

**TOWN OF FOUNTAIN HILLS
MINUTES OF THE SPECIAL SESSIONS OF THE
FOUNTAIN HILLS TOWN COUNCIL
MAY 21, 2018**

* **CALL TO ORDER AND ROLL CALL**

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

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

Vice Mayor Dennis Brown and Councilmember Nick DePorter were absent.

AGENDA ITEM #1 – CONSIDERATION OF RESOLUTION 2018-39, DECLARING AND ADOPTING THE RESULTS OF THE SPECIAL ELECTION HELD ON MAY 15, 2018.

Town Manager Miller requested Town Clerk Bender review the election results; Ms. Bender stated that the result numbers were listed in the resolution before the Council noting that the “yes” votes totaled 3,459 and the “no” votes totaled 6,705; the property tax question did not pass. She reiterated that the canvass was a requirement by the State.

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

Councilmember Leger **MOVED** to approve Resolution 2018-39 and Councilmember Magazine **SECONDED** the motion, which **CARRIED UNANIMOUSLY** by those members present (5 - 0).

AGENDA ITEM #2 – CONSIDERATION OF APPROVING SPECIAL EVENT LIQUOR LICENSE APPLICATION, SUBMITTED BY KIERA ALLEN REPRESENTING THE FOUNTAIN HILLS THEATER, LOATED AT 11445 N. SAGUARO BOULEVARD, FOUNTAIN HILLS, AZ, FOR THE PURPOSE OF A FUNDRAISER TO BE HELD FROM 6:00 PM TO 12:00 AM ON MONDAY, JUNE 4, 2018.

Town Manager Miller presented the information regarding the special event liquor license application before the Council for their recommendation. He stated this was placed on the agenda so that the applicant could submit it in time to the State because of timing of the event was in between Council meetings. He stated the application was routine, that staff had reviewed this application, and there weren't any issues or concerns.

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

Councilmember Magazine **MOVED** to approve the special event liquor license application as presented and Councilmember Yates **SECONDED** the motion, which **CARRIED UNANIMOUSLY** by those members present (5 - 0).

AGENDA ITEM #3– DISCUSSION WITH POSSIBLE DIRECTION TO STAFF RELATING TO FUTURE LEGAL SERVICES FOR THE TOWN OF FOUNTAIN HILLS.

Town Manager Miller stated that Interim Town Attorney Patel was excusing himself from this discussion due to a potential conflict of interest; he left the dais at 5:34 p.m.

Town Manager Miller stated there had been an in depth discussion and presentation that had occurred at the Council's February retreat regarding the future of the Town's legal services. He indicated that staff's intent was not to repeat the long presentation as it had appeared there was consensus at that time with looking at more of a fixed cost retainer fee option. He said some Councilmembers had expressed they wanted someone on staff with some additional legal staff. He commented that staff had done some research on this option and said there were firms that would be open to that but with the competitive process he expressed the you did not know what the outcome would be. Mr. Miller introduced Administrative Services Director David Trimble to provide the results of the research completed and commented that the request for proposal (RFP) included in the Council's packet had incorporated the Fountain Hills approach; he mentioned that this version was a combination of documents received from a former colleague of his and a few other municipalities who had just gone through a similar process.

Mr. Trimble reviewed the information contained in the PowerPoint Presentation (available on-line and in the office of the Clerk). He gave the research background and stated that the focus had been on the “legal” civil service side as the prosecutor side was covered. He said the firm of Dickenson-Wright has been serving as the Town’s acting town attorney on an interim basis since October of last year. In February 2018, the Council held their retreat and several options were presented at that time of which one was the fixed fee arrangement. He reiterated that the Council’s discussion had pointed to drafting the RFP with a fixed fee feature included. He said staff thought this approach would save the Town money but at least get the Town back to the average costs seen before the attorney change (on a five-year basis the cost was approximately \$275K and the FY2018/19 budgeted amount was \$400K). In response to Councilmember Magazine, Mr. Miller clarified that the \$400K was the adjusted amount (down from \$450K) that the Council had reduced the line item to for legal services during the tentative budget discussions in order to remain below the expenditure limitation and that the prior year the budgeted amount had been \$300K. He stated that a fixed fee is starting to become more normal but had been around for a long time noting that many firms have retainer fees for access to the attorney for anytime that you need the attorney. It’s very similar with this arrangement whereby the Town would have a baseline of services that would be called out and anything over and above that would cost more. Staff found that cities that have this arrangement reevaluated after twelve months to see if there were unusual situations that might affect the cost going forward and then negotiate any adjustment going forward. He explained that this method would basically get the corporate municipal attorney and all those services taken for granted; then when those specific legal situations arise (lawsuits, development agreements, complicated legal situation, etc.) that’s where more money would be spent; then at that point is where the adjustment would come in – 12 months later. He indicated that was the direction staff was leaning.

