

**TOWN OF FOUNTAIN HILLS
MINUTES OF THE REGULAR SESSION OF THE
FOUNTAIN HILLS TOWN COUNCIL
SEPTEMBER 15, 2016**

REGULAR SESSION

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

Mayor Kavanagh called the meeting to order at 6.30 p.m. in the Fountain Hills Town Council Chambers.

INVOCATION – Mayor Linda Kavanagh announced that today with them was Trent Renner, Lead Pastor for Christ’s Church of Fountain Hills.

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

Vice Mayor Nick DePorter attended the meeting by phone and Councilmember Cassie Hansen was absent.

* **MAYOR'S REPORT**

Mayor Kavanagh introduced Councilmember Yates who gave an update on his recent “Domestic Violence” meeting. Councilmember Yates recognized October 2016 as “Domestic Violence Month” and added that the Governor’s Office on “Youth, Family and Faith” held their second annual “Lighting Arizona Purple” campaign to raise state-wide awareness of domestic violence. Councilmember Yates asked that anyone attending the October 6th Council meeting wear purple and he suggested that for more information the public could go to www.mag.org.

* **SCHEDULED PUBLIC APPEARANCES/PRESENTATIONS**

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

Mayor Kavanagh stated that the Economic Development Committee meeting primarily focused on trade and border crossing cards for Mexico. Representatives from Hermosillo, Sonora attended to reinforce their support for the “Ari-Son Development Mission” for trade across the border. Mayor Kavanagh acknowledged the Governor of the State of Sonora, Claudia Pavlovich stated that the information she gave on her new initiatives for safety included additional police, security forces and 3,000 additional cameras. Mayor Kavanagh added there was also a presentation from Dr. Shain Shapiro, who had called in from London, encouraging the use of music as an attraction for residents and visitors and expressing the opinion that it should be a part of any economic development strategy.

Mayor Kavanagh said she attended the first “East Valley Mayors Luncheon” and they discussed valley-wide progress and how to improve working relationships to improve the eastern part of the valley. Mayor Kavanagh acknowledged information provided by in a presentation by President Delbert Ray of the Salt River Community who gave an update on the Glendale Casino. Mayor Kavanagh also noted that another topic discussed was the new type housing being built in the valley (similar to the Park Place Development) along with a new trend toward downsizing for retirees.

ii) **INTRODUCTION OF THE TOWN OF FOUNTAIN HILLS’ ASSISTANT FIRE CHIEF JASON PAYNE.**

Town Manager Miller introduced Assisted Fire Chief Jason Payne and commented on Chief Payne’s over 20 years of fire experience, his many accomplishments, and recently serving as Fire Marshal for the Salt River Pima Indian Tribal Community. Assistant Fire Chief Payne thanked the Council for the opportunity.

iii) RECOGNITION OF CADETTE GIRL SCOUT TROOP #1059 FOR EARNING THE GIRL SCOUT SILVER AWARD (2ND HIGHEST AWARD FOR A GIRL SCOUT) FOR THEIR “TAKE ACTION PROJECT”, WHICH CREATED A BRIGHT AND INVITING DESIGN AT THE ENTRANCE OF ONE OF THE TOWN’S FITNESS HIKING TRAILS AT GOLDEN EAGLE PARK.

Town Manager Miller introduced Nita Blose who along with being a scout leader, worked for the Town. Ms. Blose discussed information contained in a PowerPoint presentation (available on-line and in the office of the Town Clerk) the steps required to earn a “Girl Scout Silver Award”, including the project chosen and the steps to complete the cleaning and painting of a tunnel at Golden Eagle Park. Ms. Blose stated that Community Director Mark Mayer approved the Troop’s plan and with the assistance from Town employee Chance Butterfield, the Town, Fountain Hills Ace Hardware and with Troop funds, paint and tools were provided to complete their project. Ms. Blose acknowledged the scouts and all the volunteers that included Scout Troop #2664 for a total of 1,133 volunteer hours worked.

Mayor Kavanagh stated she had visited the tunnel and complimented them on the results.

Councilmember Brown stated that the Troops work deserved a “Triple Golden Award” and thanked them very much.

Councilmember Yates thanked everyone involved and suggested a ribbon cutting at the site.

Councilmember Magazine echoed everyone’s congratulations.

Councilmember Leger stated this was a job well done and asked Ms. Blose what were the Troops next step. Ms. Blose answered that the next award would be the “Golden Award” achieved in their 9th through 12th grades, involving a solo (with helpers) leadership project also benefiting the community.

