

**TOWN OF FOUNTAIN HILLS  
MINUTES OF THE EXECUTIVE AND REGULAR SESSIONS OF THE  
FOUNTAIN HILLS TOWN COUNCIL  
JUNE 16, 2016**

**EXECUTIVE SESSION**

\* **CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Mayor Kavanagh called the Executive Session to order at 5:00 p.m. in the Fountain Conference Room - 2nd Floor.

**AGENDA ITEM #1 - ROLL CALL AND VOTE TO GO INTO EXECUTIVE SESSION: PURSUANT TO : (1) A.R.S. § 38-431.03(A)(3), DISCUSSION OR CONSULTATION FOR LEGAL ADVICE WITH THE ATTORNEY OR ATTORNEYS OF THE PUBLIC BODY, AND (2) A.R.S. § 38-431.03(A)(4), DISCUSSION OR CONSULTATION WITH THE ATTORNEYS OF THE PUBLIC BODY IN ORDER TO CONSIDER ITS POSITION AND INSTRUCT ITS ATTORNEYS REGARDING THE PUBLIC BODY'S POSITION REGARDING CONTRACTS THAT ARE THE SUBJECT OF NEGOTIATIONS, IN PENDING OR CONTEMPLATED LITIGATION OR IN SETTLEMENT DISCUSSIONS CONDUCTED IN ORDER TO AVOID OR RESOLVE LITIGATION (SPECIALLY, (I) PARK PLACE DEVELOPMENT AGREEMENT, AND (II) THE AMERICANA DEVELOPMENT AGREEMENT).**

Present for roll call were the following members of the Town Council: Mayor Linda Kavanagh, Vice Mayor Henry Leger, Councilmember Cecil Yates, Councilmember Dennis Brown, and Councilmember Nick DePorter. Town Manager Grady E. Miller, Town Attorney Andrew McGuire, Interim Development Services Director Robert Rodgers and Town Clerk Bevelyn Bender were also present.

Councilmember Nick DePorter **MOVED** to go into Executive Session at 5:00 p.m. and Councilmember Dennis Brown **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (5-0), by those present.

Councilmember Alan Magazine arrived at 5:01 p.m. and Councilmember Cassie Hansen arrived at 5:02 p.m.

**AGENDA ITEM #2 - ADJOURNMENT.**

The Mayor Kavanagh adjourned the Executive Session without objection at 5:50 p.m.

**REGULAR SESSION**

\* **CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Mayor Kavanagh called the meeting to order at 6:30 p.m. Fountain Hills Town Hall Council Chambers.

\* Rabbi Mendy Lipskier provided the invocation.

\* **ROLL CALL** - Present for roll call were the following members of the Town Council: Mayor Linda Kavanagh, Vice Mayor Henry Leger, Councilmember Nick DePorter, Councilmember Dennis Brown, Councilmember Cecil Yates, Councilmember Cassie Hansen and Councilmember Alan Magazine. Town Manager Grady E. Miller, Town Attorney Andrew McGuire and Town Clerk Bevelyn Bender were also present.

\* **MAYOR'S REPORT**

**None.**

i) **MAYOR KAVANAGH MAY REVIEW RECENT EVENTS ATTENDED RELATING TO ECONOMIC DEVELOPMENT.**

Mayor Kavanagh turned the meeting over to Councilmember Yates who spoke to the issue of domestic violence. Councilmember Yates stated he represented Fountain Hills on the Maricopa County Association of Government's Domestic Violence Committee and noted at their meeting this month, the committee finalizing their "Request for Qualifications" (RFQ) for a consultant for the risk assessment process to find the best resources for response and intervention. Councilmember Yates added that the committee had picked a vendor and was in the process of negotiating a contract. He added that the next stakeholders meeting would be held on June 21, 2016 and added that the committee was working on how to share information between municipalities when domestic violence cases occur and to have one source the cities and states could refer to for information. Councilmember Yates stated the committee was working on how to end regional domestic violence and working on five goals and he announced that if anyone had questions they could contact him or go to the web site [www.azmag.gov](http://www.azmag.gov).

Mayor Kavanagh asked for a report from Councilmember Yates and Councilmember DePorter who both attended the "Tourism and Hotel Association" meeting on the Town's behalf. Councilmember Yates explained that they attended a luncheon about tourism and added that even through Fountain Hills did not have some of the larger venues that some cities entertained the meeting consisted of information on investing in infrastructure and focusing on parks and the need to take care of them. Councilmember DePorter added that the meeting also focused on the importance of tourism to the State of Arizona and stated that he found that Fountain Hills had a good reputation with those in attendance. Mayor Kavanagh thanked Councilmember Yates and Councilmember DePorter for attending the meeting.

ii) **THE MAYOR WILL READ A PROCLAMATION DECLARING AUGUST 2016 DROWNING IMPACT AWARENESS MONTH IN THE TOWN OF FOUNTAIN HILLS.**

Mayor Kavanagh proclaimed August 2016 as "Drowning Impact Awareness Month" in the Town of Fountain Hills. She stated that drowning incidents in Arizona take the lives of the equivalent of a classroom of children each year. The Mayor added that the proclamation proposed simple steps to protect children around water to avoid the tragedy of the unnecessary loss of life and water safety and added this remained a priority for Arizona families.

**CALL TO THE PUBLIC**

Mayor Kavanagh asked if there were any speaker cards and Town Clerk Bevelyn Bender answered there were no requests received.

**CONSENT AGENDA**

**AGENDA ITEM #1 - CONSIDERATION OF APPROVING THE TOWN COUNCIL MEETING MINUTES FROM MAY 19 AND JUNE 2, 2016.**

**AGENDA ITEM #2 - CONSIDERATION OF APPROVING EIGHT SPECIAL EVENT LIQUOR LICENSE APPLICATIONS FOR THE FOUNTAIN HILLS AND LOWER VERDE VALLEY MUSEUM AND HISTORICAL SOCIETY (JEAN LINZER) FOR EVENTS TO BE HELD AT THE FOUNTAIN HILLS COMMUNITY CENTER, ON THE FOLLOWING DATES AND TIMES: (i) AUGUST 13, 2016 FROM 3:00 P.M. TO 10:00 P.M.; (ii) OCTOBER 19, 2016 FROM 6:00 P.M. TO 9:00 P.M.; (iii) NOVEMBER 16, 2016 FROM 6:00 P.M. TO 9:00 P.M.; (iv) DECEMBER 21, 2016 FROM 6:00 P.M. TO 9:00 P.M.; (v) JANUARY 18, 2017 FROM 6:00 P.M. TO 9:00 P.M.; (vi) FEBRUARY 15, 2017 FROM 6:00 P.M. TO 9:00 P.M.; (vii) MARCH 29, 2017 FROM 6:00 P.M. TO 9:00 P.M.; AND (viii) APRIL 19, 2017 FROM 6:00 P.M. TO 9:00 P.M.**

