

**TOWN OF FOUNTAIN HILLS
MINUTES OF THE EXECUTIVE AND REGULAR SESSIONS OF THE
FOUNTAIN HILLS TOWN COUNCIL
JANUARY 16, 2018**

EXECUTIVE SESSION

PURSUANT TO A.R.S. § 38-431.02, NOTICE IS HEREBY GIVEN TO THE MEMBERS OF THE FOUNTAIN HILLS TOWN COUNCIL AND TO THE GENERAL PUBLIC THAT THE TOWN COUNCIL WILL HOLD A MEETING OPEN TO THE PUBLIC ON JANUARY 16, 2018, BEGINNING AT 4:00 P.M., FOR THE PURPOSE OF DECIDING WHETHER TO GO INTO EXECUTIVE SESSION. IF AUTHORIZED BY A MAJORITY VOTE OF THE COUNCIL, THE EXECUTIVE SESSION WILL BE HELD IMMEDIATELY AFTER THE VOTE AND WILL NOT BE OPEN TO THE PUBLIC.

Mayor Kavanagh called the Executive Session to order at 4:06 p.m. in the Fountain Conference Room - 2nd Floor, Town Hall.

AGENDA ITEM#1 – ROLL CALL AND VOTE TO GO INTO EXECUTIVE SESSION: PURSUANT TO: (i) A.R.S. § 38-431.03(A)(3), DISCUSSION OR CONSULTATION FOR LEGAL ADVICE WITH THE ATTORNEY OR ATTORNEYS OF THE PUBLIC BODY; AND, (ii) A.R.S. § 38-431.03(A)(4), DISCUSSION OR CONSULTATION WITH THE ATTORNEY OR ATTORNEYS FOR 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 DISCUSSION CONDUCTED IN ORDER TO AVOID OR RESOLVE LITIGATION [SPECIFICALLY RELATING TO: (i) THE ADERO CANYON DEVELOPMENT AGREEMENT, EAGLES NEST DEVELOPMENT AGREEMENT, ADERO CANYON PHASE 2 PAD, GENERAL PLAN AMENDMENT].

Present for roll call were the following members of the Town Council: Mayor Linda Kavanagh, Vice Mayor Dennis Brown, Councilmember Nick DePorter, Councilmember Alan Magazine, Councilmember Cecil Yates, Councilmember Art Tolis and Councilmember Henry Leger. Town Manager Grady E. Miller, Interim Town Attorneys from the firm of DickensonWright Fredda Bisman and James Patterson, Director of Development Services Bob Rodgers and Town Clerk Bevelyn Bender were also present.

Councilmember Leger **MOVED** to go into Executive Session at 4:06 p.m. and Councilmember Magazine **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (7-0).

AGENDA ITEM #2 - ADJOURNMENT.

Mayor Kavanagh adjourned the Executive Session without objection at 4:27 p.m.

REGULAR SESSION

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

Mayor Kavanagh called the meeting to order at 5:30 p.m. in the Fountain Hills Town Hall Council Chambers.

• **INVOCATION** – Associate Pastor Ken Brown, Fountain Hills Presbyterian Church

ROLL CALL - Present for roll call were the following members of the Town Council: Mayor Linda Kavanagh, Vice Mayor Dennis Brown, Councilmember Nick DePorter, Councilmember Alan Magazine, Councilmember Cecil Yates, Councilmember Art Tolis and Councilmember Henry Leger. Town Manager Grady E. Miller, Interim Town Attorney from the firm of DickensonWright Fredda Bisman, and Town Clerk Bevelyn Bender were also present.

• **MAYOR'S REPORT**

i) **THE MAYOR WILL READ A PROCLAMATION DECLARING JANUARY 2018, AS NATIONAL MENTORING MONTH IN THE TOWN OF FOUNTAIN HILLS.**

Mayor Kavanagh read the proclamation (available on-line or in the office of the Town Clerk). She thanked all the mentors, on behalf of the Town Council, who had contributed to the lives of young people in the Town of Fountain Hills.