Councilmember Magazine requested the newspaper acknowledge their accomplishment and Ms. Blose expressed that the “Times” had contacted the Troop on an article and they would also include the Town’s “Anti-Graffiti” policy.

Mayor Kavanagh presented each girl with their “Silver Award” along with a Town pin. Those who received an award were Mercy Taylor, Natalie Flynn and Deanna George.

iv) PRESENTATION BY MARICOPA COUNTY SHERIFF’S OFFICE CAPTAIN DAVID LETOURNEAU REGARDING LAW DRUG STATISTICS FOR THE TOWN OF FOUNTAIN HILLS.

Town Manager Miller stated that some people in the community and Councilmembers were concerned that there was a drug issue in Town since two people had died recently due to an overdose, so he had asked Captain Letourneau to give a presentation. He also acknowledged Shelly Mallory, Executive Director for the Fountain Hills Coalition in the audience, and invited her up for any follow-up questions.

Captain Letourneau discussed information contained in a PowerPoint presentation on the statistics of enforcement activities and call for services (available on-line and in the office of the Town Clerk).

Councilmember Yates asked if the activity included all drug related calls and Captain Letourneau answered that only if drugs were found. Councilmember Yates asked in comparison to other valley Cities and Towns, how did Fountain Hill’s rate. Captain Letourneau answered in comparing Fountain Hills to Cave Creek, Gilbert and Queen Creek Fountain Hills was below these communities in drug related incidents. He noted the “Text-A-Tip” fueled the statistics and still the numbers were not extreme.

Councilmember Yates requested Captain Letourneau elaborate on how calling 911 worked. The Captain explained that if someone was uncomfortable with their surroundings they could call 911 and the operator would asked them if it was an emergency and if not, you would be placed on hold and another operator would take the call and then dispatch a deputy to the area. Captain Letourneau encouraged people to call 911 or use the walk-up at Town Hall.

Mayor Kavanagh questioned the average age of people involved in drug related crimes. Captain Letourneau answered they were in their mid-twenties and went on to explain the crime related demographics in Fountain Hills.

Mayor Kavanagh stated it was assumed that the abuse of drugs were high school students. Captain Letourneau pointed out that most of these crimes involved older people, but there were some issues at the high school level with marijuana and some pill abuse, but not so much with hard drugs.

Councilmember Magazine asked if he felt there would be an increase in the use of drugs overall if the recreational marijuana bill passed. Captain Letourneau stated that in his opinion marijuana was a “gateway drug”.

Councilmember Magazine asked about contacting the Sheriff’s Office if someone saw a car speeding. Captain Letourneau encouraged the observer to call with the speeders direction of travel and plate number.

Mayor Kavanagh pointed out the lower statistics on drug related calls in Fountain Hills was due to The Fountain Hills Coalition and the amazing job they’ve done providing drug education to students starting in the middle school.

Captain Letourneau mentioned the service provided through the Town’s “Midnight Madness Program” and believed Fountain Hills was the only community in the area that had this very successful program.

Mayor Kavanagh asked Ms. Mallory if she wished to add to the presentation.

Ms. Mallory stated if Arizona’s “Proposition 205” passed, it would significantly increase kids using and abusing marijuana. Ms. Mallory pointed out that in Colorado they have seen a huge increase in youth using marijuana and other drugs.

Councilmember Magazine agreed and wondered if there was research that indicated the use of marijuana would lead to other kinds of drug use. Ms. Mallory answered that kids using marijuana would likely use other drugs since the location of their use would be open to other drugs, which points to be the “gateway”.

Mayor Kavanagh added that County Attorney Bill Montgomery had given a presentation to the Chamber recently on the legalization of marijuana and pointed out that more information was available to the public.

Ms. Mallory thanked Captain Letourneau for the Sheriff’s Office partnership with the Coalition and added that if Proposition 205 passed, the Town Council would not have a say in regulating the marijuana businesses.

Councilmember Magazine expressed his concerns with Proposition 205.

Mayor Kavanagh pointed out that along with current businesses; more applications were received before the election adding more locations.

Mayor Kavanagh stated that County Attorney Montgomery had expressed in his presentation that local governments would not have any controls.

Mayor Kavanagh thanked Ms. Mallory and Captain Letourneau for the information.

CALL TO THE PUBLIC

Michael Archambault, a Fountain Hill’s resident, local business owner, and active member of the community congratulated Mayor Kavanagh, Councilmember Yates, Councilmember Brown and future Councilmember Art Tolis for being elected. Mr. Archambault stated that as a candidate for Town Council he had felt there were great debates held and that the citizens had made their choices.

