



**TOWN OF FOUNTAIN HILLS  
MINUTES OF THE REGULAR MEETING OF THE  
MCDOWELL MOUNTAIN PRESERVATION COMMISSION  
APRIL 29, 2019**

**1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Chairman Myers called the meeting of Monday, April 29, 2019, to order at 5:00 p.m. in the Council Chambers at Town Hall, located at 16705 East Avenue of the Fountains, Fountain Hills, Arizona.

**2. ROLL CALL**

Chairman Myers welcomed new Commissioners' Paul Garvey, Scott Grzybowski, Darrienne Slater, and Executive Assistant Jamie Salentine.

COMMISSIONERS PRESENT: Chairman Bill Myers, Vice Chairman Tom Barberic, Commissioners Bill Craig, Paul Garvey, Scott Grzybowski, and Darrienne Slater.

COMMISSIONERS ABSENT: Thomas Aiello

STAFF PRESENT: Community Services Director Rachael Goodwin and Executive Assistant Jamie Salentine.

(Items were discussed out of order, but for purposes of clarity will remain as listed on the agenda.)

**3. CALL TO THE PUBLIC**

There was no comments from the citizens present.

**4. CONSIDERATION OF APPROVING THE JANUARY 29, 2019, FEBRUARY 26, 2019, AND THE APRIL 1, 2019 MEETING MINUTES**

Chairman Myers requested a correction on the January 29, 2019 minutes to reflect item #5 on the agenda, objective 1 to state that the 31 signs erected were temporary road signs on the temporary road to the Adero trailhead.

Vice Chairman Barberic moved to approve the January 29, 2019, meeting minutes as amended, seconded by Commissioner Craig; passed unanimously by those present (6-0).

Vice Chairman Barberic moved to approve the February 26, 2019, meeting minutes, seconded by Commissioner Grzybowski; passed unanimously by those present (6-0).

Chairman Myers moved to approve the April 1, 2019, meeting minutes, seconded by Vice Chairman Barberic; passed unanimously by those present (6-0).

## **5. RECOGNITION OF KLAUS SCHADLE FOR HIS WORK ON THE MCDOWELL MOUNTAIN PRESERVATION COMMISSION**

Chairman Myers presented former Commissioner Klaus Schadle with a Certificate of Appreciation for his work on the McDowell Mountain Preservation Commission.

Mr. Schadle stated that the Commission was fun and challenging. He thanked Council for their support of the Commission as well as staff for their work. He recognized Chairman Myers for his commitment to the McDowell Mountain Preservation.

## **6. UPDATE OF 2019 MMPC OBJECTIVES**

Chairman Myers commented that the 2019 MMPC Objectives (31) are relevant and that in addition to himself Commissioners Aiello and Craig determined workgroups. He noted that not all objectives will be addressed in 2019 and may change throughout the year. (See Attachment 1)

## **7. DISCUSSION OF 2019 MMPC WORKGROUP OBJECTIVES**

Chairman Myers highlighted the top eight objectives where the three Commissioners determined four workgroups. He added that the Commissioners with a star by their name would be the workgroup's Coordinator. (See Attachment 2)

Chairman Myers requested that each workgroup provide a status update at the next meeting.

Chairman Myers mentioned objective #2 and asked Community Services Director Rachael Goodwin for an update. (See Agenda Item #11 for discussion)

Chairman Myers commented on objective #7 and that McDowell Sonoran Conservancy has a "host" program where volunteers work on Saturday, Sunday, and Monday's during the hiking the season and assist hikers with pointers such as having correcting hiking shoes and directions to trails.

Vice Chairman Barberic suggested that the Town work on the relationship with the McDowell Sonoran Conservancy, where the Conservancy provides suggestions to the Town.

Chairman Myers reported that a joint meeting at the Town Hall is occurring tomorrow with some McDowell Sonoran Conservancy members as well Commissioner Craig and Ms. Goodwin to discuss common objectives and determine roles and responsibilities.

Ms. Goodwin added that the original intent of the Commission was to acquire the preserve and sunset the Commission, since the Commission did not sunset due to other items, she suggested the possibility of having the Commission oversee the Botanical Gardens, Overlook, etc...

Chairman Myers concurred with the suggestion and will include in the joint meeting discussion.

In response to a question posed by Commissioner Garvey, Ms. Goodwin replied that for objective #3 to invite Fire Chief Dave Ott to discuss if the emergency fire road has to exist.