• **SCHEDULED PUBLIC APPEARANCES/PRESENTATIONS**

i) **MAYOR KAVANAGH AND/OR COUNCIL MAY REVIEW RECENT EVENTS ATTENDED RELATING TO ECONOMIC DEVELOPMENT.**

Councilmember Yates reminded everyone that Mayor Kavanagh would present her “State of the Town” Address on Thursday and that he would be attending a Greater Phoenix Economic Council (GPEC) meeting and Maricopa Association of Government Domestic Violence Commission meeting and a report would be provided later.

Mayor Kavanagh elaborated on the “State of the Town” Address and noted the event was sponsored by the Fountain Hills Chamber of Commerce and would be available, if unable to attend, on YouTube and the Town’s website.

Mayor Kavanagh mentioned that she attended the Maricopa Association of Governments Economic Development Committee meeting and that Councilmember DePorter was asked to be a presenter on behalf of his employer “LinkedIn”. Councilmember DePorter stated he is the Government Policy and Affairs Manager for “LinkedIn”, a large professional networking organization, with approximately 5M members worldwide. Councilmember DePorter reported on “LinkedIn’s” hiring force, worldwide employee’s locations, which included relocating professionals, skills and current trends. Mayor Kavanagh expressed the opinion that that Councilmember DePorter’s presentation was great.

Mayor Kavanagh presented the “National Mentoring Month” proclamation to Roger Riggert. Mr. Riggert explained the background on the mentoring program. Councilmember Magazine congratulated Mr. Riggert on the programs tremendous impact and suggested that Mr. Riggert bring a couple of students to a future Council meeting and describe their success stories.

Mayor Kavanagh announced that Regular Agenda Items #9 through #14 were being postponed until the February 6, 2018, Town Council meeting.

ii) **UPDATE BY DIRECTOR SHELLY MOWREY REGARDING RECENT ACTIVITIES OF THE FOUNTAIN HILLS COALITION.**

Ms. Mowrey reviewed the information in her PowerPoint presentation (available on-line and in the office of the Town Clerk) and discussed the Town’s collaboration across sections, key programs including safe homes network with 500 homes involved and pointed out the levels of student education provided in the schools with the help of the media and their coverage. Ms. Mowrey expressed appreciation for the Town’s support and reviewed a graph, depicting a decline in substance abuse in Fountain Hills.

Mayor Kavanagh and Councilmembers congratulated Ms. Mowrey and those involved in the program for their successes. Ms. Mowrey introduced the four Coalitions members who were in attendance: Dwight Johnson, a Boardmember and donor to the Coalition; Mike Scharnow, founding Boardmember; Bob Ditta, founding Boardmember; and Maria Perreault, an instrumental member in this program.

Mayor Kavanagh and Ms. Mowrey discussed the success of advertising in the Town’s local stores and how the retailers had committed to the program.

Councilmember Yates thanked everyone involved for their part in this program and Mayor Kavanagh pointed out that Councilmember Tolis was the Town’s official liaison to the Coalition along with other Town staff participates.

CALL TO THE PUBLIC

Mayor Kavanagh asked if there were any speaker cards and Town Clerk Bender stated three requests had been received.

Grete Jess, a Fountain Hills resident, expressed her concerns regarding health and aesthetic reasons and requested the new Salt River Project (SRP) oversized pole removed from her backyard and possibility replaced with underground electrical. Ms. Jess stated she sent two letters to the Town and received an unsatisfactory response as being too expensive to relocate. Ms. Jess also mentioned that Fort McDowell made a decision not to accept underground utilities. Ms. Jess commented on her health issues that she felt were associated with the electrical pole and lines and discussed the pole's lack of aesthetics.

Mayor Kavanagh replied that Councilmembers were unaware of her communications with the Town and requested Town Manager Miller to follow-up with SRP and Ms. Jess. Mr. Miller said he was aware of the SRP pole located in the easement on Ms. Jess property. Mr. Miller added that the Town Engineer had contacted SRP asking if they would paint the pole a different color. Mr. Miller said staff acknowledged the pole was an eyesore, but noted this was a utility issue. Mr. Miller stated he would follow-up with SRP and Ms. Jess.

