

**TOWN OF FOUNTAIN HILLS  
MINUTES OF THE EXECUTIVE AND REGULAR SESSIONS OF THE  
FOUNTAIN HILLS TOWN COUNCIL  
FEBRUARY 20, 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 4:30 p.m. in the Fountain Conference Room - 2nd Floor, Town Hall.

**AGENDA ITEM #1 - 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 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 DISCUSSION CONDUCTED IN ORDER TO AVOID OR RESOLVE LITIGATION [SPECIFICALLY RELATING TO THE WIRELESS FACILITIES IN TOWN RIGHTS-OF-WAY].**

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 Mitesh Patel, Director of Development Services Bob Rodgers, Senior Planner Marissa Moore, Public Works Director Justin Weldy and Town Clerk Bevelyn Bender were also present.

Councilmember Yates **MOVED** to go into Executive Session at 4:30 p.m. and Councilmember DePorter **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (7-0).

**AGENDA ITEM #2 - ADJOURNMENT.**

Mayor Kavanagh adjourned the Executive Session without objection at 4:58 p.m.

**REGULAR SESSION**

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

Mayor Kavanagh called the meeting to order at 5:32 p.m. in the Fountain Hills Town Hall Council Chambers.

• **INVOCATION** – Deacon Dick Smith, Church of the Ascension

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

- **MAYOR'S REPORT**

- i) Mayor Kavanagh announced the next meeting regarding the proposed Primary Property Tax would be held on Thursday, March 8, 2018 beginning at 9:00 a.m. at the Community Center, Ballroom #1.

- **SCHEDULED PUBLIC APPEARANCES/PRESENTATIONS**

Presentation #3 was advanced in order heard by Mayor Kavanagh.

- iii) **RECOGNITION OF COMMISSIONERS SHERMAN ABRAHAMSON AND LYNNE MOTT FOR THEIR SERVICE ON THE COMMUNITY SERVICES ADVISORY COMMISSION.**

Mayor Kavanagh announced that Lynne Mott was unable to attend this meeting and acknowledged Ms. Mott for her service on this Commission beginning in 2014 and noted she also served on the “Parks Facilities Work Group”.

Mayor Kavanagh stated that Sherman Abrahamson was appointed to serve the Town in August 2012 and during this time was appointed chairman and vice chairman along with serving on the “Program’s Work Group”. Mayor Kavanagh thanked both for their service and presented Mr. Abrahamson with a certificate of appreciation.

Councilmember Magazine thanked Mr. Abrahamson for being an active member of the community.

- i) **MAYOR KAVANAGH AND/OR COUNCIL MAY REVIEW RECENT EVENTS ATTENDED**

Councilmember Yates stated he had attended the Maricopa Government on Domestic Violence Council and pointed out their goal was to bring awareness to all government agencies’ and track violators throughout all areas they may have moved. Councilmember Yates added they were working with the State level courts to create a new “Committee on the Impact of Domestic Violence”.

Councilmember Yates discussed the theme of the Greater Phoenix Economic Council (GPEC), “Connected Place”, where technology drove the economy in Arizona and now they were going another direction called “Block Chain” that involved tamperproof ledger for shipping and finance in many locations in Arizona.

Councilmember Yates mentioned Fountain Hills was now a member of the “Metro Board of Directors” and that would open the way for Fountain Hill’s transportation connectivity to the bus lines and stated hopefully through a new study that would involve Fountain Hill’s businesses (instead of only residents); hopefully at no cost to the Town. Councilmember Yates also touched on the “Para-System” that included buses, vans, “Uber” and “Lyft”.

Councilmember DePorter stated he attended a meeting with “Lift”, a large ride share company and explained the “Last Mile” program, where citizens receive discounts each month from “Lift” for riders additional cost of their ride connections and expressed how excited he was to bring “Lift” to Fountain Hills.

Mayor Kavanagh mentioned what a great opportunity it was for Fountain Hills to be a member of the “Metro Board of Directors” and thanked Councilmember Yates for his participation.

Mayor Kavanagh stated she had attended the Maricopa Association of Government (MAG) meeting on Economic Development where they discussed the new data services available to assist the Town’s Economic Director. Mayor Kavanagh added the group discussed furthering the “Sun Corridor” and assistance with exports from Arizona into Mexico and Canada.

Mayor Kavanagh attended the Mayor’s Greater Phoenix Economic Council (GPEC) meeting where ten executives from eastern locations were looking to relocate their companies to Arizona while attending the “Phoenix Open” golf event. Councilmember Yates mentioned Fountain Hills could take advantage of possible relocated businesses.

**ii) UPDATE BY ECONOMIC DEVELOPMENT DIRECTOR SCOTT COOPER RELATING TO RECENT ECONOMIC DEVELOPMENT PROJECTS.**

Mr. Cooper presented updated information contained in his PowerPoint presentation (available on-line and in the office of the Town Clerk), which included a Statewide Industry Report, Regional Industry Report that showed an increase along with discussing the Lead Generation Partners, business active attraction, and updating the soon to open “BoneHaus Brewery” who would also sell wholesale from their Fountain Hills location.