Mr. Archambault made a suggestion regarding the lake water that would take a collaborative effort with another entity (the Fountain Hills Sanitary District). He said he understood from the prior meeting’s presentations that the main issue with Fountain Lake was the quality of the lake water. Mr. Archambault understood that aerators would be installed as an immediate solution to work on the problem and suggested the recirculation of the water in the lake to create fresher water, without the salt, allowing the water to be used for irrigation. Mr. Archambault mentioned that the Fountain Hills Sanitary District had recharge wells in the lake, currently used to take water from the Sanitary District sending the water over to their plant and then pushing water out to their recharge wells. He also suggested the Town work with

the Sanitary District and have them take the water from the lake and put it into their recharge wells and then take the water that would have been sent to the recharge wells and place it back into the lake. He added the Town would have a better turn-over and better quality of water along with avoiding the algae completely. Mr. Archambault also suggested adding a pump placed in the pump house to send water to the Sanitary District's plant.

Mayor Kavanagh thanked Mr. Archambault for his input. Town Manager Miller added that his suggestions were creative solutions.

CONSENT AGENDA

AGENDA ITEM #1 - CONSIDERATION OF APPROVING THE TOWN COUNCIL MEETING MINUTES FROM SEPTEMBER 1, 2016.

AGENDA ITEM #2 - CONSIDERATION OF RESOLUTION 2016-15, ACCEPTING THE ELECTION RESULTS FROM THE AUGUST 30, 2016 PRIMARY ELECTION.

AGENDA ITEM #3 - CONSIDERATION OF RESOLUTION 2016-24, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE FORT MCDOWELL YAVAPAI NATION RELATING TO PROPOSITION 202 FUNDING.

AGENDA ITEM #4 - CONSIDERATION OF A BUDGET TRANSFER, IN THE AMOUNT OF \$1,000, FROM THE ECONOMIC DEVELOPMENT FUND TO THE TOURISM FUND TO COVER A BUDGET OVERAGE FOR FISCAL YEAR 2015-16.

AGENDA ITEM #5 - CONSIDERATION OF APPROVING COOPERATIVE PURCHASE AGREEMENT C2017-043, WITH DESERT HIGHWAY SIGNS, FOR SIGNS AND SIGN HARDWARE, IN AN AMOUNT NOT TO EXCEED \$40,000.00.

AGENDA ITEM #6 - CONSIDERATION OF APPROVING COOPERATIVE PURCHASE AGREEMENT C2017-044, WITH PIPE LINE VIDEO INSPECTIONS LLC, FOR STORM DRAIN PIPE AND STRUCTURE CLEANING, TELEVISION SERVICES, AND STORM DRAIN PIPE REPAIR, IN AN AMOUNT NOT TO EXCEED \$200,000.00.

AGENDA ITEM #7 - CONSIDERATION OF APPROVING AMENDMENT #3 TO THE COOPERATIVE PURCHASING AGREEMENT (C2016-182.3) WITH VINCON ENGINEERING LLC, FOR CONCRETE REPAIR AND REPLACEMENT, IN THE AMOUNT OF \$50,000.00.

AGENDA ITEM #8 - CONSIDERATION OF APPROVING A SETTLEMENT AGREEMENT RELATING TO A TAX ENFORCEMENT ACTION.

Mayor Kavanagh requested a motion on the consent agenda items as written.

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

A roll call vote was taken with the following results:

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

The motion **CARRIED UNANIMOUSLY (5-0)**; Councilmember Brown recused himself from the vote.

REGULAR AGENDA

AGENDA ITEM #9 – CONSIDERATION OF A LEASE AGREEMENT BETWEEN THE TOWN AND THE FOUNTAIN HILLS CIVIC AND CULTURAL ASSOCIATION FOR THE COMMUNITY GARDEN.

Town Manager Miller explained that at the April 21, 2016, Town Council meeting, the Council approved making space available at the municipal complex for a Community Garden, sponsored by the “Greening Committee of Fountain Hills Cultural and Civic Association”. He explained that the initial term on the lease would be for one-year with automatic renewals at a cost of \$1.00 per year. Town Manager Miller reviewed the responsibilities of both the Cultural and Civic Association and the Town. Town Manager Miller also acknowledged that Bart Shea had committed to grading the site for the Community Garden, which saved the Town approximately \$10,000.00.

Mayor Kavanagh asked Dr. Patel if she would like to address the Council.

Dr. Patel thanked Mayor Kavanagh and Council for their support of the project and recognized the “Garden” supporters in attendance.

Mayor Kavanagh expressed that she was impressed with all the free support the Association had received for their project. Dr. Patel mentioned Bart Shea who had committed to grading and fencing the area along with assisting in bring in the water, Salt River Project who donated \$500.00, Morningstar who donated all the irrigation supplies, she also acknowledged all the support from the Town, businesses and people of Fountain Hills.