Mike Archambault, a Fountain Hills resident, *“questioned the commitment of the Town Council and if not addressed the transparency due to a conflict of interest involving Councilmember Yates. He indicated that Councilmember Yates was the guardian for the Park Place Developer, and had undercut and undermined the Town in this litigation strategy to collect fees from the Park Place project and when exposed by the Attorney for the Park Place that Mr. Yates would support the developer in the litigation against the Town, Mr. Yates improperly contacted the Attorney to discuss the matter pending before the court. The combination or course with Mr. Yates spearheading efforts to fire of the Town Attorney when the Town Attorney was succeeding in collecting the fees owed by the Park Place Developer. He said the most serious stain on the Council was that Mr. Yates will now reap the benefits of his effort as a promoter and protector of the Park Place Project. He said that Mr. Yates’s company is the designated agent, hired to lease the commercial space for the Park Place Development and that he could only image the message to the businesses when they were approached by Mr. Yates’s company and asked to consider relocating their existing Fountain Hills operation or open a new operation in Park Place. He said that Mr. Yates will enrich his partners and presumably himself through fees and other momentary benefits from his company’s position as the Park Place leasing agent. He said this is a “classic conflict of interest” and must be addressed by this Council. I pointed out that he was accused of making a false statement on “Facebook” about who was getting paid; now we know that was not a false statement. Mr. Archambault said that only the Council in an E-Session, with Mr. Yates participating in Development Agreements and negotiation efforts to resolve litigation, how much of the discussion was leaked to the developer. He said with this new information the Council must get to the bottom of Mr. Yates’ ultimate goal of enriching himself.”*

Mayor Kavanagh stated she hoped Mr. Archambault had proof of these serious accusations and gave Councilmember Yates an opportunity to respond.

Councilmember Yates said that Mr. Archambault took every means to smear anyone he can for no other reason than his own gain. Councilmember Yates continued that since Mr. Archambault previously served on Town Council, he knew all contracts had a Request for Proposal (RFP) and the Park Place developer on their own did an RFP. Councilmember Yates said he had nothing to do with his company’s leasing agents as his position was in Construction Management and the Development Division for his employer (C.I.P). Councilmember Yates stated Mr. Archambault was smearing people with unfounded information using social media and pointed out that the Town had to cover Mr. Archambault’s accusations in a lawsuit to protect him against this developer that had involved thousands of tax payers’ dollars. He said he was an open book and had never shied away from anything going on and was glad the development was doing well. Councilmember Yates addressed the accusations regarding backing the developer and lawsuit. He pointed out that if Mr. Archambault had read the whole narrative, it showed that the idea of development fees were never discussed between the Town and the developer previously; there were Councilmembers who could verify that. He also pointed out that Park Place ultimately paid the development fees as opposed to entering into litigation, which Mr. Archambault wanted them to do.

Mayor Kavanagh stated that nothing had been filed as far as any accusations made by several residents and directed at all Councilmembers. She requested anyone that had proof of any criminal wrong doings by Town Council to take those accusations to the Attorney General, so Councilmembers could defend themselves against actual accusations or complaints, but the Council couldn’t defend against “Facebook”.

Gene Mikolajczyk, a Fountain Hills resident, addressed the issue of conflict of interest and the appearance of impropriety and the poor public image many hold of this Town Council. Mr. Mikolajczyk said there are some on this Council that claim Fountain Hills has a poor reputation among businesses. Those Councilmembers always blamed someone else for the Town's reputation; usually they blamed the Town employees whose only jobs are to enforce the building, safety and other codes that are enacted by this Council, but this behavior by Mr. Yates has the appearance of impropriety, the shameless profiteering by a political insider, who has used his position first to protect and enrich a favorite constituent and now to profit in real estate leasing company. This is what has and will continue to tarnish our Town's reputation. This type of behavior has become all too common and excepted by some on this Council as "this is just the way business is done in Fountain Hills". This has an appearance of impropriety and prima fascia case of classic conflict of interest that must be addressed."