Mr. Copper announced the possibility of a new hotel project moving towards zoning approval and gave a “Park Place” update on its commercial occupancy negotiations in retail, restaurant and office spaces. Councilmember Yates added that 60% to 65% of the commercial spaces were in negotiations and he understood that they were new businesses from outside Fountain Hills.

Mr. Cooper stated he had spoken with the “Copperwynd” management who expressed their hotel expansion was moving forward.

Mr. Cooper spoke to the “JumpStartBiz” Entrepreneurial Program with the East Valley Institute of Technology (EVIT) and announced a recruitment plan presentation would be held on March 6, 2018. He discussed the marketing plan and outreach.

Mayor Kavanagh thanked Mr. Cooper for the great job and his dedication to Fountain Hills.

Councilmember Magazine asked if realtors could meet with companies’ new employees to encourage them to live in Fountain Hills; he suggested a short survey be distributed to track the numbers. Mr. Cooper replied he would look into Councilmember Magazine’s suggestions.

Councilmember Leger commented Council understood the Town’s Economic Development Plan would take some time and congratulated Mr. Cooper. Councilmember Yates echoed the congratulations. Mr. Cooper gave background on the future Work-Study relating to Retail Strategies.

Councilmember Tolis thanked Mr. Cooper and asked for an update on the open land available in Fountain Hills to hopefully bring in tax base and he proceeded to list those properties of interest. Mr. Cooper replied there was interest shown in many of Councilmember Tolis listed properties and added GPEC was helping by encouraging development. Mr. Cooper stated he continued to work on the top needed service in Fountain Hills, which was a 24 hour care facility.

**~~iii) RECOGNITION OF COMMISSIONERS SHERMAN ABRAHAMSON AND LYNNE MOTT FOR THEIR SERVICE ON THE COMMUNITY SERVICES ADVISORY COMMISSION.~~**

**iv) PRESENTATION OF THE 2017 MY REPUBLIC REWARDS COMMUNITY GRANT AWARD BY REPUBLIC SERVICES GENERAL MANAGER TRICIA PONCE DE LEON.**

Mayor Kavanagh introduced Tricia Ponce de Leon along with Terri Jeanette, Operations Manager for Republic Services, who presented a \$10K grant to a Fountain Hills nominated non-profit organization. Ms. Ponce de Leon explained the recycling awards program whereby residents had chosen the following organizations to compete for the grant: “The River of Times Museum”, “Thunderbird Artist”, and “Fearless Kitty Rescue”. Ms. Ponce de Leon thanked everyone for their participation and announced for the second year “Fearless Kitty Rescue” won the \$10K award. Ms. Ponce de Leon presented the award to members of the rescue who thanked Republic Services, Council and the Fountain Hills citizens for their support for this 5 ½ year old non-profit that had rescued 1K kittens to date.

Mayor Kavanagh expressed the wonderful work this non-profit provided on a daily bases. Councilmember Yates mentioned the rescue had almost eliminated the feral cat issue in Fountain Hills. Mayor Kavanagh added the feral cat catch was made possible with the first Republic Services grant award the rescue received.

v) **RECOGNITION OF THE TOWN OF FOUNTAIN HILLS DESIGNATION AS A DARK SKY COMMUNITY BY THE INTERNATIONAL DARK SKY ASSOCIATION.**

Mr. Miller stated Fountain Hills went through a very arduous process to receive the “Dark Sky Community” designation; he read a portion from the “Official Letter” of designation (on file in the office of the Town Clerk).

Mayor Kavanagh accepted the plaque of recognition from Fountain Hill’s residents, Nancy and Joe Bill, who thanked Mayor Kavanagh, Councilmembers and Town staff for their work to achieve this designation. They pointed out Fountain Hills was one of only 17 dark sky communities in the world. Mayor Kavanagh also acknowledged team members present in the audience and thanked everyone for all the hard work performed towards this designation.

Mr. Bill announced the Town had received a donated telescope valued at \$9K and mentioned on April 21, 2018, Fountain Hills would hold a “Dark Sky Festival”, and was informed that three news media outlets had indicated they would attend the festival. Mr. Bill listed the many activities and groups that would be involved. Mayor Kavanagh pointed out the festival was looking for sponsorship.

**CALL TO THE PUBLIC**

Barbara Trebelhorn, a Fountain Hills resident, spoke against the EPCOR water tank lack of landscaping and camouflaging currently affecting the surrounding properties located on Emerald Wash and asked Council to use their influence and speak to EPCOR and support a plan to eliminate the issue.

Melody Kennedy, a Fountain Hills resident, spoke against the current appearance of the EPCRO water tank and asked that additional trees be added to the current landscaping plan proposed on the Arroyo side. Ms. Kennedy gave other suggestions for obstructing the view of the water tank from their properties and asked for the Council’s cooperation.