Commissioner Garvey commented that he spoke with Chief Ott and that the Fire Department has no plans on taking the fire equipment on the emergency fire road as wildfires go up hill and the area would like be shelter-in place if a wildfire occurred in Adero Canyon. He added that if the road was open to residents that the road should have asphalt.

Discussion ensued relative to alternate fire escape routes, emergency exits from trailheads, access for wheelchairs, and address safety hazards at access points such as the steep surface at the second gate.

## **8. DISCUSSION AND CONSIDERATION OF RECOMMENDATION TO COUNCIL OF AMENDING TOWN CODE, ARTICLE 9-5, SECTION 9-5-3(P) GENERAL PRESERVE REGULATIONS ON THE USE OF ELECTRIC BICYCLES AND WHEELCHAIRS**

Chairman Myers reviewed Town Code Section 9-5-3(P) and suggested the use of electric bicycles (E-bikes) and wheelchairs be allowed. **(See Attachment 3)**

Vice Chairman Barberic read into the minutes the three classes of E-bikes. **(See Attachment 4)** He commented that if the Commission moves forward to limit the use of E-bikes on trails to Class 1 and that Classes 2 and 3 be denied. He suggested that the Commission work with the City of Scottsdale's Senior Preserve Planner Scott Hamilton on E-bikes, due to the fact the City of Scottsdale is currently working on this issue too.

Chairman Myers asked to add the use of E-bikes and wheelchairs to the objectives as #32 and place in the Preserved Marketing and Fairs Workgroup.

Vice Chairman Barberic requested to table this item until further notice to notify the public and have the people who use regular and/or E-bikes express their opinions.

Commissioner Garvey pointed out that the enforcement of E-bikes classes 1-3 would be difficult. He noted that using the word "wheelchair" would trigger The Americans with Disabilities Act (ADA) and discussion on compliance would need to occur.

The Commission concurred to table the item until further notice.

Chairman Myers stated that geocaching is illegal on all trails up to three feet and requested to add geocaching to Section 9-5-3 General Preserve Regulations.

Chairman Myers requested that Town Code Section 9-5-5 Golden Eagle Trailhead Regulations be placed on the next agenda.

## **9. UPDATE ON SONORAN CONSERVANCY**

Commissioner Craig confirmed the joint meeting at the Town Hall occurring April 20, 2019 at 4:00 p.m. with some McDowell Sonoran Conservancy members as well Commissioner Craig and Ms. Goodwin to discuss common objectives and determine roles and responsibilities.

Commissioner Craig stated that the 2020 hike schedule is complete and to be published soon. He commented that the trail building is progressing.

## **10. UPDATE ON RESOLUTION 2019-22 MCDOWELL MOUNTAIN PRESERVATION COMMISSION BYLAWS**

Chairman Myers asked for the terms of the Commission be amended to two and three year terms.

Community Services Director Rachael Goodwin explained that the Commission terms will be staggered and terms will be three years. She pointed out that in order for the staggering to take effect due to the entire Commission appointed at the same time, which one-group terms expires in two years and the other in three, in order to set staggering.

Ms. Goodwin confirmed that the Commission will return to seven members and that the Town is in process of standardizing all Board/Commission/Committee terms to expire in three years and be staggered.

Chairman Myers requested the year-to-date (YTD) budget amounts prior to next meeting.

Ms. Goodwin stated that staff will provide the Commission with the YTD budget and pointed out that not all funds are available because some line items require Council approval prior to disbursement.

## **11. UPDATE ON EAGLE RIDGE DRIVE**

In response to a question posed by Chairman Myers, Community Services Director Rachael Goodwin reported that as of today the Adero Canyon Trailhead (ACT) is closed. She stated that no additional trail would lead to the trailhead at this time per the Developers Agreement (DA) unless necessary, due to safety. She noted that the focus is paving the road.

Discussion ensued relating to the ACT temporary parking, compensation, and filling of the water tank.

Ms. Goodwin explained that during the final closing of paperwork, staff discovered that the Sanitary District had not given final approval on the ACT, due to failure on inspection. She clarified that the inspection costs will be the responsibility of the contractor (Blue Cor), which includes the costs of removing the existing road and replacing, however, sanitary updates will be completed during the current road closure. She added that a press release be sent later this week. She noted that the Public Works Director Justin Weldy is in charge of this project and that she does not have a timeline for completion.

In response to a question from Chairman Myers, Ms. Goodwin confirmed that not all funds have been released to Blue Cor.