Mr. Mikolajczyk read from a list of questions for investigation (list provided to the Town Clerk at the meeting) relating to Councilmember Yates' behavior and he added "this Council must refer this matter to an independent Attorney or Law Firm for investigation. Referral to the County Attorney or State Attorney General might also be warranted, anything less would just darken and stain some members of this Council."

Councilmember Yates addressed Mr. Mikolajczyk comments stating everyone needed to know that Mr. Mikolajczyk had been found guilty of violating his ethics code and consequently stepped down from service on the Town's Planning and Zoning Commission due to consistently doing shady irregular acts to get information. Councilmember Yates reiterated that everything was done above board and that everyone worked together to get the development done. In the end, when the development fees were paid, when it was time for leasing, Park Place sent out an RFP and every company in the valley was who was interested applied for their consideration as did C.P.I.; he reiterated he was in a different division. Councilmember Yates also mentioned that Mr. Mikolajczyk had spent thousands of tax payer dollars requesting information on a weekly basis on this matter. He acknowledged it was an election year and he felt this was to undermine his run for Town Mayor since they were supporting his opponent. He said these were unfounded accusations and he apologized on Mr. Mikolajczyk's behalf for the public to have to witness this exchange. Councilmember Yates suggested that anyone with questions contact him directly.

Mayor Kavanagh announced that consent agenda item #5 was pulled at the request of a resident who wished to speak on this consent agenda item. Mayor Kavanagh stated this item would be addressed on the regular agenda.

CONSENT AGENDA

AGENDA ITEM #1 - CONSIDERATION OF APPROVING THE TOWN COUNCIL MEETING MINUTES FROM DECEMBER 5 AND 19, 2017.

AGENDA ITEM #2 - CONSIDERATION OF APPROVING A SPECIAL EVENT LIQUOR LICENSE APPLICATION FOR THE FOUNTAIN HILLS SISTER CITIES CORPORATION (JEAN LINZER) EVENT, TO BE HELD IN THE GRAND BALLROOM OF THE FOUNTAIN HILLS COMMUNITY CENTER, LOCATED AT 13001 N. LA MONTANA DRIVE, FOUNTAIN HILLS, AZ, TO BE HELD FROM 6:00 PM TO 10:00 PM ON SATURDAY, JANUARY 27, 2018.

AGENDA ITEM #3 - CONSIDERATION OF APPROVING A LIQUOR LICENSE APPLICATION SUBMITTED BY DONNA JO VAN ROYEN CHAVEZ, OWNER OF AGUAMENTI INC, DBA AGUAMENTI, LOCATED AT 16842 E, PARKVIEW AVENUE #2, FOUNTAIN HILLS, AZ. THIS IS FOR A SERIES 12 LICENSE (RESTAURANT).

AGENDA ITEM #4 - CONSIDERATION OF APPROVING THE FIRST AMENDMENT TO COOPERATIVE PURCHASE AGREEMENT C2017-068, WITH SUNLINE CONTRACTING, LLC, IN AN AMOUNT NOT TO EXCEED \$50,000.00, FOR PAVEMENT MARKINGS AND SYMBOLS.

~~AGENDA ITEM #5 -- CONSIDERATION OF APPROVING CONTRACT C2018-082 WITH VICI MEDIA, FOR UP TO FIVE ONE-YEAR RENEWAL OPTIONS, IN THE AMOUNT OF \$50,000 ANNUALLY, FOR DIGITAL RETARGETING AND MARKETING COMPANY/SERVICES.~~

AGENDA ITEM #6 - CONSIDERATION OF APPROVING RESOLUTION 2018-09, GRANTING A POWER DISTRIBUTION EASEMENT TO SALT RIVER PROJECT AT FIRE STATION #1 (16426 E. PALISADES BOULEVARD), TO REPLACE THEIR DEFECTIVE UNDERGROUND ELECTRIC CABLE THERE AND AUTHORIZING EXECUTION OF THAT EASEMENT. (EAA 2017-04)

AGENDA ITEM #7 - CONSIDERATION OF APPROVING RESOLUTION 2018-08, AN INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF ADMINISTRATION FOR THE OPENBOOKS TRANSPARENCY WEBSITE.