**AGENDA ITEM #3 - CONSIDERATION OF APPROVING A BUDGET TRANSFER FROM THE GENERAL GOVERNMENT'S FY2016-17 CONTINGENCY FUND TO COMMUNITY SERVICES IN THE AMOUNT OF \$93,454, FOR DOG PARK IMPROVEMENTS.**

**AGENDA ITEM #4 - CONSIDERATION OF APPROVING A BUDGET TRANSFER FROM THE GENERAL GOVERNMENT'S FY2016-17 CONTINGENCY FUND TO COMMUNITY SERVICES IN THE AMOUNT OF \$25,000, FOR THE FOURTH OF JULY CELEBRATION.**

**AGENDA ITEM #5 – CONSIDERATION OF APPROVING A PROFESSIONAL SERVICES AGREEMENT (CONTRACT #C2016-263) WITH ARTISTIC LANDSCAPE IN THE AMOUNT OF \$90,654, FOR IMPROVEMENTS TO THE DOG PARK IN DESERT VISTA PARK.**

**AGENDA ITEM #6 - CONSIDERATION OF APPROVING RESOLUTION 2016-14, THE SECOND AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT WITH THE MARICOPA COUNTY LIBRARY DISTRICT RELATING TO THE OPERATION OF THE TOWN OF FOUNTAIN HILLS BRANCH LIBRARY.**

**AGENDA ITEM #7 – CONSIDERATION OF APPROVING A PROFESSIONAL SERVICES AGREEMENT (C2017-002) WITH POWER TECH CONTRACTING, LLC, FOR TRAFFIC SIGNAL EMERGENCY ON-CALL SERVICES AND CALL-OUT SERVICES IN AN AMOUNT NOT TO EXCEED \$37,500.**

**AGENDA ITEM #8 - CONSIDERATION OF APPROVING THE AMENDMENT NO. 1 TO THE COOPERATIVE PURCHASE AGREEMENT (#C2016-186) WITH REDBURN TIRE COMPANY FOR VEHICLE TIRES AND SERVICE IN AN AMOUNT NOT TO EXCEED \$8,000.**

Councilmember Magazine **MOVED** to approve the Consent Agenda as listed and Councilmember Cecil Yates **SECONDED** the motion.

A roll call vote was taken with the following results:

Councilmember DePorter	Aye
Councilmember Magazine	Aye
Vice Mayor Leger	Aye
Councilmember Hansen	Aye
Councilmember Yates	Aye
Councilmember Brown	Aye
Mayor Kavanagh	Aye

The motion **CARRIED UNANIMOUSLY** (7-0).

Mayor Kavanagh announced that if anyone was attending the meeting and had been interested in the dog park improvement item that agenda item was listed on the Consent Agenda (item number #5) and had been approved.

**REGULAR AGENDA**

**AGENDA ITEM #9 – CONSIDERATION OF APPOINTING ONE (1) CITIZEN TO SERVE ON THE STRATEGIC PLANNING ADVISORY COMMISSION FOR A VACATED TERM BEGINNING JUNE 16, 2016 AND ENDING NOVEMBER 5, 2016.**

Mayor Kavanagh explained there was a sub-committee of Councilmembers who interviewed the applicants and they expressed their decision was difficult because everyone was qualified and the Councilmembers hoped that those not recommended to serve on this Commission look at other ways to serve the Town. No speaker cards were submitted and there was no Council discussion.

Mayor Kavanagh **MOVED** to approve Tammy Bell to serve on the Strategic Planning Advisory Commission beginning on June 16, 2016, and ending on November 5, 2016. Councilmember Yates **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (7-0)

Mayor Kavanagh acknowledged Tammy Bell in the audience and expressed her appreciation to those in the audience who had applied and she again encouraged them to find another way to serve the Town.

**AGENDA ITEM #10 – CONSIDERATION OF APPOINTING SEVEN (7) CITIZENS TO THE SISTER CITIES ADVISORY COMMISSION, THREE (3) CITIZENS FOR A THREE (3) YEAR TERM BEGINNING JUNE 16, 2016 AND ENDING ON JUNE 15, 2019, AND FOUR (4) CITIZENS FOR A TWO (2) YEAR TERM BEGINNING JUNE 16, 2016 AND ENDING ON JUNE 15, 2018.**

Mayor Kavanagh explained this was a new Commission to the Town and Councilmembers were filling the entire board.

No speaker cards were submitted and no Council discussion.

Mayor Kavanagh **MOVED** to appoint Enrique Melendez, Dr. Patrick Sweeney and Jackie Miles to serve on the Sister Cities Advisory Commission for a three (3) year term beginning June 16, 2016 and ending on June 15, 2019, and appoint Carol Carroll, Elizabeth Fichera, Virginia Pierce, and Bev Tall to serve on the Sister Cities Advisory Commission for a two (2) year term beginning June 16, 2016 and ending on June 15, 2018. Councilmember Brown **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (7-0).

Mayor Kavanagh acknowledged Carol Carroll who was in the audience and thanked her and the other members appointed who would be serving on this new Commission.

**AGENDA ITEM #11 – PRESENTATION OF THE TOURISM PROGRAM AND CONSIDERATION OF A TOURISM STRATEGIC PLAN FOR 2016 – 2019.**

Mayor Kavanagh explained at the request of Town Manager Grady Miller and due to the length of this meeting the Tourism Strategic Plan presentation would be moved to the Town Council August 18, 2016 meeting and she apologized for any inconvenience this may have caused.

**AGENDA ITEM #12 – CONSIDERATION OF RESOLUTION 2016-08, LEVYING UPON THE ASSESSED VALUATION OF THE PROPERTY WITHIN THE TOWN OF FOUNTAIN HILLS, SUBJECT TO AD VALOREM TAXATION, A CERTAIN SUM UPON EACH ONE HUNDRED DOLLARS (\$100.00) OF VALUATION SUFFICIENT TO RAISE THE AMOUNT ESTIMATED TO BE REQUIRED IN THE ANNUAL BUDGET, SPECIFICALLY FOR THE PURPOSE OF PAYING PRINCIPAL AND INTEREST UPON BONDED INDEBTEDNESS; ALL FOR THE FISCAL YEAR BEGINNING JULY 1, 2016 AND ENDING JUNE 30, 2017.**

Town Manager Miller explained this item involved the tax levy for the Town and was solely for the source to generate the needed revenue for the debt service on the Town's major capital projects such as the Saguaro Boulevard Project and the Community Center. Mr. Miller stated this was the last part of the budget's adoption and he recommended approval. Mayor Kavanagh asked for questions or discussion from Council. Councilmember Yates requested clarification that this was not a new tax. Mr. Miller replied that was correct adding that it was a yearly requirement under state law to notify the public of this tax. There was no further discussion or questions from Council so Mayor Kavanagh asked if there were speaker cards and Ms. Bender answered none were submitted.

Councilmember Yates **MOVED** to approve Resolution 2016-08 and Councilmember Brown **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (7-0).