Jim Sawicki, a Fountain Hills resident, gave further suggestions for the proposed landscaping and requested everything be painted to blend into the desert. Mr. Sawicki suggested a neighborhood committee meet with the Town and EPCOR and to decide the best paint color. He expressed the need for larger trees planted close together and for more communication between everyone involved.

Mayor Kavanagh pointed out that she and Mr. Miller had visited the area and both were aware of the issues and would be meeting with EPCOR executives. Mr. Miller added the EPCOR Director of Operations had spoken with him today and had indicated that he would reach out to neighbors in the area to reach a positive outcome with the Town’s involvement to paint and plan new landscaping. Mayor Kavanagh stressed she would also share the residents petitions submitted to Council.

David Maland, a Fountain Hills resident, spoke in support for these issues to be resolved.

Karen Farkas, a Fountain Hills resident, spoke to another eye sore in Fountain Hills and the awful shape and colors of the Park Place Development that she understood were not as approved by the Town and questioned the change in color since desert colors were used in Town. Ms. Farkas also questioned the Park Place architecture since the other Town architecture was usually soft looking.

Mayor Kavanagh stated she received a unexpected request from Maricopa County Sherriff’s Office (MCSO) Captain Hank Brandimarte who wanted to give an update on the progress the Sherriff’s had made to address school security.

Captain Brandimarte discussed Fountain Hills' readiness to mitigate everyone’s fears following the shooting incident in Florida and trainings that would be implemented.

Captain Brandimarte commented on how this type of event could be prevented stating his only answer was “If you see something, say something”; because there was no one answer. Captain Brandimarte noted that the “Text a Tip” could

be used for an anonymous tip; he indicated that every credible tip received was investigated; his expectations of his officers and importance for parents to communicate with their student to help keep them safe.

Captain Brandimarte gave the three rules that people should follow in the case of such an event: first run, if possible; if not, hide, and if nothing else, fight with intensity and commitment.

Councilmember Leger asked for expanded information on the School Resource Officer (SRO). Captain Brandimarte stated the SRO was involved with the schools by providing campus security, dealing with minor threat issues, giving support and hope, and interacting with students to reduce the law enforcement stigma as being bad. Captain Brandimarte mentioned that SRO Mike Brooks had developed a good relationship with school staff and administrators by being on campus daily. The Captain mentioned he also visited other campus for lunches with elementary students and regularly took care of the cross-walks on Fountain Hills Boulevard. Captain Brandimarte expressed his appreciation for Council's support to fund the SRO position.

Councilmember Magazine thanked Captain Brandimarte and expressed he was not confident due to the situation that happened in Florida and Captain Brandimarte replied he took his job seriously and expected the same from his employees and stressed it was important to take situations seriously and engage. Councilmember Magazine questioned the use of social media and asked for the Captain's opinion. Captain Brandimarte replied action would be taken dependent on what was placed on social media, while protecting free speech, as all must be balanced. Councilmember Magazine asked if metal detectors had been considered and Captain Brandimarte replied they had been discussed, but he felt the action could be counterproductive for a learning environment, but understood there must be a discussion on a larger scale.

Councilmember Yates thanked Captain Brandimarte and mentioned they had both met recently and he was glad Fountain Hills was not re-active, but proactive, with action taking place. Captain Brandimarte discussed factors MCSO officers must consider during an incident.

Councilmember DePorter thanked Captain Brandimarte and his staff for their presence at the schools.

Mayor Kavanagh expressed that parents understood training in all scenarios was important in case of an emergency and to save lives.

Vice Mayor Brown also thanked Captain Brandimarte and everyone involved for being proactive.

Councilmember Tolis agreed with Vice Mayor Brown and asked the Captain for his best security practices; he indicated he would support more security on Fountain Hill's school campuses noting there used to be an active posse in Town. Captain Brandimarte explained his best practice was to be proactive. Mayor Kavanagh expressed her confidence in a proactive MCSO.

### CONSENT AGENDA

**AGENDA ITEM #1 - CONSIDERATION OF APPROVING A FAIR/FESTIVAL LIQUOR LICENSE APPLICATION FOR ELGIN DISTILLERY (ELLAM GARRISON) TO BE LOCATED ALONG THE AVENUE OF THE FOUNTAINS, IN CONJUNCTION WITH THE FOUNTAIN HILLS ART AND WINE AFFAIRE, FROM 10:00 AM TO 5:00 PM DAILY, FROM FRIDAY, MARCH 23 THROUGH SUNDAY, MARCH 25, 2018.**

**AGENDA ITEM #2 - CONSIDERATION OF APPROVING A FAIR/FESTIVAL LIQUOR LICENSE APPLICATION FOR VILLAGE OF ELGIN WINERY (ELLAM GARRISON) TO BE LOCATED ALONG THE AVENUE OF THE FOUNTAINS, IN CONJUNCTION WITH THE FOUNTAIN HILLS ART AND WINE AFFAIRE, FROM 10:00 AM TO 5:00 PM DAILY, FROM FRIDAY, MARCH 23 THROUGH SUNDAY, MARCH 25, 2018.**