Councilmember Yates moved to **APPROVE** Consent Agenda items #1, 2, 3, 4, 6 and 7 as listed and Vice Mayor Brown **SECONDED** the motion.

A roll call vote was taken with the following results:

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

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

REGULAR AGENDA

AGENDA ITEM #5 - CONSIDERATION OF APPROVING CONTRACT C2018-082 WITH VICI MEDIA, FOR UP TO FIVE ONE-YEAR RENEWAL OPTIONS, IN THE AMOUNT OF \$50,000 ANNUALLY, FOR DIGITAL RETARGETING AND MARKETING COMPANY/SERVICES.

Mr. Miller stated that Town staff was available to give further information and answer questions.

Bob Wilson, a five-year Fountain Hills resident and participant in the Town's "Monitoring Program", questioned why funding items were placed on the consent agenda with Council approving those items as a group without any discussion or explanation. Mr. Wilson suggested Town funding items be placed on the regular agenda because it may be found that the funds would better serve the Town for other needs.

Councilmember Magazine agreed with Mr. Wilson and stated he had almost pulled this item off himself from the consent agenda. Councilmember Magazine pointed out that on agenda item #15, Council would be discussing the consent agenda related to criteria for placing items on the consent agenda, but announced he must leave the meeting at 6:30 p.m. He suggested an item more than \$50K placed on the regular agenda and discussed before funding was approved.

Mr. Miller explained the "Vici Media" contract was subject to a yearly renewal and it was inaccurate to say the total amount was \$250K, since some contracts were not renewed for several reasons and explained this contract was more complex since it involved the internet and web. Mr. Miller requested Communications and Marketing Coordinator Grace Rodman-Guetter to explain staff's request.

Ms. Rodman-Guetter discussed the "Vici Media" contract noting the contract was written with a \$50K as a ceiling cap. She stated that this contract was not a commitment to spend the full \$50K, but only the amount required to achieve the Town's digital targeting goals, which could involve multiple Town departments also using this contract for their programs.

Ms. Rodman-Guetter added this contract was written in an attempt to cover all departments' requests of "Vici Media", for digital marketing, which included an amount for Economic Development that she could not predict, as allowed per the Town's procurement policies. Ms. Rodman-Guetter added that the objective was to market the Tourism campaign on-line through Google keyword searches on specific web sites to targeted demographics/markets. She noted Tourism pays for this expenditure through grant funds; and grant funding was not guaranteed funding from year-to-year. She pointed out that staff must honor the purpose of the grant and there were restrictions that had to be met; grant funds were awarded and approved by the State.

Councilmember Magazine asked what the ultimate objective was; what was the Tourism annual budget, and did staff research reprogramming funds. Ms. Rodman-Guetter replied the goal was to market the Tourism package relating to

the wonderful experience that Fountain Hills exclusively offers to key demographics statewide and regionally. Ms. Rodman-Guetter stated staff utilized the RFP process under the grant budget with pre-approval; grant expenditures for marketing was not to exceed 10K. She said staff always looks to spend fund responsibly; however, reallocation of grant funds would require staff to send the State a written request to reallocate grant funds differently.

Councilmember Magazine said his frustration was when residents asked him during his public presentation regarding the Primary Property Tax why certain expenditures were approved and if the expenses were necessary, which he did not know how to answer. Councilmember Magazine remarked that just because an item was listed in the budget or Capital Improvement budget, it did not mean it should be spent.

Councilmember Leger asked if a matrix were available showing the Town's return on investment (ROI) for the marketing dollars spent. Ms. Rodman-Guetter replied yes, that staff had worked with a specific agency last fiscal year that was found to have performed three times better than the national average (marketing strategies).