**AGENDA ITEM #13 –PUBLIC HEARING TO RECEIVE COMMENTS ON RESOLUTION 2016-12, A MINOR GENERAL PLAN AMENDMENT RELATED TO THE PROPOSED “PARK PLACE” MIXED-USE DEVELOPMENT PROPOSAL TO BE LOCATED AT 16725 & 16845 E. AVENUE OF THE FOUNTAINS. IF APPROVED, THE AMENDMENT WOULD INCREASE THE MAXIMUM RESIDENTIAL DENSITY IN A MIXED-USE PROJECT IN THE DOWNTOWN AREA FROM 28 DWELLING UNITS PER ACRE TO 45 DWELLING UNITS PER ACRE. (CASE # GPA2016-01)**

Mayor Kavanagh explained that items 13 through 17 would be presented in one staff report and all speakers requesting to speak would be allowed to address any or all of the five agenda items during the public hearing for this project. She added if a speaker agreed with someone previously speaking, they could just remark that they agreed with that speaker.

Mayor Kavanagh opened the Public Hearing at 6:46 p.m.

Mr. Miller stated that this agenda item was a requirement that needed Council's approval before addressing the other four items on the agenda. Mr. Miller introduced Interim Development Services Director Robert Rodgers stating Mr. Rodgers would give the staff report that included items 13 through 17, which would include a PowerPoint presentation (available on line and in the office of the Town Clerk).

Robert Rodgers stated the applicant for this project was Bart Shea (from the N-Shea Group, LLC) for the Park Place Development proposed to be located at 16725 and 16845 E. Avenue of the Fountains in the downtown area. Mr. Rodgers pointed out that the applicant asked for four approvals that included a minor general plan amendment to increase the downtown density limit from 28 dwelling units per acre to 45 dwelling units per acre so as to accommodate the proposed Park Place Development project. He added the applicant asked for approval of a Development Agreement which outlined regulatory procedural agreements between the Town of Fountain Hills and the Developer of the Park Place project along with two re-plats in order to divide the area into lots according to the proposed phases of the development. Mr. Rodgers added that if approved, the Park Place Development would occupy two privately owned lots at about 9.3 acres and three Town owned properties consisting of three acres for a total of a little over 12 acres. Mr. Rodgers referenced a slide that laid out the proposed areas that included a mixed-use, commercial and multi-family residential project with buildings "C" & "D" a little larger and buildings "B" & "F" proposed at three stories with 72 apartments and building "E" & "F" having 8,000 feet of commercial space with building "B" having 102 apartments. Mr. Rodgers stated that building "C" & "D" (the two larger buildings) would contain approximately 232 apartments and 35,000 square feet of commercial space. He continued that the project would include a variety of streetscape improvements along the Avenue and a public art walk behind the Community Center with additional parking lots and a small pocket park.

Mr. Rodgers explained that the level of detail in the presentation slide was for informational purposes only to help Council put these requests into context. He added that the Planning and Zoning Commission and Town Council would have a chance to review the concept plans for each phase at a later date. Mr. Rodgers stated the reason the request was for a Minor General Plan Amendment was because this area was in the Downtown Area Specific Plan and a residential density increase of less than 80 acres and in current ordinance was capped at 28 dwelling units per acre. Mr. Rodgers pointed out that this request would not affect all of the downtown area, but only the avenue district and the south end district with the remaining seven districts remaining the same at the current 28 dwelling units per acre.

Mr. Rodgers continued that the requested Development Agreement was to facilitate the development proposed and would provide for variations and waivers of the Town's current development standards, ordinances and regulations and he listed the following variations and obligations:

1. Allow the project's Concept Plan review and approval process to proceed in three phases.
2. Allow the use of Town property for the purposes of additional parking.
3. Require the construction of an "art walk" behind the Community Center in lieu of 50% of the Public Art requirement.
4. Allow the use of on-street parking spaces in the calculation of available project parking spaces.
5. Allow a 20% overall reduction in the required number of parking spaces.
6. Allow for a 10:1 ratio of residential to commercial square footage within the TCCD zoning district.
7. Allow a residential density increase up to 45 dwelling units per acre.
8. Permit a project-wide maximum of 420 residential dwelling units.
9. Provide streetscape improvements, including crosswalk ramadas along the Avenue of the Fountains.
10. Provide a pocket park on the south side of the Avenue of the Fountains.
11. Allow for modified parking space dimensions.
12. Decrease the number of required loading zones from 14 to 4.
13. Increase the maximum building height allowance to 54 feet (four stories) in three buildings.
14. Modify the exterior building architectural offset requirements.
15. Provide free public Wi-Fi along the Avenue of the Fountains.
16. Allow for residential-only buildings within the TCCD zoning district.
17. Adopt a six-year development schedule.

Mr. Rodgers stated there were two re-plats requested with Lot 1 divided into two lots as 1A containing Buildings “C” and lot 1B containing Building “B” along with Lot 5 divided into three lots 5A containing Building “D” and Lot 5B containing Buildings “E” and “F” and Lot 5C being an access isle between building “D” and the Morningstar project. He noted that the Planning and Zoning Commission held their public hearing on May 26<sup>th</sup> regarding the proposed Minor General Plan Amendment and the motion to approve “failed” with a 3 to 3 vote by the Commissioners and he explained the official Planning and Zoning Commission recommendation was not to approve the general plan amendment and noted the draft meeting minutes were in their packets. Mr. Rodgers pointed out the Commission was not asked to consider the development agreement or re-plats so there was no recommendation on those requests.

Mr. Rodgers stated that staff recommended the Council approve the Minor General Plan Amendment for 45 dwelling units per acre and to approve the Development Agreement along with the re-plat request with the stipulations outlined in the staff report. Mr. Rodgers stated that the applicants would like to make a presentation.

Vice Mayor Leger asked Mr. Rodgers if he had an exhibit that would help them understand the height of some of the proposed structures and Mr. Rodgers answered he had provided a handout to the Council, but Vice Mayor Leger stated it was difficult to see and requested Mr. Rodgers bring up a couple of PowerPoint slides and describe the height of the buildings. Mr. Rodgers accommodated and explained that building “E” was four stories and “F” was three stories located on the corner of Avenue of the Fountains and Saguario Boulevard. Councilmember Yates asked if the slides were actually to scale and Mr. Rodgers they were draft. Councilmember Yates suggested that the Developer had sealed drawings he could present that would be more accurate. Vice Mayor Leger stated he had been asked questions regarding the project and wanted the residents to see what was being proposed. Mr. Rodgers stated that the slides he presented were not the true concept plan. Councilmember Yates asked that the Developer who had with him the certified concept plans be able to present them to Council. Mayor Kavanagh requested that questions from Council be held until the applicant made his presentation.