Mayor Kavanagh complimented Dr Patel for her hard work to bring this project together.

Councilmember Yates congratulated Dr. Patel on a job well done and asked what their timeframe for the project was. Dr. Patel answered that Phase I would begin immediately with grading finalized within two months, then obtaining water followed by the irrigation and fencing.

Councilmember Brown expressed that the Association had done a great job and asked if there were any provisions to prevent marijuana from being grown in the community garden. Town Manager Miller explained that Town Attorney McGuire had addressed that issue in the lease along with the exclusion of live stock being raised. Dr. Patel added that those exclusions were also in the “Garden Rules” and their contract for those participating in the garden.

Councilmember Leger thanked everyone involved and asked what would be planted in the garden. Dr. Patel answered that that would be determined with the planting season and she noted that master gardeners would be guiding the planting along with providing classes to novice planters.

Mayor Kavanagh asked if there was further discussion or questions from Council or a motion.

Councilmember Yates **MOVED** to approve the lease agreement between the Town of Fountain Hills and the Fountain Hills Cultural and Civic Association and Councilmember Brown **SECONDED** the motion, which **CARRIED UNANIMOUSLY (6-0)**, by those present.

Dr. Patel presented Town staff with a check for the first year lease.

AGENDA ITEM #10 – CONSIDERATION OF APPROVING COOPERATIVE PURCHASE AGREEMENT C2017-045, BETWEEN M.R. TANNER DEVELOPMENT AND CONSTRUCTION, INC. AND THE TOWN OF FOUNTAIN HILLS, FOR ASPHALT REPLACEMENT AND MISCELLANEOUS WORK, IN AN AMOUNT NOT TO EXCEED \$1,796,753.59.

Town Manager Miller introduced Director of Public Works Paul Mood who discussed the information contained in a PowerPoint presentation for the Zone 1 area, which was anticipated to be completed in fiscal year 2017-18 and sealed in fiscal year 2018-19 and included information on future pavement management projects (available on-line or in the office of the Town Clerk).

Town Manager Miller stated he had discussed with Mr. Mood the lack of funding available for future road maintenance and they felt Council needed to have a work-study session sometime in November regarding a plan for

the future. He added that a possibility of a bond in 2020 may be necessary, after the current bond retired. Town Manager Miller added that Mr. Mood had determined that roads were not holding up as long as expected and suggested another Pavement Management Study be completed with a software analysis that would help manage the necessary pavement maintenance of the roads.

Councilmember Magazine expressed that this issue was troubling and asked if Zone I was scheduled as a two year project. Mr. Mood answered based on the old 2008-09 "Stantec Report" that was staff's best guess, but after checking the conditions of the roads he was at a loss to say where to start or stop.

Councilmember Magazine questioned Mr. Mood on the current cost estimates and the cost out three or four years. Mr. Mood answered that the numbers were based on today's cost and each year he would have to take a look at the roads conditions and determine what roads to address.

Councilmember Magazine asked Finance Director Craig Rudolph if future road costs were factored in future budgets and Mr. Rudolph answered that roads were part of the Capital Improvement Projects and funds were low for these projects and without additional funding or use of Reserve Funds, funds were not factored in for future years.

Councilmember Magazine asked for information on newly transferred funds and Mr. Rudolph explained that Council had approved using the .2% of the Excise Funds dedicated to paying off the bond for the preserve into the Pavement Management program beginning July 1, 2016.

Councilmember Magazine asked if Council had agreed to use bond funding from the Community Center for pavement management. Mr. Rudolph answered that the Community Center bond would retire in 2020 and then those funds would be dedicated to pavement management. Councilmember Magazine pointed out the Town was in a precarious situation with maintenance funding as roads deteriorated, and material cost rose. He asserted that Council had determined that road maintenance was a priority and he supported holding a work-study.

Town Manager Miller agreed, stating that he felt this discussion could not wait until the Council's retreat. Town Manager Miller also declared it had been about eight-years since the last pavement management study and suggested budgeting money this year for the study.

Mayor Kavanagh agreed and expressed that a study would provide Council with information to make the best possible decision.

Councilmember Magazine expressed his concerns on the future funding of the Town's roads and Town finances.

Mayor Kavanagh indicated that there would be an opportunity at the work-study session to discuss options; she asked if there were any speaker cards and Town Clerk Bender answered none were received.

Mayor Kavanagh asked if there was further discussion or questions from Council, otherwise, she requested a motion.