Councilmember Leger stated that while he agreed with Councilmember Magazine, a municipality was a 24/7 organization that provides core services. He commented that the Town has an extensive budget process each year and encouraged residents to become involved and express their concerns during the annual budget planning process. Councilmember Leger said the Town needed a diverse revenue source that was sustainable such as a Primary Property Tax, which would be voted on by the voters. Councilmember Leger added that it was important for the Town to invest in programs like this since the matrix showed a return on the Town's investment. Councilmember Leger stated support for this contract but acknowledged some voters were against funding certain expenditures while looking at a Primary Property Tax and he respected their opinion.

Councilmember Magazine left the meeting at 6:33 p.m.

Councilmember Tolis stated that for Fountain Hills to grow these types of expenditures must happen and there need to be a balance. Councilmember Tolis declared staff was doing an amazing job and gave his support for the expenditure.

Ms. Rodman-Guetter promised that staff took pride in being fiscally responsible of the Town's funds and grant money.

Vice Mayor Brown agreed with Councilmember Leger and Councilmember Tolis on their excellent job of expressing his views on this contract.

Councilmember Yates asked for the total amount of grant money received due to staff's work and Ms. Rodman-Gutter and Community Services Director Rachael Goodwin both agreed approximately \$70K over the last three years. Councilmember Yates remarked staff was doing a tremendous job of being self-funded.

Ms. Goodwin added that the grant money required a staff proposal on expenditure use and must be State endorsed.

Councilmember Leger expressed that he was glad this item was moved to the regular agenda because the staff report did not cover all the information necessary to understand the request. He also supported placing criteria for the consent agenda.

Mayor Kavanagh agreed with her colleagues and noted the difficulties Council experience in determining what the residents want for their Town as some express they support the expenditure and then there are others who deem the expenditure unnecessary. Mayor Kavanagh stated that the Councilmembers always attempts to find a balance when using the Town's money in the best interest of the Town. Mayor Kavanagh stressed that staff had done a great job.

Vice Mayor Brown **MOVED** to approve Contract C2018-082 with Vici Media for up to five, one-year renewal options in the amount of \$50K annually with the contract total not to exceed \$250K for digital retargeting and marketing company/services and Councilmember DePorter **SECONDED** the motion.

Mayor Kavanagh asked for further discussion and if not a vote, which **CARRIED UNNAMIIOUSLY** (6-0), by those present.

AGENDA ITEM #8 - CONSIDERATION OF APPOINTING THREE (3) CITIZENS TO THE COMMUNITY

SERVICES ADVISORY COMMISSION, TO SERVE A THREE-YEAR TERM, BEGINNING JANUARY 16, 2018, AND ENDING DECEMBER 31, 2020; AND ONE (1) YOUTH POSITION TO SERVE THE REMAINDER OF A (1) ONE YEAR TERM, BEGINNING JANUARY 16, 2018, AND ENDING MAY 31, 2018.

Mayor Kavanagh **MOVED** to appointed Haydon Arnold to serve the remaining term as Youth Commissioner to serve for a term beginning January 16, 2018, and ending May 31, 2018, and Councilmember Yates **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (6-0), by those present.

Mayor Kavanagh introduced Master Arnold who was present at the meeting. Mayor Kavanagh congratulated and thanked him for serving on this commission.

Mayor Kavanagh **MOVED** to reappointed of Ron Ruppert, Amy Arnold and Don Doty to serve on the Community Services Advisory Commission for a three-year term beginning on January 16, 2018, and ending December 31, 2020, and Councilmember Yates **SECONDED** the motion.

Mayor Kavanagh asked for any discussion and if not a vote, which **CARRIED UNANIMOUSLY** (6-0), by those present.

Mayor Kavanagh acknowledged the appointees: Ms. Arnold, Mr. Doty, and Mr. Ruppert; she thanked them for their service.

Mayor Kavanagh also expressed the Town's appreciation to Sherman Abrahamson for his many years of volunteer service on the Community Services Advisory Commission as well as for his involvement in volunteering for many other Town events.

Mayor Kavanagh reiterated that Regular Agenda Items #9 through #14 would be "tabled" until the February 6, 2018 Town Council Meeting.