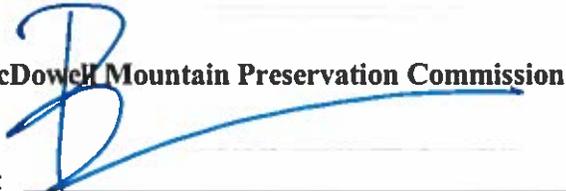
Discussion ensued relative to the emergency fire road, the DA, and enforcement through the Community Development Department.

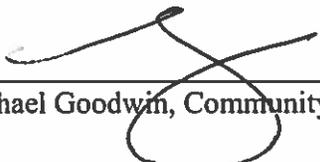
Ms. Goodwin suggested that the Town Planner and Interim Director attend a future meeting to update the Commission on the details of the DA. She pointed out that negotiations on the DA may be a moot point and the update would be for informational purposes.

**12. ADJOURNMENT**

Vice Chairman Barberic moved to adjourn, seconded by Chairman Myers; passed unanimously by those present (6-0).

The McDowell Mountain Preservation Commission adjourned at 6:08 p.m.

McDowell Mountain Preservation Commission  
By:   
Bill Myers, Chairman

Reviewed by:   
Rachael Goodwin, Community Services Director

Prepared by:   
Jamie Salentine, Executive Assistant

**CERTIFICATION**

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the McDowell Mountain Preservation Commission Regular Meeting held on April 29, 2019. I further certify that the meeting as duly called and that a quorum was present.

By:   
Jamie Salentine, Executive Assistant

Draft

MMPC 2019 objectives

Fountain Hills AZ

Bill Myers 

Listed are ideas of the 2019 MMPC objectives. No particular order or organization. Please look at the very tentative abbreviated list and contact me with other ideas, e.g. delete this one, add others. We will get a final list with a little more detail for our direction for calendar 2019. Tom Barbaric had the good idea of assigning each objective to a work group. That group was to accomplish the objective or see that it was done. So, we can allocate each of the final objectives to a workgroup. To be in compliance with the Open Meeting Law, please do not discuss, just send me your ideas.

By direction from the Town Council, the McDowell Mountain Preserve Commission (MMPC) is responsible for initiating the planning and provide management direction for the operation and protection of the Preserve. The following 2019 MMPC objectives are listed to meet that directive.

Thanks

Sooooo,

- 1 **Deterring if first aid kits should be installed at the two Trailheads.** Coordinate with the Conservancy on this issue.
- 2 **Determine if AED kits (defibrillator) should be installed at the two Trailheads.** Town may have addressed this item. If not, look at other valley Preserves to see what their experience is.
- 3 **Help with any final Adero Canyon Trailhead construction or installation of maps etc.** Final construction hopefully will be complete by 2018 except for utility hookups.
- 4 **Update Kiosk at both Trailheads** New maps and information on the right side of the Kiosks.
- 5 **Provide pictures/videos for town/conservancy/other websites to help get the ACT know.** The more the ACT is known, the better for our Town in economics, ambiance etc.
- 6 **Provide public knowledge campaign to let folks know about the Trailhead.** E.g. Access, safety, picnic tables. Times, Scottsdale papers, hiking/biking literature.
- 7 **More coordination with Scottsdale and Regional Park** folks in connection with the new trailhead. Joint hikes, joint training, joint trail maintenance etc.
- 8 **Install sign at Golden Eagle Trailhead** the \$1,200 sign has been discussed and we have a rendering. Maybe this is the year to erect that sign.
- 9 **Do grand opening of ACT if not already done.** November 17, 2018 for the opening, but we may have another Grand Opening in mid-2019 if the road is complete.
- 10 **Coordinate two town fairs with emphasis on new Trailhead** there is an opportunity go get the word out about the new Trailhead and other Town trails.
- 11 **Install Lower Sonoran Trail and Trailhead signs.** Hopefully to be complete in 2018.
- 12 **Deterring if fire/conservancy/other can fly drones over Preserve** to help find lost hikers etc. Other entities may be flying legal drones to help in safety matters.