**AGENDA ITEM #3 - CONSIDERATION OF RESOLUTION 2018-16, ABANDONMENT OF THE PUBLIC UTILITY AND DRAINAGE EASEMENT ON PLAT 107, BLOCK 14, LOT 11 (14817 N. CALLE DEL PRADO), AS RECORDED IN BOOK 141, PAGE 18, RECORDS OF MARICOPA COUNTY, ARIZONA. (EA 2018-01)**

Councilmember Leger moved to **APPROVE** Consent Agenda items as listed and Councilmember Yates **SECONDED** the motion.

A roll call vote was taken with the following results:

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

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

**REGULAR AGENDA**

**AGENDA ITEM #4 - CONSIDERATION OF RENAMING THE AVENUE OF THE FOUNTAIN PLAZAS TO MORGAN PARK.**

Mr. Miller stated there had been recent concepts not considered to rename the Avenue of the Fountains Plazas that suggested renaming a portion of the Avenue to Morgan Park instead of the entire road from La Montana to Saguaro Boulevard. Staff had prepared a presentation, but instead staff is requesting Council discussion on this item.

Vice Mayor Brown stressed he agreed on recognizing Sharon Morgan for her work in Fountain Hills of many years, including as past Mayor and for her involvement with the “Sister Cities” and in many more ways. Vice Mayor Brown proposed to dedicate the area from Saguaro Boulevard to the turn-a-round. Vice Mayor Brown also requested Council consider a work study to discuss segmenting portions of the Avenue to provide for further dedicated areas for the future. Vice Mayor Brown pointed out that address changes would be necessary and should be considered.

Councilmember Leger left the dais at 7:09 p.m. and returned at 7:10 p.m.

Councilmember Yates agreed with the idea of work-study as this would give the Town lots of opportunities in the future.

Councilmember Magazine also agreed to the work study and further suggested a general naming policy for further guidance and Mr. Miller declared there was a policy and suggested Council may want to review and refresh the policy.

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

Vice Mayor Brown **MOVED** to reserve a section (from Saguaro Boulevard to the turn-a-round) for dedication to Sharon Morgan after the refreshed renaming policy was approved, she would then receive that dedication and Councilmember Yates **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (7-0).

**AGENDA ITEM #5 - CONSIDERATION OF RESOLUTION 2018-05, ABANDONING WHATEVER RIGHT, TITLE, OR INTEREST THE TOWN HAS IN THE CERTAIN HILLSIDE PROTECTION EASEMENT LOCATED AT THE REAR PROPERTY LINE OF DIAMANTE DEL LAGO, LOT 75 (13604 N. BONITA DRIVE), AS RECORDED IN BOOK 516, PAGE 17, RECORDS OF MARICOPA COUNTY, ARIZONA. (EA2017-08)**

Mr. Miller introduced Senior Planner Marissa Moore who reviewed the information contained in the staff report and included a PowerPoint presentation (available on-line or in the office of the Town Clerk) related to this request.

Councilmember Magazine left the dais at 7:14 p.m. and returned at 7:17 p.m.

Ms. Moore stated that the Diamante de Lago Homeowners' Association (HOA) was not opposed to this abandonment and if the abandonment was approved by Council the HOA anticipated homeowners submitting easement abandonment requests for many Hillside Protection Easements (HPE) in the rear of their properties in the Diamante de Lago subdivision. Ms. Moore stated that staff had determined the abandonment would create minimal change in its runoff characteristics and recommends approval.

Mayor Kavanagh asked for speaker cards and Ms. Bender stated one had been received.

Richard Karr, a Fountain Hills resident and applicant explained his request and asked for a remedy to his unknown violation until one of his neighbors filed a complaint and noted he had talked with numerous Town staff members and submitted all the information required to find a solution and mentioned he had no further plans on building in the area in question.

Mayor Kavanagh asked for further questions for Ms. Moore or the applicant and none were initiated.

Councilmember Leger complimented Mr. Karr for the detailed information he submitted for Council's consideration and then asked Ms. Moore if the Hillside Protection Easement (HPE) were abandoned, who would be responsible for the area in the future; Ms. Moore replied all requirements held within the HOA would apply.

Vice Mayor Brown asked if this were approved would more homeowners' be requesting abandonments; Ms. Moore replied it had been discussed among staff members and it was decided each application would be addressed on a case-by-case basis with drainage considered. Ms. Moore added that if staff considered an overall HPE abandonment for this area, it would be very time consuming for staff, but could be done.