Mayor Kavanagh requested a motion to "Table" the agenda items.

Councilmember Leger **MOVED** to "Table" items #9 through #14 to the February 6, 2018 Town Council meeting and Councilmember Yates **SECONDED** the motion.

Mayor Kavanagh asked for any discussion and if not a vote, which **CARRIED UNANIMOUSLY** (6-0), by those present.

AGENDA ITEM #9 - CONSIDERATION OF RESOLUTION 2018-11, APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE TOWN OF FOUNTAIN HILLS AND TOLL BROTHERS FOR ADERO CANYON, PHASE 2. (CASE # DA2017-02) (Item "Tabled" until February 6, 2018)

AGENDA ITEM #10 - CONSIDERATION OF RESOLUTION 2018-12, APPROVING A SECOND AMENDMENT TO THE FINAL SETTLEMENT AGREEMENT BETWEEN THE TOWN OF FOUNTAIN HILLS AND MCO PROPERTIES (AKA E.N. LLC) FOR THE EAGLES NEST PROPERTY. (CASE #DA2017-03) (Item "TABLED" until February 6, 2018)

AGENDA ITEM #11 - CONSIDERATION OF RESOLUTION 2018-13, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE TOWN CLERK AND ENTITLED THE "ADERO CANYON, PHASE II, PAD APPLICATION. (Item "TABLED" until February 6, 2018)

AGENDA ITEM #12 - PUBLIC HEARING TO RECEIVE COMMENTS ON ORDINANCE 18-04, AN AMENDMENT TO THE TOWN OF FOUNTAIN HILLS ZONING ORDINANCE AND ZONING MAP TO CHANGE THE ZONING ON 325 ACRES LOCATED AT 13300 N. EAGLE RIDGE DRIVE (AKA ADERO CANYON PARCELS 2, 3, 4, 5, 6, 9, 10, AND 10A) FROM R1-43 AND MF-PAD TO ADERO CANYON, PHASE II PAD. (CASE# Z2017-12) (Item "TABLED" until February 6, 2018)

AGENDA ITEM #13 - CONSIDERATION OF ORDINANCE 18-04, AN AMENDMENT TO THE TOWN OF FOUNTAIN HILLS ZONING ORDINANCE AND ZONING MAP TO CHANGE THE ZONING ON 325 ACRES LOCATED AT 13300 N. EAGLE RIDGE DRIVE (AKA ADERO CANYON PARCELS 2, 3, 4, 5, 6, 9, 10, AND 10A) FROM R1-43 AND MF-PAD TO ADERO CANYON, PHASE II PAD. (CASE# Z2017-12)

(Item "TABLED" until February 6, 2018)

AGENDA ITEM #14 - CONSIDERATION OF A PROPOSED PRELIMINARY MASTER PLAT FOR ADERO CANYON, PHASE II, A 226.1± DWELLING-UNIT RESIDENTIAL SUBDIVISION ON 325 ACRES AND LOCATED IN ADERO CANYON PARCELS 2, 3, 4, 5, 6, 9, AND 10. (CASE # S2017-12)

(Item "TABLED" until February 6, 2018)

AGENDA ITEM #15 – DISCUSSION WITH POSSIBLE DIRECTION TO STAFF RELATING TO CRITERIA FOR PLACING ITEMS ON THE CONSENT AGENDA.

Mr. Miller reviewed information in the staff report and stated that Councilmember Cecil Yates had requested the Town Manager report back on how consent agenda items were placed on the Town Council meeting agenda. Mr. Miller explained the process and how noncontroversial/routine business items would typically be placed on the consent agenda as referenced in the "Town's Rules of Procedure" along with his own determination of what were noncontroversial items with Councilmembers or any item over \$100K per year. Mr. Miller explained the review process that involved holding weekly staff meetings to determine what the agenda items are and the review of the proposed agenda item list with the Mayor, Town Manager, Town Attorney, and the Town Clerk. Mr. Miller added that in Fountain Hills' policy was that Councilmembers and a member of the general public could request to remove an item from the consent agenda for discussion/action for the purpose of transparency.