- 13 **Add 5<sup>th</sup> trail counter and see that all 5 are working.** The information we can give the Council and others the better. The information can help with determining the trail maintenance relative importance.
- 14 **Do 19/20 MMPC budget** I think this has to be done in first quarter of 2019.
- 15 **Deterring if state Good Samaritan law is adequate to protect volunteers.** Is some additional coverage necessary? We have been told that Scottsdale volunteers have some kind of additional coverage.
- 16 **Better recognition of the SCFH.** The Conservancy does the vast bulk of the trail creating and maintenance and deserves a lot of recognition. With the new trailhead, the Conservancy will be even more involved this coming year.
- 17 **Quarterly updates of the Preserve to the Council** with a 10 minute update quarterly, the council may want an update.
- 18 **Two new trails in the Preserve.** The two legs in the Preserve appear to still be candidates for two loop trails to increase enjoyment of the Preserve.
- 19 **Updated thundrive** and information presentation of the Preserve and coordination with others. We have given several presentation to groups in town about the MMPC/Conservancy. We can continue this effort.
- 20 **Put QR codes on some new signs and update codes.** QR codes help with safety and general info on the Preserve.
- 21 **Determined if other events should be coordinated at the Trailhead.** There are a number of small events that the Town may want to use the Preserve for e.g. Weddings, outings.
- 22 **Update directional signage.** There are 6 "Sonoran Trailhead" signs on Shea and Saguaro that need to be replaced with updated directional signs. Determine how best to direct folks to the two Trailheads.
- 23 **New grants for the Preserve.** Determine if there are grants that the Preserve can take advantage of. Signage, monuments, Trail equipment, tools, trail building equipment, other.
- 24 **Doggie bags** at several locations
- 25 **Value ( in dollars and other)** of the Preserve
- 26 **Criteria for Benches** in Preserve
- 27 **Roy Kinsey recognition** lots of ideas.
- 28 **Make Promenade private vehicle accessible** see development agreement Toll/Town
- 29 **Finnish road and utilities to ACT** see development agreement
- 30 **See if first responders will have rescue training. E.g. Helicopters landing etc.**
- 31 **Presentation from first responders to MMPC/SCFH**

## MMPC Current Objectives.

March 2019

We have identified about 31 preliminary objectives for MMPC for 2019. Many other objectives over the last decade have been completed. Of the 31, the following 8 seem to be the most pressing and ones we can assign to a workgroup currently.

Per the last MMPC meeting, it was suggested that 3 of the Commission members get together to list the current objectives and assign to a workgroup. The following list is that list. The coordination with SCFH is more important this year as that great group is now more involved in the 2 Trailheads. More recognition of SCFH is still needed.

Objective	Workgroup
1) First aid kits and defibrators in the 2 trailheads	Safety
2) Assist with completion of the ACT	Trailheads
3) Assist with completion of the Emergency fire road	Trailheads
4) New Trail in the Preserve	Value of Preserve
5) Coordination with Sherriff and Marksman	Safety
6) What MMPC info gets to Council	Safety
7) Trail counters and "host" summary	Trailheads
8) Review workgroup Assignments	All of MMPC

### Four Workgroup names

### who

Value of Preserve

Tommie Aiello

\* Bill Craig

Paul Garvey

Safety

Scott Grzybowski

\* Tommie Aiello

Paul Garvey

Preserve Marketing and Fairs

\* tom Barbaric

Scott Grzybowski

Bill Myers

Trailheads

Bill Craig

\* Bill Myers

~~Stan Ruden~~

Darriene Slater

A good start.

## Section 9-5-3 General Preserve Regulations

The following are prohibited within the Preserve:

- A. Accessing the Preserve by leaving a trail or trailhead. All Preserve visitors shall stay on authorized trails and within trailheads, unless approved by the Director of Community Development.
- B. Accessing the Preserve outside of the posted hours of operation, unless approved by the Director of Community Development.
- C. Alcoholic beverages.
- D. Camping.
- E. Carrying or using any type of glass or ceramic container.
- F. Creating, developing or using any type of spider trail.
- G. Destroying any barriers, signs, or other Town property.
- H. Destroying, damaging or removing any vegetative or mineral resource, including but not limited to any tree, shrub, wildflower, cactus or rock outcropping.
- I. Dogs are prohibited unless on a 6-foot maximum leash at all times, and must remain on trails.
- J. Horses.
- K. Hunting, trapping or otherwise harming or harassing any wildlife.
- L. Littering or depositing garbage, trash, refuse or other obnoxious material anywhere other than in specific Town-provided containers provided for that purpose.
- M. Setting or igniting any type of fire.
- N. Smoking.
- O. Throwing rocks or other objects into washes, including but not limited to up or down hillsides and on or off trails.
- P. Using any vehicle, including motorized vehicles and bicycles, except authorized maintenance vehicles and during emergency evacuations along the Emergency Access Route as directed by emergency personnel.
- Q. Using or discharging any firearm, bow and arrow, slingshot or other weapon.  
(Ordinance 2002-01, Added, 01/17/2002)