Wade Felkins, representing of Landmark Architects, addressed the Council and presented renderings recently taken of the project in photographs displaying buildings “C” and “D” on the north side of Avenue of the Fountains, an image directly in front of Town Hall looking south-east along the Avenue, and he presented a line-of-site graph that showed the masses of building “D”, which was part of the Phase I application. Another slide showed Building “C” at the west end at approximately 41 ½’ tall from the finish grade and the east end of the building at approximately 54’ tall. He continued that building “D” was similar to building “C” and would be recessed at the west end then stepping down floors to match the grade to meet ADA requirements. Mr. Felkins also presented a slide that showed the overall height analysis with more detail and another slide showing the view from Town Hall east and the parking area on Town property and added that the architects took pictures of existing palm trees and superimposed the buildings in a photograph that showed the tallest palm tree at the height of 48’.

Councilmember Magazine questioned if Building “C” was 54’ and the palm trees in the photo were 48’ on the other side and Mr. Felkins responded that was correct. Vice Mayor Leger asked for the height of building ”D” and Mr. Felkins answered the west building was approximately 45’ and on the other end was 54’.

Bart Shea (N-Shea Group) explained that everyone had spent a long time on this project and pointed out that N-Shea Group had originally submitted a Planned Area of Development (PAD) in December 2014 and currently had submitted five different reversions and gone through plan checks to achieve full construction drawings and concept plan approval. Mr. Shea added that the project started three years ago with 400 units plus the Morningstar project and had gone from 40,000 square feet to 60,000 square feet then back down again to 40,000 square feet of commercial on the first floor of the buildings. Mr. Shea explained that N-Shea Group was a privately formed company and had been in existence for six years and noted that one-half of their projects were in Fountain Hills and that was due to him living in Fountain Hills. Mr. Shea stated that over the past three years, there had been a lot of modifications and negotiations to the project along with changes to the buildings heights. He added that it was very important to N-Shea to make Fountain Hills everything possible and stated the opinion that the Town did not have enough residential anywhere in Town at the rental rates to retain residents. Mr. Shea felt that everything in his proposal was right for the Town and N-Shea was ready to proceed.

Mayor Kavanagh acknowledged that a number of citizens had submitted requests to speak. Town Clerk Bevelyn Bender advised that in addition to those who wished to speak that she had also received cards from citizens who

indicated their position on this issue in writing, but did not wish to speak [seventeen citizens were against the project and seven citizens were in support of the project].

**\*The following citizens submitted speaker cards but indicated that they did not wish to speak and expressed opposition to the proposed project.**

We are against four story and larger footprint; against increased density; too high of density within a small area for people, stay with Swayback; against project; four story height; would like to know why the fourth floor was needed, density seems overkill for Fountain Hills; this sounds like a “bait & switch”, got project that met zoning and now wanted to make major changes; why were they given a 20% reduction on the number of parking spaces; “no” on increased density; I am not in favor, “no” on Park Place; opposed the request to increase the density from 28 to 50 dwelling units per acre represented gross overdevelopment, applicant was unable to provide enough on-site parking or meet loading/unloading requirements per 2010 Strategic Plan, Council needed to be stewards of this unique conclave, dedicated to preserving the environment and visual aesthetic, need to live in balance with the Sonoran Desert, if applicant was serious about developing the properties he should do so in accordance with the ordinances; applicant should not be permitted to meet parking requirement with off-site land or reduce loading/unloading zones in addition to the multitude of other requests; concept as presented would be an eye sore to the community and damage the small-town environment that is Fountain Hills, needed southwest feel, if project failed Fountain Hills would have to live with all repercussions; this project would ruin our town, buildings are too high and ugly, we don’t need 400 apartments; against project; do not want new buildings on Avenue of Fountains that obstruct the views and the original concept of Planning for the Town; need more info, do not agree as proposed; no higher than two stories, we don’t need traffic or traffic lights, please keep the Avenue in accordance with what was already there, shopping and small eateries on ground level, second floor apartments and condos, open balconies, don’t “blow-out”, such a beautiful area, keep Fountain Hills unique.

\*Chris and Maryann Cygan

\*Ed and Joanne Cherney

\*Garrett Wilson

\*Angel Wilson

\*Nancy Marcacci

\*Elaine Tarr

\*Lloyd Tarr

\*Margarete Ripps

\*Janna Palmer

\*Denise Ham

\*Joyce Opria

\*Tom Marcacci

\*Dolores Colman

\*Jeff Kwarther

\*Diane Hamilton

\*Rosa Janssen

\*Julia V. Byrne

**\*\*The following citizens submitted speaker cards but indicated that they did not wish to speak and expressed support of the proposed project.**

\*\*Dave Long

\*\*Hayden Brecto

\*\*A resident who lived in Stoneridge Court

\*\*Hope Brecto

\*\*Alice Blackerby

\*\*Bruce Wyman

\*\*John Weil

\*\*Greta Wren

**The following citizens spoke in opposition and/or made the following comments/recommendations regarding this agenda item for the following reasons in order of presentation.**

The two story buildings were not in line with the “2009 Swaback Plan”, questioned the letter of support from Swaback since this plan did not meet their design accommodating high end restaurants and a village square built as a prominent park and 2<sup>nd</sup> story offices, lacked compliance with the 2009 “Vision Plan” called for two not four story buildings, opposed two story buildings on one side and four story on the other side; traffic study had not been finalized, requested Council postpone action until the report was available for review, project could increase traffic, congestion, noise along with possibly impede emergency vehicle access and interfere with fair traffic; Town not reflective of a big city and its buildings were not located close to roads, needed an impact study for review; height of buildings would remove views from one of the Town’s major venue; Town currently had empty stores that residents could barely support, 80 home rentals available, who was going to live in 400 one-bedroom apartments, believed renters would not be young people due to lack of industry, contemporary style of the buildings that did not fit in, could see Developer going bankrupt and downtown full of empty units; questioned the 61% increase in density, opposed the increase from 250 to 400 units; not opposed to development in Fountain Hills except that the Town was giving eleven of the seventeen concessions to the Developer, new buildings would tower over the “American Grill”, Council previously approved a project that allowed for an increase in density from 12 units to 28 units and this project requested more, blocked views from residential and commercial properties, would bury the Avenue of the Fountains in a cavern, suggested Council approve project with no more than the current 40’ height, no more than three stories and specifically state how tall a three story building should be due to this being a loop hole that needed closed; did not understand why 45 units was needed to be viable, concerned with the height and moving towards three stories instead of two, she paid extra for condo because of the view and this project may take her views and affect her property value, agreed town needed development but this project caused an imbalance to other buildings; asked Council to table project for at least a month and research the line of site due to the 54’ height of the buildings, should not look like Scottsdale or Manhattan, wanted the beautiful view; Town zoning codes did not include four story buildings, 2009 Swaback Plan had a southwest lifestyle and two story buildings, during Planning and Zoning Commission meeting the Shea team was asked why they were not talking about height along with density and their response was they were only talking about density and height was unrelated, without the height they could not have the density, Shea was making their own rules, buildings 15 feet above normal standard, need to stand by current codes, Developer was developing through sheer greed, density would be four times more than standards, needed a traffic and parking study, Shea was suing the Town and Planning and Zoning Chairman due to perceived interference, Town needed a proposed referendum vote by residents and property owners since this project was dramatically different than planned, questioned the low rental and the possibility of Section 8 property in the center of town, young people and families were only going to move to Fountain Hills for good paying jobs and a good educational system, rentals were going to be rented by snowbirds because people live in Fountain Hills because of the community as it was today, most important piece of land available in Fountain Hills and asked Council not to be intimidated into a bad decision; when he built on the Avenue was told codes stated no higher than 27 feet due to parking and views, Town should not approve any higher than 40 feet, Town needed a swimming pool to attract young people because the Town was too boring and people moved away, if project as proposed his business would be looking at a wall, would like the look of a project more Santa Fe style along with a four screen theater, Developer knew of height requirements when he purchased the property and requirements should not change; supported N-Shea but was concerned in the Fountain Hill’s vacancy rate of 21.34%, project on the lake remained empty and wondered if the Developer researched whether or not this project would succeed, Developer did not present a report of the surround buildings, could this be a copy of the Morningstar Senior living because that would not be good, how would the density of the apartments affect the Town’s traffic pattern, Town needed a traffic report since there were only two ways in and out of town, how many two and three bedroom apartments were proposed that would bring in young families and not just fixed income winter visitors, questioned the sidewalk set-backs, Glendale project was only a dream for N-Shea due to their 5% vacancy rate unlike Fountain Hills 21%; interested in analysis related to proposed project; requested Council look at the appearance of the buildings, would rather see vacant lots at the end of Avenue of the Fountains than the concept of these building designs, need to show that Council cared about the appearance of the town, also disagreed on the 54 feet elevation, supported the need for one-bedroom apartments for younger people, questioned if the Town had a right to block views from the buildings currently located on the Avenue, take a look at Santa Fe with their value and define the mountains around town; strongly against the density, height and the change in traffic on the Avenue, against esthetics, urged Council to reject because the plan did not fit in Fountain Hills and would have a negative impact on the character of the community, nothing could be done after this project was built, right decision should be made for the good of the community; project could change the look and feel of the

