rider to make sure the Town is protected.

Vice Mayor Tolis said that he was glad that they were doing everything they can to bring in visitors. He loved the billboard on Beeline that was paid for by a grant. He asked for clarification on how the \$4,000 came about.

Communications and Marketing Coordinator Grace Rodman-Guetter came forward and said that through conversations with Bone Haus it was determined that their wholesale costs to bring out their cooling truck, hire staff, and provide a minimum of 20 kegs, were around \$4,000. She said that since Town staff cannot pour beer, and they were asking Bone Haus to provide the staff, they split the responsibility. The Town would handle the liquor permit, pay for extra officers, and Bone Haus would provide the staffing.

Mr. Miller added that there is no risk to the Town. He said that if the event was all weekend the insurance rider would cost the same.

Ms. Rodman-Guetter said that since this is new, and they have advertised the added component of liquor, they believe that it will bring in a larger crowd. She said that if they do not reach the \$4,000 in sales, Bone Haus will not require the Town to pay.

Councilmember Scharnow **MOVED** to approve the special event liquor license application and the agreement with Bone Haus Brewery; **SECONDED** by Vice Mayor Tolis; passed unanimously.

- ii. Approval of an agreement with Bone Haus Brewery to provide and serve alcohol at the above event.

See above.

B. CONSIDERATION OF approval of contract with Willdan for User Fee Study.

Mr. Miller said that the Town has been trying to evaluate their situation with regard to revenues. He said that this is a contract with Willdan Financial to conduct a User Fee Study to examine everything they do in the Town, what they charge, and consider the actual overhead costs for each service. They will then come back and present their findings. He said that he cannot remember the last time the Town has had a comprehensive study done.

Mr. Arnson said that while the statutes do not require an actual study to be done, it does require the amount of any fee to be reasonably related to the cost of the service.

Councilmember Spelich voiced concern with spending \$36,000 when the Town's directors could do the work and save that money.

Councilmember Leckrone asked how they have landed on the fees in the past. Mr. Miller said that every year they have a fee schedule come before Council as part of the budget. He said that while they have those fees, they do not have an accurate justification for them. He said that this study will not only determine actual

costs for the different services, but also provide a methodology that staff can use in the future to continue adjusting fees as needed. Mr. Miller added that with the Town's lean staff it would take months to get things done if they were to attempt to do this work themselves, and he was not sure that they are qualified to account for all of the expenses.

Councilmember Magazine said that he has no idea what the results would be, but he would guess that a number of the fees would be raised and he would think that \$36,000 could be recovered within a year or two from now. Then they continue to have increased income. He said that it may be a lot of money, but it will help put more money in their pockets in the future.

Mr. Rudolphy said that he did not have a figure in front of him, but he could share that ten percent of the Town's budget comes from fees, so they would probably be looking at around \$1,000,000 annually in revenue from fees. He said that several years ago the Legislature passed a bill requiring towns to post on the website any fee changes at least 60 days prior to changes, and provide the justification. At this point they really do not have any justification.

Vice Mayor Tolis asked if the community center was booked every weekend. Community Services Director Rachael Goodwin said that the community center is very seasonable. Right now they are booked seven days a week, but if they look at July through September, it is slower.

Councilmember Scharnow said that while he agrees that \$36,000 is a lot of money, in addition to getting the methodology, it would be wise and helpful moving forward to have an independent third party come in and evaluate them with an independent recommendation.

Brief discussion was held on the difference of user fees and development impact fees. Mr. Rudolphy said that Tischler Bise has been hired to do the study for development impact fees. For that study they are paying between \$49,000 and \$50,000. Councilmember Brown said that the development fee study is required to be done every five years and the state tells the Town where those monies can be spent.

Councilmember Brown said that he did not remember the user fees being looked at before and he commended staff for bringing this forward.

Bob Shelstrom, Fountain Hills, thanked the Town Council for including the contract in the packet. He has read it and it sounds like a good idea. He wondered if there would be any overlap between the two studies.