Councilmember Tolis asked why Mr. Karr's neighbor complained and Ms. Moore replied her understanding was the vegetation on Mr. Karr's property was obstructing the complaints views. Mr. Karr explained that the vegetation was installed by the prior owner and he had purchased the property in 2009. He mentioned there had been no complaints from 2009-2012, and the only modification he completed with HOA approval was to install flagstone on the patio.

Mayor Kavanagh asked for additional speaker cards and Ms. Bender stated none had been received.

Councilmember Tolis believed neither Mr. Karr nor anyone else knew of this HPE including the HOA who approved his request to upgrade his patio and believed staff needed to address this issue involving all the property owners in Diamante de Lago as a whole.

Councilmember Leger **MOVED** to approve Resolution 2018-05, abandonment of the Hillside Protection Easement at the rear of the Diamante del Lago subdivision plat, Lot 75 and Councilmember Magazine **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (7-0).

**AGENDA ITEM #6 - CONSIDERATION OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE TOWN OF FOUNTAIN HILLS AND THE FOUNTAIN HILLS DARK SKY ASSOCIATION OUTLINING THE DUTIES AND RESPONSIBILITIES FOR MAINTAINING THE INTERNATIONAL DARK SKY ASSOCIATION DARK SKY COMMUNITY DESIGNATION.**

Marissa Moore addressed the Council related to this item and pointed out the designation was awarded to Fountain Hills, as a Dark Sky Community on January 8, 2018. She stated the opinion it was important for Council to approve a "Memorandum of Understanding" outlining the duties and tasks required by both the Town and the Fountain Hills Dark Sky Association to maintain the designation. Ms. Moore noted the Town must submit annual documented reports to the "International Dark Sky Association" and reiterated the importance to outline expectations of the parties involved to prevent any misunderstanding about the duties and tasks involved to maintain this designation.

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

Mayor Kavanagh asked for Council discussion and if not requested a vote.

Councilmember Leger **MOVED** to approve the Memorandum of Understanding between the Town of Fountain Hills and the Fountain Hills Dark Sky Association and Councilmember Yates **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (7-0).

**AGENDA ITEM #7 - CONSIDERATION OF RESOLUTION 2018-04, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE TOWN CLERK AND ENTITLED THE "FOUNTAIN HILLS SENIOR LIVING PLANNED AREA DEVELOPMENT". (CASE# Z2017-14)**

Mayor Kavanagh announced staff would present one staff report covering agenda items #7, #8 and #9 with public requests to speak during item #8, related to Ordinance 18-03 and requested Councilmembers present separate motions for each agenda item.

Marissa Moore reviewed the information contained in the staff report and PowerPoint presentation (available on-line and in the office of the Town Clerk). She reviewed that the CA Ventures application was requesting approval for a proposed 178 bed, approximately 150,000 square foot, Assisted Living, Independent Living and Memory Care project. Ms. Moore pointed out the applicant had requested ten waivers from the Town's Zoning and Subdivision Ordinances.

Ms. Moore reported on January 25, 2018, the Planning and Zoning Commission recommended forwarding to Town Council for approval Ordinance 18-03, with stipulations. Ms. Moore stated that staff also recommended approval as presented, which included the Planning and Zoning Commission stipulations.

Ms. Moore pointed out the applicant was present to answer questions and would review their PowerPoint presentation.

Vice Mayor Brown requested further information on item #8 related to drainage directed out to Saguaro Boulevard and item #9 related to the 10' easement along Trevino Drive, where currently no parking was allowed approximately 25' pass McDonald's. Ms. Moore requested Town Engineer Randy Harrel or the applicant's Civil Engineer Eric Winters address these questions.

Eric Winters, DPS Group, Mesa, Arizona explained how the drainage would be directed using a drainage pipe and mentioned that historically water had already entered Saguaro Boulevard and asserted there would be less volume due to the project that would detain a large portion of the current run-off. Vice Mayor Brown asked Mr. Harrel if he agree and Mr. Harrel confirmed Mr. Master's statement. Mr. Winters addressed the 10' easement and stated the developer had decided to request a 10' roadway easement (for roadway only and not for parking on the street).

Mayor Kavanagh requested the applicant give his presentation.

Chris Russ, Vice President of Development for CA Senior Living based out of Chicago, discussed information contained in their PowerPoint presentation (available on-line or in the office of the Town Clerk). He reviewed the project and amenities. Mr. Russ addressed changes made to the proposed plan after the presentation was made to the Planning and Zoning Commission. Mr. Russ acknowledged the presence of the project's landscaping specialists were available to answer questions. He explained that after meetings with the homeowners whose views would be affected by the development there had been adjustments made in landscaping to allow for better buffers between the properties. Mr. Russ discussed how the design had changed and what height adjustments had been made.

Councilmember Leger left the dais at 7:56 p.m.

Mayor Kavanagh asked about the wall elevation and how much of the building would the neighbors see. Councilmember Magazine responded the neighbors would see the building no matter how low the building sat on the property and Mr. Russ agreed.

Mr. Russ introduced the projects architect Drew Roskos to address comments made by the public and the Planning and Zoning Commission.