Councilmember Yates said that many items are placed in the Town's budget through the annual budget process such as various maintenance projects set-aside to be brought up later in the year on the consent agenda for approval. He indicated that this process was long and leveraged the Town's funds

Vice Mayor Brown asked what the Town Manager's spending limit was. Mr. Miller replied \$50K. Vice Mayor Brown continued that since the Town Manager was trusted with a \$50K spending limit, he believed the Town Manager could make a judgment call on what was placed on the consent agenda, otherwise, the item should be placed on the regular agenda over and above \$50K.

Councilmember DePorter agreed with Vice Mayor Brown and noted that the staff reports were vague.

Mayor Kavanagh pointed out that under this proposed criteria, it would still be possible for anyone to pull a consent agenda item and place it on the regular agenda for discussion.

Councilmember Leger agreed and said he was comfortable with a \$50K limit for renewals and expressed his concern with anything over that amount on the consent agenda and the optics it presented. Councilmember Leger stated he understood the push back on the proposed commitment in this contract and in the future, it should be explained in the staff report.

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

Mayor Kavanagh asked for a motion.

Councilmember Leger **MOVED** that the criteria for consent agenda be for budgeted expenses up to \$50K; if it was a recurring long extended contract with a larger amount then it should then be placed on the regular agenda and Vice Mayor Brown **SECONDED** the motion. Mayor Kavanagh asked for any discussion.

Town Manager Miller clarified with the Finance Director Craig Rudolphy if the quarterly budget amendments were on the regular or consent agenda. Mr. Rudolphy replied those were placed on the consent agenda. Mr. Miller explained budget transfers were typically over \$50K, and were mostly routine, clean-up items. He requested Council's preference for budget transfers on an agenda. Vice Mayor Brown replied those should be placed on the "regular agenda" keeping it consistent and Mr. Miller agreed.

Mayor Kavanagh asked for a vote on the motion, which **CARRIED UNANIMOUSLY** (6-0), by those present.

AGENDA ITEM #16 – DISCUSSION WITH POSSIBLE DIRECTION TO STAFF RELATING TO ANY ITEM INCLUDED IN THE LEAGUE OF ARIZONA CITEIS AND TOWNS WEEKLY LEGISLATIVE BULLETIN OR RELATING TO ANY ACTION PROPOSED OR PENDING BEFORE THE STATE LEGISLATURE.

Mayor Kavanagh pointed out that the “Legislative Bulletin” would be discussed during each Council meeting until the Legislature sine die their session (2018). Mayor Kavanagh stated that the Town had their first call today to discuss a couple of bills with the League. Mayor Kavanagh noted Councilmembers received the current bulletin before the meeting. Mayor Kavanagh requested that if Councilmembers wanted to discuss items not in the League bulletin to contact Mr. Miller and he would list them to the agenda. Mayor Kavanagh also offered to help Councilmembers with additional information available to her from the Legislature or their legal department and available at no charge.

AGENDA ITEM #17 – COUNCIL DISCUSSION/DIRECTION TO THE TOWN MANAGER.

None

AGENDA ITEM #18 - SUMMARY OF COUNCIL REQUESTS AND REPORT ON RECENT ACTIVITIES BY THE MAYOR, INDIVIDUAL COUNCILMEMBERS, AND THE TOWN MANAGER.

Mayor Kavanagh invited everyone to watch the “State of the Town” presentation (available on YouTube the Town web site). If someone wished to attend, contact the Chamber of Commerce for more information.

AGENDA ITEM #19 – ADJOURNMENT

Councilmember Yates **MOVED** to adjourn the meeting and Councilmember DePorter **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (6 - 0). The Regular Session adjourned at 7:00 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 – 2nd Floor and Regular Session held by the Town Council of Fountain Hills in the Town Hall Council Chambers on the 16th day of January, 2018. I further certify that the meeting was duly called and that a quorum was present.

DATED this 6th day of February, 2018.

Bevelyn J. Bender, Town Clerk