Mr. Rudolphy said that the user fee study contract was a result of a Request for Proposals (RFP). He said that the Town received eight responses and after an evaluation team was formed and reviewed the proposals, Willdan was the successful respondent with the lowest cost for the services. In the scope of the RFP, the development impact fees were specifically excluded.

Mayor Dickey said that the development impact fees can only be used for actual expenses related to growth. She said that the Town's budget is dependent on these fees being received.

Councilmember Leckrone said that they may find that they are charging enough for the services, but if they are not then they are losing money and she is in favor of proceeding with the study.

Brief discussion was held on whether the Council should hold a work session on the issue.

Councilmember Magazine **MOVED** to approve the contract with Willdan Financial Services for the User Fee Study; **SECONDED** by Councilmember Scharnow.

Michelle Webb, Fountain Hills, said that they need to find out the break even and then what others charge. She volunteered to make calls to determine what other communities charge for their services.

Discussion was held on the inability to compare apples to apples when considering what others charge because the Town's expenses are unique to Fountain Hills. Mr. Miller said that they are trying to get this done this summer, but do not believe it will be ready until the next fiscal year. His hope would be to change fees in January.

Mayor Dickey said that she would prefer to have the study done. If they started counting up the hours of staff time to have it done in house, it would take away from other things they need to do, and they need to move forward.

Motion passed 5 – 2 with Vice Mayor Tolis and Councilmember Spelich casting the dissenting votes.

- C. CONSIDERATION OF adopting Resolution 2019-14 approving an IGA with the Fountain Hills Sanitary District for two restroom facilities and well control rooms at Fountain Park.

Mr. Miller said that this was the intergovernmental agreement authorizing the installation of two bathrooms at the two locations at Fountain Park that were previously presented to Council. Based on feedback from Councilmember Brown, they will be having the door at the back of the building leading into the custodial close moved to the front so it is more efficient. They were concerned with any other changes to the actual footprint of the buildings increasing costs, so the other requested changes were not considered.

Mr. Miller said that the Town will be looking at about \$5,000 a year for stocking paper goods and associated maintenance costs. Ms. Goodwin said that this will be going to the Sanitary District's board within the next few weeks and they are looking to having construction done right after High School graduation and hope to be done prior to Octoberfest Festival, during the lowest usage of the year.

Vice Mayor Tolis said that he had heard that the original cost estimates were way off and asked if staff knew if that would adversely affect the District's decision to

proceed with the project. Ms. Goodwin said that she has not heard that. She said that there is an opt out available for both the District and the Town.

Councilmember Spelich voiced concern with the Town not having enough staff to handle the added maintenance of these facilities. Ms. Goodwin said that they have one full-time staff that services the entire park, and several part-time in the evenings and weekends. She said that it will add more to the workload, but it is an amenity desperately needed.

Bob Shelstrom, Fountain Hills, said that he has the actual report for the cost and it is \$3.9 million. He is from Chicago and nothing gets done there unless there is something in it for someone else. He looked into how many bathrooms they should have at the park. They do not need the facilities. He said that the Town Council needs to work closer with the Sanitary District to see what is fair to the citizens of Fountain Hills; it is getting out of control.

Councilmember Brown **MOVED** to adopt Resolution 2019-14; **SECONDED** by Councilmember Magazine; passed unanimously.

- D. CONSIDERATION OF Resolution 2019-015 approving the Town of Fountain Hills, Arizona Town Council Rules of Procedure, amended and restated March 5, 2019.

Town Clerk Elizabeth Burke briefly reviewed the changes being proposed which were previously discussed by Council at their recent Retreat.

Discussion was held on the difference between Open Meeting Law and Robert's Rules of Order.

Councilmember Scharnow **MOVED** to adopt Resolution 2019-15 approving the amended and restated Rules of Procedure; **SECONDED** by Councilmember Leckrone; passed unanimously.

- E. 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.