Councilmember Magazine left the dais at 7:58 p.m.



Councilmember Leger returned to the dais at 7:59 p.m.

Mr. Roskos stated the building height had been reduced by 3' and that the building in some areas at its highest point would be 40'. Mr. Roskos continued with his review of the project's architecture, landscape plantings and floor plans.

Councilmember DePorter left the meeting at 8:02 p.m.

Councilmember Magazine returned to the dais at 8:04 p.m.

Vice Mayor Brown pointed out that the rendering he was viewing on Council's laptop was not the same renderings as the applicant's representatives were presenting in their PowerPoint. He added that the buildings looked like a 1930 industrial building or institutional prison. He expressed he wanted this project to work, but not as the renderings provided to the Council. Mr. Roskos explained that the changes made on the current PowerPoint being shown were made in response to the Planning and Zoning Commissions and neighbors' feedback. Vice Mayor Brown added that comments he had received were expressing that the elevations were not attractive and he felt it was important to delay further discussions until the Council can see the true elevations and Mayor Kavanagh agreed.

Councilmember Yates expressed he wanted to support this project, but this was not what was talked about in the beginning; he questioned why the applicant and his representatives moved towards a traditional look. Mr. Roskos explained this plan was designed for a step-level for assisted living care.

Mayor Kavanagh said this building would be located at the entrance to Fountain Hills and appeared to look like a hospital and she did not like the design, but she added she was open to looking at a new design. Ms. Moore explained what the Council was reviewing was her presentation, since she did not receive the applicant's revised renderings in time to forward to Council for their review.

Vice Mayor Brown requested the applicant bring back what the true proposed plan would look like and include more of the outside buildings architectural renderings. Vice Mayor Brown stated he could not approve this request at this time due to the architecture design.

Councilmember Leger concurred with the comments made noting he would like to see more push and pull in the building's design and somewhat more of a southwestern design with a residential look instead of a hotel look. Councilmember Leger expressed his appreciation to the applicant and representatives for addressing issues brought forward by the Planning and Zoning Commission.

Councilmember Tolis suggested Council "Table" this request and give the applicant an opportunity to return with a revised plan at a future date. Mayor Kavanagh agreed and added she would like the height of the buildings to be revisited and felt 40' was too high for the entrance to the Town. She suggested the applicant address the issues presented and come back in the future.

Councilmember Tolis **MOVED** to "Table" Resolution 2018-04 and declare a public record for the "Fountain Hills Senior Living PAD" and Councilmember Leger **SECONDED** the motion, which **CARRIED UNANIMOUSLY**, by those present (6-0). (Items #8 and #9 were not discussed as the Resolution was Tabled.)

Mayor Kavanagh explained to those who were in attendance and wished to speak to this application and that due to the agenda item "Tabled" by Council, she could not open the Public Hearing and could go no further on taking comments, by law and expressed her appreciation for their attendance and stressed Council listened to their concerns.

Mr. Miller explained that staff always accepts emails and letters and places them into the public record in the Council's packet, which is then placed on the Town's website. Mayor Kavanagh said the Council had heard the public's concerns. She invited those in attendance to send their suggestions to the Council or come in to talk with her or any Councilmember indicating that there would be another meeting at a future date.

Attorney Patel stated for the public's benefit that the item had been "Tabled" and Council would not open a Public Hearing. He added that the project would be agenized at a later date once the applicant revised their plan and resubmitted, which would give residents a chance to speak.

**AGENDA ITEM #8 - PUBLIC HEARING TO RECEIVE COMMENTS ON ORDINANCE 18-03 AMENDING THE TOWN OF FOUNTAIN HILLS OFFICIAL ZONING DISTRICT MAP FOR APPROXIMATELY 5.74 ACRES GENERALLY LOCATED AT THE NORTHWEST CORNER OF SAGUARO BOULEVARD AND TREVINO DRIVE FROM HEMINGWAY PAD TO FOUNTAIN HILLS SENIOR LIVING PAD. (APN 176-10-811) (CASE #Z2017-14)**

Item was “Tabled” as part of Agenda Item #7

**AGENDA ITEM #9 - CONSIDERATION OF ORDINANCE 18-03 AMENDING THE TOWN OF FOUNTAIN HILLS OFFICIAL ZONING DISTRICT MAP FOR APPROXIMATELY 5.74 ACRES GENERALLY LOCATED AT THE NORTHWEST CORNER OF SAGUARO BOULEVARD AND TREVINO DRIVE FROM HEMINGWAY PAD TO FOUNTAIN HILLS SENIOR LIVING PAD. (CASE# Z2017-14)**

Item was “Tabled” as part of Agenda Item #7

**AGENDA ITEM #10 - CONSIDERATION OF RESOLUTION 2018-03, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE TOWN CLERK AND ENTITLED “SMALL WIRELESS FACILITIES.” (CASE# Z2017-11)**

Mayor Kavanagh announced staff would present one staff report covering agenda items #10, #11, #12 and #13 with public requests to speak taken during item #11. She requested Councilmembers present separate motions for each agenda item.