Town, experience living in a community that changed to a tourist and week-end community and found taxes increased 50% in a short time, the Town needed jobs but the jobs allowed in this project would not fund workers to live in Fountain Hills, need high paying jobs in a plan, 400 more units would create a gap with years needed to fill the rentals, rentals could become condos and would impact the property owners in the community, Town needed an identity different from neighboring communities along with creating jobs and activities that would encourage people to come and live here; good arguments for and against, not a good fit, but did not know what a good fit would be, dry dirt was not acceptable, Town needed a population study since 400 units were being proposed, he would accept Council's decision because he loved Fountain Hills, did not like the look of "artsy", encouraged Council to make the right decision, needed to create an identity; the town did not need 400 apartments and four stories were too high; concerned for the infrastructure of the community, small grocery stores and how they would be affected adding 400 more apartments in the middle of the community and the overall feel of the Town, concerned about traffic issues with additional drivers, views in their community would be totally blocked.

Bob Wilson  
David Bickler  
Mitch Friend  
Anthony Esposito  
David Adler  
Ted Blank  
Vickie Simone  
Geoff Ripps  
Lee Miller  
Jerry Kirkendoll  
Jeanne Mayeux  
Candace Pepin  
Cathy Buge  
Barbara Sudderth  
Tina Gleisner  
Bill Varanese  
Diana Cogar  
Dee Lange

**The following citizens spoke in support of this agenda item for the following reasons and/or made the following comments/recommendation in the order of presentation:**

Potential real estate buyers questioned vacant lots along with the lack of interest in businesses moving to town, acknowledged the time and effort Bart Shea worked on the project, Fountain Hills needed to grow or die as a town, apartments were hard to find for less than \$800.00 per month; businesses needed people to survive and this project worked in a downtown district, knew of friends businesses that closed or moved away; Swaback Plan was not done in an economic way, economics dictated this being built at this time or a downtown project would never happen due to the Developer's risks; Town needed more resources; this project could offer modest rent for young people to move to Fountain Hills along with more tax revenue, would help the declining school district, if not built the lots would stay vacant and ugly; Town was not known as progressive but could be on right track, young people cannot afford to live in Fountain Hills at this time, children would have a place to shop and meet and the project would create more jobs, bring in children and additional tax dollars with this affordable housing project; Thanked the Developer for their time and investment, wanted to keep the Town alive and support the local businesses, Town's businesses employees could move to town and not have to drive a great distance to work with more housing opportunities, more available shopping and dining opportunities and activities and this project would allow that to happen, wanted the downtown to take shape with retail on the Avenue with residential above; Park Place plan accounted for a sustainable development to support retail businesses that need year-around residents to live near downtown, buildings were higher due to the slope of the land, Town needed to be more flexible within the downtown zones, Swaback stated this project was right for the Town's vision, the Town had a builder that supported the project, lived and loved Fountain Hills and was an honest and generous person, would build a development the Town would be proud of, give life to the downtown more than nine months of the year, never be a perfect project for the downtown; wanted to support N-Shea's development;

involved in the Town's Strategic Plan and retail attracted retail, would generate property taxes, increase the capacity to sell bonds to support infrastructure, increase the town's declining population, retail supporting jobs, more employees living and working in town with affordable housing, eliminate dust on the lots, six attempts to develop this property, a feasible plan, show Developer's the Town would work to improve the two-square miles of State Trust Land; tremendous opportunity for the community, a lender would not support this project unless there were a lot of background research made to make the finances work, Sanitary District upgrades completed by Developer would benefit the Town's continued growth in downtown, no issue with traffic counts because Saguaro Boulevard was built to handle the traffic; "Vision of Fountain Hills" supported the project, more people wanted to occupy this type of housing do to moving or retirement and wanted to downsize in their homes, living with an elevator and access to downtown, recent research showed only seven homes for rent in Fountain Hills under \$1,100 per month and overall very few rentals available, young people would not be able to move here and afford \$500,000 homes, the Town needed people living downtown and supporting the businesses, pointed out there were a lot of homes in Fountain Hills that blocked views.

Kelly Smith  
Charlie LaMar  
Roger Riggott  
Tyler Bode  
Amberleigh Dabrowski  
Jay Schlum  
Todd Brecto  
Phillip Blackerby  
Art Tolis  
Dori Wittrig  
One speaker was not available to speak and did not express her opinion on their card.  
Susan Dempster

Ms. Bender stated that two speakers had also requested to address item number 15 separately on the agenda. Mayor Kavanagh requested all speakers be heard at this time regarding all aspects of the project. The following comments were offered by Bob Wilson and Ted Blank regarding the project: The proposed plan not in-line with the Swaback Plan with two story buildings recommended; questioned Swaback's support of the project and their recommendation that the Avenue accommodate high end restaurants and a village square with two-story offices; 2009 Vision Plan also called for two stories not four on the Avenue; did not support two story buildings on one site and four on the other side; no traffic study available for citizens review; increased traffic, congestion, noise and possibly impeding emergency vehicle access and interfering with fair traffic.