Councilmember Yates **MOVED** to approve Cooperative Purchase Agreement C2017-045 between M.R. Tanner Development and Construction, Inc. and the Town of Fountain Hills for asphalt replacement and miscellaneous work in an amount not to exceed \$1,796,753.59 and Councilmember Brown **SECONDED** the motion, which **CARRIED UNANIMOUSLY (6-0)**, by those present.

AGENDA ITEM #11 – CONSIDERATION OF ORDINANCE 16-09, AMENDING TOWN OF FOUNTAIN HILLS TOWN CODE, CHAPTER 9, ARTICLE 9-4, SECTION 9-4-3, AND ADDING A NEW SECTION 9-4-4, OPERATION OF MODEL AIRCRAFT OR UNMANNED AIRCRAFT IN TOWN PARKS, ALL RELATED TO REGULATING THE USE OF DRONES IN TOWN PARKS.

Town Manager Miller explained that Ordinance 16-09 would add language to the Town Code under Article 9 directing where drones could be used within the park system. He introduced Community Development Director Mark Mayer to give the presentation.

Mr. Mayer stated the Arizona Legislative enacted rules specific to drones for all communities in the State along with the Federal Aviation Administration placing drones in the category of “Unmanned Aircraft”. Mr. Mayer added that both staff and the Community Services Advisory Commission were in agreement that a portion of the soccer fields at Desert Vista Park be designated for drone use when not used for activities noting that signs in all parks would be posted reflecting these changes, allowing the Town to be in compliance.

Mayor Kavanagh asked if the Town could authorize the use of drones for a special event.

Town Attorney McGuire explained the Town did not have a say when a commercial operator was hired they would have to abide by State regulations. Town Attorney McGuire added that the Town only had the authority to regulate taking off and landing of a drone in the park areas.

Mayor Kavanagh asked if a drone could be flown over any park or home and Town Attorney McGuire answered the State had restricted any authority by local governments except to designate one park and only for taking off and landing and did not have the authority to grant event organizers permission.

Mayor Kavanagh asked if there were any speaker cards and Town Clerk Bender answered none were received.

Mayor Kavanagh asked if there was further discussion or questions from Council or a motion.

Councilmember Yates **MOVED** to approve Ordinance 16-09 and Councilmember Brown **SECONDED** the motion, which **CARRIED UNANIMOUSLY (6-0)**, by those present.

AGENDA ITEM #12 – COUNCIL DISCUSSION/DIRECTION TO THE TOWN MANAGER.

Town Manager Miller summarized that he was to proceed with scheduling a work-study to discuss future funding of the Town’s pavement management program with consideration of conducting a Pavement Management Study.

Councilmember Yates asked if Stantec Engineering could revise their previous study to save on cost for the Town. Town Manager Miller answered that Stantec had the software, but still would have to inspect and evaluate all the roads and assess their needs and he added Stantec would likely participate in the “Request for Proposal”.

AGENDA ITEM #13 - SUMMARY OF COUNCIL REQUESTS AND REPORT ON RECENT ACTIVITIES BY THE MAYOR, INDIVIDUAL COUNCILMEMBERS, AND THE TOWN MANAGER.

Councilmember Brown gave an update on the Adero Canyon project and pointed out that the road to the trailhead area was completed and the building of the long-awaited trailhead could begin.

Mayor Kavanagh thanked “Christ Church” for holding a wonderful “911” ceremony.

Mayor Kavanagh reported that the Sister Cities’ members held a reception for the Fountain Hills’ students traveling to Germany and Poland as they would be representing Arizona. Mayor Kavanagh mentioned that the Town’s foreign exchange students would be arriving in Fountain Hills in October.

Mayor Kavanagh commented that she welcomed 16 residents who were scheduled to attend the “Leadership Academy” involving a series of seminars focused on the overall workings of Town government.

Mayor Kavanagh stated she had attended a presentation given by County Attorney Bill Montgomery on the upcoming vote regarding the legalization of marijuana and the financial implications that included the lack of local control, increased cost of court and police services and the overall impact to Fountain Hills and their business community.

AGENDA ITEM #14 - ADJOURNMENT

Councilmember Yates **MOVED** to adjourn the meeting and Vice Mayor DePorter **SECONDED** the motion, which **CARRIED UNANIMOUSLY (6-0)**, by those present. The Regular Session adjourned at 8:04 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 Regular Session held by the Town Council of Fountain Hills in the Town Hall Council Chambers on the 15th day of September, 2016. I further certify that the meeting was duly called and that a quorum was present.

DATED this 6th day of October, 2016.

Bevelyn J. Bender, Town Clerk