Marissa Moore reviewed the information within the staff report and PowerPoint presentation (available on-line and in the office of the Town Clerk)

Councilmember Tolis left the dais at 8:28 p.m.

Ms. Moore explained this item was a complex issue and she would attempt to present the basics and welcomed Interim Town Attorney Patel to provide his knowledge of this issue during her presentation where needed. Ms. Moore said this item was being presented because of the passage of House Bill 2365 on August 9, 2017 by the Legislature. She discussed the current Town Code and the proposed changes relating to the affects of this new law on small wireless facilities; she pointed out what the Town could and could not regulate. Ms. Moore requested Mr. Patel further explain the monopole regulations involving four types shown with picture examples. Mr. Patel suggested that guidelines proposed by the Town require the use of a single canister antenna rather than one with three or four panels and should be mounted at the side. Councilmember Yates clarified that the recommended option was mandated by law and must be allowed and Mr. Patel agreed noting that the Town’s preference was a canister mount on the utility pole.

Councilmember Tolis returned to the dais at 8:31 p.m.

Ms. Moore showed a picture of a wireless facilities already placed in Town at the corner of Palisades and Shea Boulevards along with the traffic signal.

Councilmember Magazine asked if the Town could suggest where the facility could be placed on a traffic light; Ms. Moore replied yes; however, the Town could not require them to locate in that location specifically.

Ms. Moore stated the Town could regulate the height to an extent and depending on what the street pole looked like, and the applicant could place them 10’ above to existing height and Mr. Patel added it capped off at 40’ total in height or 10’ above the existing height as long as there was no other utility poles taller were within a 200’ liner feet radius around the said utility pole.

Ms. Moore said monopoles were recommended to have stealth designs. Ms. Moore pointed out although the Town could request a Saguaro that did not mean it would look like a saguaro, but the design would be reviewed by the Town. Ms. Moore added that the Town could request a saguaro, but a saguaro could not be mandated; she provided pictures of other designs used around the country.

Councilmember Magazine expressed his dislike for this change to the law.

Mr. Patel maintained that was the reason for promoting a standard set of guidelines on what the Town wanted installed. He added the applicant would be required to go through the planning process for approval, with the preference for cactus types, with the same design and colors continued and approved by the Town in the past. Ms. Moore informed the Council that the facilities could go up to 40' in height.

Mayor Kavanagh asked if the applicant proposed an area in Town deemed not safe, could the Town refuse the installation and Mr. Patel replied the Town's guidelines indicated a 100% setback and fall requirement from a property line, sidewalk or roadway. Ms. Moore added one of the benefits for this guideline was it limited the height.

Councilmember Yates questioned the 40' in height and what was the purpose. Mr. Patel replied when the applicant exceeded 40', they fall under the Town's zoning requirements. The applicant could request a 39' or just less than 40' utility pole and try to maximize the 40' without going through the zoning review.

Ms. Moore listed the other items the Town could regulate through Planning and Zoning by going through the encroachment process, what items could trigger a review, and other items that can be regulated. Mr. Patel mentioned that part of the encroachment process was a requirement that the applicant sign a license agreement for the location noting that a required individual permit would be necessary with a submitted site plan along with the requirement to work with the Town for analysis.

Councilmember Leger stated that fall zone distance was about the only item that helped the Town under this law. Councilmember Leger expressed his appreciation for staff's work and noted that the League of Cities and Towns had been opposed to this law and felt it an overreach of authority, but added the Town could not do anything about the law; their hands were tied.

Ms. Moore thanked Attorney Patel for all his guidance and mentioned that Cox Communication had already contacted her about the Town's regulations and process.

Mayor Kavanagh requested a motion.

Councilmember Yates **MOVED** to approve Resolution 2018-03, declaring as a public record that certain document filed with the Town Clerk and entitled "Small Wireless Facilities". Case Z2017-11 and Vice Mayor Brown **SECONDED** the motion, which **CARRIED UNANIMOUSLY**, by those present (6-0).

**AGENDA ITEM #11 - PUBLIC HEARING TO RECEIVE COMMENTS ON ORDINANCE 18-01, AMENDING TOWN CODE CHAPTER 16 "STREETS AND SIDEWALKS" TO INCLUDE ARTICLE 16-2 CONTAINING PROVISIONS RELATING TO SMALL WIRELESS FACILITIES AND THE USE OF PUBLIC RIGHTS OF WAY; AND DECLARING AND EMERGENCY. (CASE# Z2017-11)**

Mayor Kavanagh opened the Public Hearing at 8:42 p.m.

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

Mayor Kavanagh closed the Public Hearing at 8:42 p.m.