Mayor Kavanagh acknowledged the residents who had sent emails to Council that they had been read and considered; she thanked everyone for their input.

Mayor Kavanagh closed the Public Hearing at 8:35 p.m.

Mayor Kavanagh called for a 10 minute recess at 8:35 p.m. and reconvened the meeting at 8:47 p.m.

Mayor Kavanagh stated that one more speaker card had been submitted and Town Clerk Bender noted that the citizen did not wish to speak but wanted Council to know they were in favor of the project.

Mayor Kavanagh thanked everyone who spoke whether they were for or against the project or in the middle and thanked all of them for taking their time to attend the meeting along with those who emailed Council.

**AGENDA ITEM #14 – CONSIDERATION OF RESOLUTION 2016-12, A MINOR GENERAL PLAN AMENDMENT RELATED TO THE PROPOSED “PARK PLACE” MIXED-USE DEVELOPMENT PROPOSAL TO BE LOCATED AT 16725 & 16845 E. AVENUE OF THE FOUNTAINS. IF APPROVED, THE AMENDMENT WOULD INCREASE THE MAXIMUM RESIDENTIAL DENSITY IN A MIXED-USE PROJECT IN THE DOWNTOWN AREA FROM 28 DWELLING UNITS PER ACRE TO 45 DWELLING UNITS PER ACRE. (CASE # GPA2016-01).**

Mayor Kavanagh asked the Council for a motion.

Councilmember Yates **MOVED** to accept Resolution 2016-12 as presented and Councilmember Dennis Brown **SECONDED**.

Mayor Kavanagh asked for Council if there was further discussion.

Vice Mayor Leger stated it was fair to say there were diverse opinions on this project and he appreciated the civility of the discussions from residents and noted everyone concurred wanting a development downtown and it to be mixed-use. However, he offered the opinion that the biggest hurdle appeared to be the height of the buildings due to the proposed increase in density to 45 units. Vice Mayor Leger pointed out that he was sensitive to residents who had purchased property with the understanding that certain height and density specifications were in place on adjacent commercial property and how many people were opposed to the density but not the project. He also expressed that flexibility in height and density was critical to accomplish the goal as well as meeting the intention of the Developer. Vice Mayor Leger stated the challenge was to bridge the gap between the opposing points of views within the community on density along with being flexible. Vice Mayor Leger proposed an amendment.

Vice Mayor Leger moved to **AMEND** the motion to increase the density from 45 units per acre to 35 units per acre and Councilmember Hansen **SECONDED** the amendment.

Mayor Kavanagh asked if there was Council discussion on the amendment.

Councilmember Yates expressed that compromising would affect the integrity of the project since the project was determined by the capitalization rate and he explained that how much money could be generated to support the debt of the project was necessary relative to the market and lowering the density could not be done due to finances of the project.

Councilmember Dennis Brown complimented the speakers and stated his appreciation for them giving Council some direction; he noted the time he had personally worked on this project that involved one-year and on a daily bases. Councilmember Brown initially thought on his first review that the buildings were too high and would not fit in downtown due to the increased density, but after closer inspection cutting the density and height on this project would not allow the project to be built. He acknowledged that the Developer had the proper funding and only requested the Town to compromise. Councilmember Brown stated the opinion that it was okay that the buildings were somewhat tall allowing the density to increase and he added that no project would be built if not this one.

Vice Mayor Leger acknowledged there were opposing views and that his fiduciary responsibility was to the residents and business community. He expressed his amendment was not a compromise but the views of residents along with his knowledge that flexibility was needed. Vice Mayor Leger expressed he had respect for the N-Shea Group as they were Developers.

Councilmember Hansen acknowledged that opinions were almost even along with some that supported both sides and expressed her support in the reduction of density to address everyone. She pointed out some concerns not addressed and some unintended consequences involving increased future developments costs that were currently in the planning stage. Councilmember Hansen mentioned how this project could impact the sewer system with its higher density and the proposed one reserved parking space per unit and the affect parking would have on three bedroom units. She stated that the Swaback Plan noted that parking was important for the residents and businesses in the area and their marketability. She also expressed that Swaback supported the plan based on a letter received last June so she contacted Swaback and spoke to Jeff Denzak to expand on his letter. Mr. Denzak informed her that in concept Swaback supported the mixed components, but without seeing the plan Swaback could not support the consistency of the plan. Councilmember Hansen said she had sent the proposed documents and wanted it known that Swaback only supported the concept of this proposed plan. Councilmember Hansen also pointed out that no restaurants were included in the plan and that Mr. Denzak told her boutiques were drivers for other retail. She also stated that elevators in the proposed building were important due to seniors renting and that she wanted more global information on the impact to the community.

Councilmember Magazine thanked everyone for their input and did not want to question any motives of Councilmembers with their vote and added he did not feel this project was in the best interest of the community. Councilmember Magazine referenced the 2009 Strategic Plan and its "Vision" and felt this project did not meet the objectives and he also questioned if younger families would move to Fountain Hills to reside in this project, but offered it was most likely that it would be winter visitors that would be living there part time and impacting the Town's tax base. He also mentioned that the Town faced at least a \$5.9M deficient through 2021 and no amount of development would help the Town's financial situation. Councilmember Magazine expressed the need for a primary property tax. Councilmember Magazine also felt the project issues involved the four stories proposed that would dwarf the surrounding buildings and block views for residents and businesses. He also had Interim Development Services Director Robert Rodgers open a slide on his PowerPoint presentation to reference and explain the significant shortage of parking spaces where the Development Agreement allowed for a 20% reduction in commercial and residential and noted that only a preliminary parking plan was given to Council to consider and for their approval. He also pointed out the impact on parking when the winter visitors returned or during the Town weekly market or the Great Fairs. He questioned the "Art Deco" design of the buildings in his opinion were out of character from the surrounding buildings. Councilmember Magazine expressed that this project would not enhance, be harmonious or progressive for the Town and was not the answer as proposed.

Mayor Kavanagh asked the N-Shea Group if they would like to respond to any the comments made by Councilmembers. Bart Shea pointed out there were 35 units per acre, within nine acres and mentioned that their 3-year marketing analysis found to sustain the amount of commercial the Town required was driven by both height and density of the project for its sustainability. Mr. Shea explained it was essential to rent this project to full-time residents and students and explained there were three elevators in every building. Mr. Shea addressed the parking issue discussed and in a draft of full parking calculations and the 968 spaces required by the Town's ordinance, this project had 965 parking spaces along with restaurant parking in the commercial area and included a boutique space of 3,000 square feet that could be a deli. He added that residential parking was located behind and on a podium for visitors and residents and was allowed in the development agreement with open parking on the Avenue. Mr. Shea mentioned that it would be more accessible for residents to park on the building level located close to their apartment and then take the elevator to their floor. Mr. Shea pointed out that most of the issues in question had already been mitigated and that a traffic analysis had been completed for over a year. He explained that the plan was considered a draft was due to N-Shea receiving some redlines from staff and then agreeing to bring in a third party to review the analysis to make sure N-Shea was accurate or with minimal changes. Mr. Shea addressed the sewer issue and explained it was going to be very expensive and had been thought out with enough capacity with some design change.