Councilmember Yates questioned if the \$400K included funding for criminal legal services and Mr. Miller and Finance Director Rudolph both spoke to clarify that the prosecutor line item and other legal subscriptions costs were not included, but were accounted for in a different area of the budget.

Councilmember Yates stated that in their partnership discussion the Council was looking at the average costs (\$280K annually for the 5-years prior, not including this year), and if you look at \$275K, that does hit the average. He commented that the Council had agreed on the \$275K knowing there would still be additional costs during the interim period before the new contract kicks in. He expressed the opinion that given the rates that the Town is currently paying, the Council needed to be slightly inflated above the \$275K-\$280K to give flexibility to cover those costs for the interim period.

Mr. Trimble continued reiterating that they do have an RFP that staff had utilized information from other municipalities and incorporated Fountain Hills’ requirements. He noted that the scope of work included all the expected items (routine items), utilized the fixed fee concept, and identified any special services provided that an hourly rate for those services would be priced out (list of services included in the PowerPoint Presentation). Mr. Miller discussed that bonds proceeds pay for financial advisor and legal bond counsel costs.

Mr. Trimble presented the proposed next steps and stated that staff was seeking confirmation from Council as to how to proceed. He stated that staff was recommending moving forward with the RFP and as part of that process. He further explained that there would be a staff panel (that would include him, the Finance Director, and one other staff person) to review the proposals submitted in order to narrow the choices. Staff also requested that a Town Council Subcommittee be established for the purpose of reviewing staff’s recommendations with the intent to further narrow the choices with the finalists to be interviewed by the entire Council.

Councilmember Yates questioned what the timetable would be and Mr. Trimble proposed that the RFP be released next week, with submittals due at the end of June and over the summer, staff and the Council Subcommittee would be reviewing the submittals, and then after the Council’s summer hiatus, interviews would be scheduled with the Council’s selection scheduled for a meeting in September. Councilmember Magazine questioned how staff proposed to solicit and release; Mr. Trimble stated that was dictated by the procurement code. Mr. Trimble explained that the ad would be placed in the Fountain Hills Times, the Phoenix Business Gazette, and on the Town’s website. Mr. Miller stated that many law firms receive alerts for these types of solicitations when they occur. Mr. Miller stated he was confident that the Town would receive a good number of submittals.

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

Councilmember Leger **MOVED** to move forward as presented and Councilmember Yates **SECONDED** the motion, which **CARRIED UNANIMOUSLY** by those members present (5 - 0).

Mr. Miller proposed that it would be helpful for the Council to come back in June to address which Councilmembers will be serving on the Town Council Subcommittee. He requested that the Council review the RFP and stated that when they meet in June that it would be helpful to know who will be serving. Mayor Kavanagh asked the Councilmembers to let her know if they were interested in serving on the Subcommittee.

Interim Attorney Patel returned to the dais at 5:48 p.m.

AGENDA ITEM #4 – ADJOURNMENT

Mayor Kavanagh asked for a motion to adjourn.

Councilmember Leger made a **MOTION** to adjourn the meeting at 5:48 p.m. and Councilmember Yates **SECONDED** the motion, which **CARRIED UNANIMOUSLY** by those members present (5 - 0).

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 Special Session held by the Town Council of Fountain Hills in the Town Hall Council Chambers on the 21st day of May, 2018. I further certify that the meeting was duly called and that a quorum was present.

DATED this 26th day of June 2018.

Bevelyn J. Bender, Town Clerk