**AGENDA ITEM #12 - CONSIDERATION OF ORDINANCE 18-01, AMENDING TOWN CODE CHAPTER 16 "STREETS AND SIDEWALKS" TO INCLUDE ARTICLE 16-2 CONTAINING PROVISIONS RELATING TO SMALL WIRELESS FACILITIES AND THE USE OF PUBLIC RIGHTS OF WAY; AND DECLARING AND EMERGENCY. (CASE# Z2017-11)**

Mayor Kavanagh asked for further Council discussion and none was initiated.

Mayor Kavanagh asked for a motion.

Vice Mayor Brown **MOVED** to approve Ordinance 18-01, amending Town Code Chapter 16 “Streets and Sidewalks” to include Article 16-2 containing provisions relating to Small Wireless Facilities and the use of Public Rights of Way; and declaring an emergency (Case Z2017-11) and Councilmember Yates **SECONDED** the motion, which **CARRIED UNANIMOUSLY**, by those present (6-0).

**AGENDA ITEM #13 - CONSIDERATION OF RESOLUTION 2018-18, ADOPTING THE WIRELESS FACILITY LICENSE AGREEMENT AND THE WIRELESS FACILITIES STANDARD TERMS AND CONDITIONS FOR LOCATING WIRELESS FACILITIES WITHIN TOWN RIGHTS OF WAY, THE 2018 TOWN OF FOUNTAIN HILLS WIRELESS FACILITIES IN THE RIGHT-OF-WAY DESIGN STANDARDS AND GUIDELINES, AND AMENDING THE TOWN COMPREHENSIVE FEE SCHEDULE; AND DECLARING AN EMERGENCY. (CASE# Z2017-11)**

Mayor Kavanagh asked for further Council discussion and none was initiated.

Mayor Kavanagh asked for a motion.

Vice Mayor Brown **MOVED** to approve Resolution 2018-18, adopting the Wireless Facility License Agreement and the Wireless Facilities Standard Terms and Conditions for locating Wireless Facilities within the Rights of Way, the 2018 Town of Fountain Hills Wireless Facilities in the Right-of-Way Design Standards and Guidelines, and amending the Town Comprehensive Fee Schedule; and declaring an emergency Case (Z2017-11) and Councilmember Yates **SECONDED** the motion, which **CARRIED UNANIMOUSLY**, by those present (6-0).

**AGENDA ITEM #14 - DISCUSSION WITH POSSIBLE DIRECTION TO STAFF RELATING TO ANY ITEM INCLUDED IN THE LEAGUE OF ARIZONA CITIES AND TOWNS WEEKLY LEGISLATIVE BULLETIN OR RELATING TO ANY ACTION PROPOSED OR PENDING BEFORE THE STATE LEGISLATURE.**

Councilmember Magazine asked for information on HB2333, home businesses and Mayor Kavanagh replied that the League of Cities and Towns opposed the bill; Mr. Miller added he believed the bill was still in committee.

**AGENDA ITEM #15 – COUNCIL DISCUSSION/DIRECTION TO THE TOWN MANAGER.**

Councilmember Tolis requested Mr. Miller find out when the Town entrance sign with logos would be replaced since they had been stolen; Mr. Miller asked Public Works Director Justin Weldy for the status. Mr. Weldy explained the new signs had been ordered and the signs would be made temporary since all signage would be addressed in the “Way Sign and Monument Program”.

Councilmember Leger asked Mr. Weldy if the entry way into the Town solar lights were still functioning and Mr. Weldy replied he would check them out.

**AGENDA ITEM #16 - SUMMARY OF COUNCIL REQUESTS AND REPORT ON RECENT ACTIVITIES BY THE MAYOR, INDIVIDUAL COUNCILMEMBERS, AND THE TOWN MANAGER.**

Councilmember Yates reported on the Tribal inauguration stating there was a good turnout from Fountain Hills; He said he congratulated the three new members of the Fort McDowell Yavapai Nation Tribal Council and expressed his excitement to work with the tribe. Mayor Kavanagh added that all Fountain Hills attendees were acknowledged by name and noted a joint session in the near future would be held with the Tribal Council and Town Council in Fountain Hills.

Mayor Kavanagh stated she attended the Fountain Hills Coalition meeting where they were updated regarding school programs, drop-offs and many other subjects including a 2017 year in review of the Coalition’s accomplishments and discussed the future. Mayor Kavanagh mentioned that Senator John Kavanagh was present to answer questions, including State Law.

Mayor Kavanagh also attended a League of Executive Committee meeting and discussed Legislature items, bills and their impact and stated she continued her Monday call-ins for updates on the Legislature’s activities.

**AGENDA ITEM #17 – ADJOURNMENT**

Councilmember Yates **MOVED** to adjourn the meeting and Vice Mayor Brown **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (6-0). The Regular Session adjourned at 8:49 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 20<sup>th</sup> day of February, 2018. I further certify that the meeting was duly called and that a quorum was present.

DATED this 3<sup>rd</sup> day of Apri, 2018.

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