Mayor Kavanagh asked for any questions of the applicant.

Vice Mayor Leger stated he appreciated Mr. Shea's efforts and added his position was to make the project work for all parties and palatable with respect to the height and he understood Mr. Shea's financial challenges. Vice Mayor Leger questioned the six-year length of the project. Bart Shea answered that in a development agreement this was a standard operation function since the first two phases of the project would involve buildings "C" & "D" containing 230 units for rent along with 34,000 feet of commercial and added the next phase building E would maybe a "For Sale" project and he did not want to compete with the other buildings. Mr. Shea stated it would take 13 to 14 months to build and then another 13 to 14 months to completely fill out the residential and commercial. He explained that the market would dictate the start of the third building and six years was a compromise to keep moving the project along financially. Vice Mayor Leger thanked Mr. Shea for this explanation and wondered what would happen if Phase I was completed and the market showed it was against building Phase 2 and Phase 3. Mr. Shea answered he would have to adjust at that point on the "For Rent" project and go to a "For Sale" product.

Vice Mayor Leger asked about building "C" and if there would be a lot of three bedroom apartments. Bart Shea explained that three bedrooms was a loss leader and due to the distinct market in Fountain Hills there would be 10% of three bedrooms, 30% one bedroom with the others two bedroom with five different floor plans. Vice Mayor Leger questioned the development agreement that allowed one parking space per unit where two and three bedrooms were located and wondered if there would be a problem with additional vehicles. Mr. Shea explained that there were 960 spaces for 400 units and double retail parking that calculated at least 2.5 spaces per unit. Vice Mayor Leger thanked Mr. Shea for his time.

Councilmember Magazine asked about the 960 parking spaces for 400 units and wondered how many unit dedicated spaces there were. Mr. Shea answered that in Phases 2 and 3 there were no calculations at this time, but in Phase 1 there would be 650 to 690 with each unit dedicated one stall and one guest stall per unit. Councilmember Magazine asked where the guest stall would be located. Mr. Shea answered throughout the site and explained the dedicated parking space would be a covered stall.

Councilmember DePorter felt that N-Shea was creating a “Main Street” with a sense of place and a walkabout that excited him. Councilmember DePorter added that the school district would flourish and since the school district was the largest employer in Fountain Hill, this project would be a pipeline for the student population. He added this would create more development opportunities in Town and would make a positive impact on existing businesses with opportunities such as boutique shops to be located on the main street and not in remote locations as they were today. Councilmember DePorter addressed the character of the proposed buildings and noted that on the north side of the Avenue the buildings were different in design and did not match and this project would then set a tone on the other side of the street. Councilmember DePorter suggested that the owner of the “American Grill” create condos on top of their building since that space had been vacant since Broker Alliance moved. He added that Broker Alliance had expressed in a survey the reason Fountain Hills lost people was due to corporate housing and the lack of viable retail and the Greater Phoenix Economic Council (GPEC) had expressed that “millennials” moved was because they wanted urban living, walkabout downtown and activities to do and pointed out that Park Place met those requirements with his full support.

Councilmember Magazine questioned a statement by Mr. Shea when he said there would be 968 parking spaces and asked Interim Development Services Director Robert Rodgers if that number coincided with his information. Mr. Rodgers answered that staff only had the concept plan for Phase 1 and mentioned the Town’s Ordinance required a few over 1,000 parking spaces.

Mayor Kavanagh said in an effort not to repeat everything said previously, she added she was in favor of the project. Mayor Kavanagh explained that many of her questions were answered since she was privileged to attend the meetings involving the project. She expressed that one of the priorities was schools and she had heard from School Superintendent Dr. Sweeny that he was in favor of the project who had expressed the opinion that the project would increase enrollment in the schools.

Mayor Kavanagh mentioned the Four-Peaks condos located across from Safeway. She commented that Four Peaks stopped renting their units and sold them as condos the Town’s school district lost 200 students since a lot of the families could not afford to purchase a condo and that over one-half of the Four Peaks condos were owned by winter visitors and in Town for short periods of time, otherwise the units were left empty. Mayor Kavanagh pointed out that the Park Place apartments would work for people that wanted to live in Fountain Hill’s year around and those with jobs in town. She explained that Brokers Alliance had stated that in Fountain Hills there were jobs available but they were unable to fill them because the Town’s housing was too expensive. Some businesses in Fountain Hills had purchased condos for their employees so they could afford to work and live in Town. Mayor Kavanagh also believed this project would bring young people to Town along with attracting Tech Companies and she mentioned residents that liked to ride their bicycles without using their vehicles to visit downtown and use the medium to attend events that the Town offered. She also added that with the additional population would bring in other venues. She expressed that the business community had spoken loudly through the Chamber of Commerce, Former Mayor Jay Schlum, and other prominent business people in Town who hoped to create a business in Town and possibly expand, but she expressed with the current population this would not happen.

Mayor Kavanagh stated that the Town’s population was approximately 24,000 and four to five thousand who were winter visitors and she added there was a need for permanent residents who were dedicated, willing to volunteer and be a part of the community. She added that the businesses in Town was the life-line since sales tax paid for almost all the Town’s expenses and she wanted the community to support them. Mayor Kavanagh mentioned all the time people spent on this project along with the expertise in development from Councilmember Yates and Councilmember Brown.

Mayor Kavanagh requested a roll call vote on the amendment reducing the density from 45 to 35 units per acre.

Councilmember Hansen	Aye
Vice Mayor Leger	Aye
Councilmember Yates	Nay
Councilmember Magazine	Aye
Councilmember Brown	Nay
Councilmember DePorter	Nay
Mayor Kavanagh	Nay

The amendment **FAILED** (3 - 4).

Mayor Kavanagh requested a roll call vote on the original motion.

Councilmember Yates	Aye
Councilmember DePorter	Aye
Councilmember Hansen	Nay
Councilmember Brown	Aye
Councilmember Magazine	Nay
Vice Mayor Leger	Nay
Mayor Kavanagh	Aye

The motion was **APPROVED** on a 4-3 vote.

**AGENDA ITEM #15 – CONSIDERATION OF RESOLUTION 2016-13, A DEVELOPMENT AGREEMENT RELATED TO THE PROPOSED “PARK PLACE” MIXED-USE DEVELOPMENT PROPOSAL TO BE LOCATED AT 16725 & 16845 E. AVENUE OF THE FOUNTAINS. CASE # DA2016-01**

Mayor Kavanagh asked for Council discussion or comments.

Councilmember Yates stated that the average priced single-family home in Fountain Hills was upwards of \$500,000 and the average price of both single-family and condos was \$397,000 and expressed that this project would bring in a new product with less rent. Councilmember Yates continued that an “Urban Village” involved a dense housing, mixed use with smaller retail spaces and the height of a mid-rise and he explained that he had requested an expert’s advice Paul Winslow who designed the Town’s middle school building and stated he valued his opinion on the Park Place project. Mr. Winslow had given his approval and stated that this project would change the face of downtown in a good way, by meeting every criteria and he agreed on the street parking. Councilmember Yates added that the next area Council would be looking at was Plat 208’s open lots to hopefully bring in small business opportunities.