Brief discussion was held on the legislation being considered this week. Mayor Dickey said that some of the things they previously took positions on have progressed. She said that the short-term rental, 2672, went to Rules yesterday and COW today. Mr. Arnson reported that the internet has not updated any action taken today on that bill. Mayor Dickey said that if possible, she would like to have Mr. Miller write a note to Representative Bowers to support 2672 and oppose 2201 (partisan local elections) and 2043 (municipal judges to elections).

Vice Mayor Tolis said that two of the bills are sponsored by the Town's local representative and he still feels it is important to invite him to a meeting even though they are in session.

Councilmember Magazine said that HB2672, vacation rentals, passed one committee and may become law. He asked, with so much controversy in town, what the practical impact of that would be versus what they have now. Mr. Arnson said that what he is saying could have changed on the floor today, but the most significant restrictions are on the number of persons on site being based on bedrooms.

Mr. Miller said that with the way the bill stands, there was a section that allowed cities and towns to regulate for the health, safety and welfare, which has to do with upholding their zoning. In the case of a home being a wedding venue, the Town could enforce that now. He said that they are supposed to be in commercially-zoned areas, but it does not mean that a homeowner could not have a wedding in their own home.

Councilmember Scharnow **MOVED** to have Mr. Miller send a note to Representative Bowers in support for 2672 and opposition of 2201 and to Senator Fann in support of the League's position to oppose 1460; **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:

Vice Mayor Tolis said that they have spoken in the past about public safety issues and many incidents involving pedestrians, and he would like to see some action being taken. Mr. Miller reported that he and the Mayor had this same conversation and agreed that anything that could be done should just be done. He said that the Mayor also suggested an internal team including herself, another member of Council, the Public Works Director, Police Captain, and Town Manager to see what other steps could be taken, such as rumble strips before stop signs and illuminating stop signs. He said that they will be coming back and reporting on what steps have been taken. Councilmember Magazine said that he would like to see reflectors on all stop signs and yield signs.

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

Mr. Miller reported that last week he and the Mayor met with Sheriff Penzone, Chief of Staff Cherny and Chief Deputy Skinner as the Sheriff likes to meet with the contract cities. They also discussed the incident that happened a few months ago to see if there is anything to be done to make it more secure. He said that staff has reviewed a report that came out of the Sheriff's Homeland Security Office which looked at the entire facility. He said that it was also a good opportunity to talk about the rate increase being proposed by their office and the County was told that the Town is studying their options related to that.

Mayor Dickey thanked Vice Mayor Tolis and Councilmember Scharnow for participating in the Town Talk last Tuesday.

Moving back to Item #9, Vice Mayor Tolis said that during the Retreat the Town Council talked about improving on zoning areas and helping businesses be successful. An idea

that came up many years ago was to look at Saguaro and the frontage road, and work with those property owners to determine if there is a way to redesign that to eliminate the frontage road to provide additional parking. He would like to put this on a future agenda to discuss further.

Mayor Dickey reported that the Mayor from Altaco, El Salvador will be holding an event at Town Hall on Thursday at 5:30 p.m. and they will be meeting with the schools.

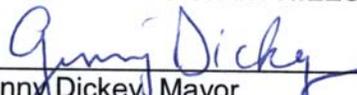
Councilmember Scharnow said that he was at a meeting of the Fountain Hills Coalition last week and the Town had received an award during a previous program that Town could not attend so he wanted to present to the Council a plaque from Arizonans Concerned about Smoking for the Town's ordinance that was passed last year banning smoking in public parks along with e-cigarettes and vaping. Mayor Dickey said that Vice Mayor Tolis and Councilmembers Brown and Magazine were on the Council at that time and she would like to have a photograph taken after the meeting with the plaque. Councilmember Scharnow reported that the group is also pursuing another item to increase the legal age to buy tobacco products to 21 and they may ask for action by the Council in the future.

11. ADJOURNMENT.

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

The Regular Meeting of the Fountain Hills Town Council held March 5, 2019, adjourned at 6:49 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 5th day of March, 2019. I further certify that the meeting was duly called and that a quorum was present.

DATED this 19th day of March, 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.