### Class 1: Pedal Assist

The electric drive system on the ebike can only be activated through a pedaling action and is limited to relatively low speeds. The sensor usually measures pedal movement, pedal torque or bicycle speed (sometimes all three) and sensors are located in the bottom bracket, rear hub or rear wheel. In parts of Europe this class is limited to 15 mph (25 kph) with motor wattage  $\leq 250$  watts. In America, because of our more liberal vehicle definition, this class is limited to a motor powered speed of 20 mph (32 kph) with motor wattage of  $\leq 750$  watts. Due to the low speed of operation and required pedaling action this class should benefit from the same rights and access privileges as non-assist bicycles and should be able to be used on streets, bike lanes, multi-use bike paths and off-road trails.

### Class 2: Throttle On Demand

The electric drive system on the ebike can be activated through a throttle element such as a grip-twist, trigger or button and is limited to low speeds. The motor system may also be activated through a pedaling action as with Class 1. In parts of Europe this class would be considered a motor vehicle and is prohibited from use on trails and other bicycle-specific infrastructure and is therefore less common. For those locations where it is allowed in Europe, the top speed is limited to 15 mph (25 kph) with motor wattage  $\leq 250$  watts as with Class 1. In America this class is currently less restricted and therefore more common. The top speed is limited to 20 mph (32 kph) with motor wattage of  $\leq 750$  watts as with Class 1. Due to the low speed of operation without the required pedaling action, this class may be a bit more restricted but still benefit from the same rights and access privileges on paved surfaces as non-assist bicycles and should be able to be used on streets, bike lanes and multi-use bike paths.

### Class 3: Speed Pedelec

The electric drive system on the ebike can be activated through a pedaling action to reach higher top speeds. In parts of Europe this class is also considered a motor vehicle and requires special licensing, the use of an identification plate at the rear of the bike may be required and use is limited to roads or private property only with a maximum speed  $\sim 28$  mph ( $\sim 45$  kph). In America this class could still be considered a "low-speed electric bicycle" if human power propels the bike above 20 mph and as such, does not require special licensing but may be even more restricted to roads, adjacent bike lanes or on private property with a maximum speed  $\sim 28$  mph ( $\sim 45$  kph) and motor wattage of  $\leq 750$  watts. In America this class is often combined with Class 2 which produces bikes that have a throttle element capable of powering the rider up to 20 mph (32 kph) on motor power only, as well as a pedal assist mechanism capable of powering the rider up to 28 mph (45 kph). In parts of Europe, where throttles are less common, most Class 3 electric bikes only offer pedal assist.

### Class 4: Moped or Motorcycle

The electric drive system can be activated through a pedaling action or throttle. The top speed is above 28 mph (45 kph) and/or the motor wattage may be greater than 750 watts. In all major geographies this class would be considered a motor vehicle which requires licensing and registration and is limited to certain motorized off road trails or traditional roads. There has been some confusion in America where machines that resemble bicycles (having pedals) that are capable of high speed and power are used inappropriately without licensing or insurance and on infrastructure reserved for bicycles such as paths and mountain bike trails. This behavior is subject to the same legal action as driving a gas powered motorcycle or car and may result in severe legal ramifications.

The value of these classes and a key takeaway for the U.S. market is that the PL 107-319 law categorizes ebikes with  $\leq 750$  watts of power and top speeds of  $\leq 20$ mph as bicycles. It does not determine where this class can be used however. In the U.S., use is determined at the State or Local level, sometimes in the vehicle code section of law. By introducing classes, specifically the first three classes above, cities and states can help guide use for ebikes. These classes are being established in the U.S. by the BPSA (Bicycle Products Suppliers Association) using a special Electric Bike Committee and are being modeled on what has worked in Europe. The BPSA committee is working directly with ebike manufacturers and suppliers for buy-in and is creating model legislation to guide States. This is why these classes are also being listed here at [ElectricBikeReview.com](http://ElectricBikeReview.com) to help consumers understand what they mean and how they apply to bikes for sale. The goal is to create some consistency in the ebike space so that one type of low speed electric bike could be used on paths or trails in multiple geographies across America. The BPSA has an awesome map that shows where the laws are in place in the USA that I recommend checking out here.