Councilmember Yates mentioned he had attended the “International Council of Shopping Centers” conference in Las Vegas recently and learned that restaurant sales had surpassed grocery store sales and this could create an opportunity for small business to expand into the foods sales along with their small stores. He also learned that researched showed even though millennials were shopping on-line they were still shopping the “brick and mortar” shops with a sense of place and social gathering and stressed this project could bring in 600 additional people into Fountain Hills to shop.

Mayor Kavanagh requested a motion on this item.

Councilmember Brown **MOVED** to approve Resolution 2016-13, a development agreement related to the proposed Park Place mixed-use project development proposed to be located at 16725 & 16845 E. Avenue of the Fountains with three stipulations to the referenced version # 22 in the Council packet.

- 3.3.B – Delete
- 3.3.D – Delete
- Add to 5.5 the language “except for building “F” as shown on the Land Use Plan, which shall be limited to not more than three stories” and add language “not to exceed 40”.

Councilmember Yates **SECONDED** the motion.

Town Attorney McGuire requested that Councilmember Brown verify that the stipulations were to be:

- Delete 5.3.D
- Delete 4.3.D
- Amend 5.5 to add “except for building “F” as shown on the Land Use Plan, which shall be limited to not more than three stories” and add language “not to exceed 40”

Councilmember Brown concurred that the stipulations as stated by Mr. McGuire were correct.

Vice Mayor Leger **MOVED** to amend the motion changing item 5.5 from 54 feet to “Not to exceed 48 feet and Councilmember Hansen **SECONDED** the amendment.

Councilmember Yates pointed out “compromise” and explained that to rent an apartment with less than 1,000 square feet would reduce the height and make the apartments harder to rent and would also compromise the integrity of the project.

Vice Mayor Leger did not believe it was a compromise and explained that his amendment addressed the Town’s Ordinances by allowing for an additional eight feet.

Mayor Kavanagh asked for a roll call vote on the amendment.

Councilmember Hansen	Aye
Vice Mayor Leger	Aye
Councilmember Yates	Nay
Councilmember Magazine	Aye
Councilmember Brown	Nay
Councilmember DePorter	Nay
Mayor Kavanagh	Nay

The amendment **FAILED** on a 3-4 vote.

Mayor Kavanagh asked for a vote on the original motion that included Councilmember Brown’s three stipulations.

Councilmember Magazine requested the stipulations be repeated by Councilmember Dennis Brown and to vote “seriatim” because voting on all three at once could create a conflict. Mayor Kavanagh stated she believed that all the stipulations would be voted on together. Councilmember Brown reiterated the stipulations as verified earlier by Town Attorney McGuire. Town Attorney McGuire clarified that the motion was to approve all the stipulations included and would be voted on as a whole. Mr. McGuire stated that Councilmember Brown could withdraw his amendments and then Council could vote on the stipulations individually.

Mayor Kavanagh asked Councilmember Brown if he wished the motion to be voted on as a whole and Councilmember Brown answered that he wanted the vote on the motion as a whole package.

Mayor Kavanagh asked for a roll call vote on the motion.

Councilmember Yates	Aye
Councilmember DePorter	Aye
Councilmember Hansen	Nay
Councilmember Brown	Aye
Councilmember Magazine	Nay
Mayor Kavanagh	Aye

The motion was **APPROVED** on a 4 – 3 vote.

**AGENDA ITEM #16 – CONSIDERATION OF APPROVING THE FINAL REPLAT OF 16845 E. AVENUE OF THE FOUNTAINS, AKA PLAT 208, BLOCK 7, LOT 5 (APN 176-25-561) INTO THREE LOTS LABELED LOT 5A, LOT 5B AND LOT 5C. CASE # S2016-09**

Mayor Kavanagh stated that if there was no further Council discussion she would request a motion.

Vice Mayor Leger **MOVED** to approve the final re-plat as presented and Councilmember Yates **SECONDED** the motion.

Councilmember Yates	Aye
Councilmember DePorter	Aye
Councilmember Brown	Aye
Vice Mayor Leger	Aye
Councilmember Magazine	Aye
Councilmember Hansen	Aye
Mayor Kavanagh	Aye

The motion **CARRIED UNANIMOUSLY** (7-0).

**AGENDA ITEM #17 – CONSIDERATION OF APPROVING THE FINAL REPLAT OF 16725 E. AVENUE OF THE FOUNTAINS, AKA PLAT 208, BLOCK 2, LOT 1 (APN 176-27-097) INTO TWO LOTS LABELED LOT 1A AND LOT 1B. CASE # S2016-10.**

Mayor Kavanagh stated that if there was no further Council discussion she would request a motion.

Vice Mayor Leger **MOVED** to approve the final re-plat as presented and Councilmember Yates **SECONDED** the motion.

Mayor Kavanagh requested a roll call vote.

Councilmember DePorter	Aye
Councilmember Brown	Aye
Councilmember Yates	Aye
Councilmember Hansen	Aye
Councilmember Magazine	Aye
Vice Mayor Leger	Aye
Mayor Kavanagh	Aye

The motion **CARRIED UNANIMOUSLY** (7-0).

**AGENDA ITEM #18 - COUNCIL DISCUSSION/DIRECTION TO THE TOWN MANAGER**

Mayor Kavanagh asked Council if there were any requests.

Councilmember Magazine stated he met with the Town Manager Miller and Town's Finance Director, Craig Rudolph, to request that the Council and staff look at a five-year financial forecast based upon straight lining of known and made assumptions such as contracts.

**AGENDA ITEM #19 - SUMMARY OF COUNCIL REQUESTS AND REPORT ON RECENT ACTIVITIES BY THE MAYOR, INDIVIDUAL COUNCILMEMBERS, AND THE TOWN MANAGER.**

Mayor Kavanagh wished everyone a great summer and to watch children around water.

**AGENDA ITEM #20 - ADJOURNMENT**

Councilmember Yates **MOVED** to adjourn the meeting and Councilmember DePorter **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (7-0). The Regular Session adjourned at 9:59 p.m.

**TOWN OF FOUNTAIN HILLS**

By \_\_\_\_\_  
Linda M. Kavanagh, Mayor

ATTEST AND  
PREPARED BY:

\_\_\_\_\_  
Bevelyn J. Bender, Town Clerk

**CERTIFICATION**

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Executive Session, held in the Fountain Conference Room – 2<sup>nd</sup> Floor and Regular Session held by the Town Council of Fountain Hills in the Town Hall Council Chambers on the 16<sup>th</sup> day of June, 2016. I further certify that the meeting was duly called and that a quorum was present.

DATED this 18<sup>th</sup> day of August, 2016.

\_\_\_\_\_  
Bevelyn J. Bender, Town Clerk