



## MINUTES

### TOWN OF MIAMI

#### REGULAR MEETING OF THE MAYOR AND COUNCIL MONDAY, OCTOBER 22, 2018 AT 6:30 PM

#### 1. CALL TO ORDER:

Mayor Dalley calls the meeting to order at 6:30 p.m.

#### 2. PLEDGE OF ALLEGIANCE/INVOCATION:

Mayor Dalley led the pledge of allegiance. Councilmember Medina led the invocation.

#### 3. ROLL CALL OF COUNCIL MEMBERS:

**PRESENT:** Mayor Dalley, Vice Mayor Gonzales, Councilmember Castaneda, Councilmember Hanson, and Councilmember Medina.

**EXCUSED:** Councilmember Black.

**STAFF PRESENT:** Town Manager Heatherly, Town Attorney Goodwin, Police Chief Juarez and Town Clerk Norris.

#### 4. CONSENT AGENDA:

- A. Consideration and possible action to approve Minutes of the October 8, 2018 Regular Meeting.
- B. Consideration and possible action to approve the Town Payroll for October 7, 2018.

Councilmember Castaneda moved to approve the consent agenda. Seconded by Councilmember Hanson. Mayor Dalley calls for the vote. Vote – Mayor Dalley – yea, Vice Mayor Gonzales – yea, Councilmember Black – excused, Councilmember Castaneda – yea, Councilmember Hanson – yea, and Councilmember Medina – yea. MOTION PASSED.

#### 5. APPROVAL OF DEMANDS AND PRESENTATION OF BUDGET REPORTS:

- A. Consideration and possible action to approve the General Demands for October 5, 2018 to October 18, 2018.

Councilmember Castaneda moved to approve the general demands for October 5, 2018 to October 18, 2018. Seconded by Councilmember Medina. Mayor Dalley calls for the vote. Vote – Mayor Dalley – yea, Vice Mayor Gonzales – yea, Councilmember Black – excused, Councilmember Castaneda – yea, Councilmember Hanson – yea, and Councilmember Medina – yea. MOTION PASSED.

**6. REPORTS / RECOGNITIONS:**

**A. Department Reports.**

**B. Town Manager Report.**

Town Manager Heatherly reports that he was not here for the Miami Homecoming Parade but he understands it went well. Reports on the Summit Forum that he and Mayor Dalley attended in Superior; it was regarding blight issues. Reports that the Police Department has made employment offers to 3 individuals for hire as police officers, hope to have them all through the hiring processes within 2 to 3 weeks. Announces that the 12D Grant, that was submitted by the Police Department, has been partially approved; it will be funding the purchase of 5 laptops for the Police Department. Reports that the equipment for Vandal Park came in on Friday and we have picked up the sign that Miami High School made, will be coordinating the installation of those later this week.

**C. Mayor/Council Reports.**

Councilmember Hanson announces the Miami Harvest Fest sale at the Senior Center parking lot this Saturday the 27<sup>th</sup> from 9:00 a.m. to 2:00 p.m. and immediately following is the Pumpkin Festival at the Miami Veterans Park from 3:00 p.m. to 10:00 p.m.

Mayor Dalley comments regarding meeting with the high school students this Wednesday and the kids were really excited for Homecoming and also attending the pep assembly on Thursday with Globe Mayor Al Gameros. Mayor Dalley states that the school allowed them 15 minutes to talk to the students about the Globe/Miami rivalry game and the tagging and such. Reports that on Thursday he went and painted over some of the graffiti in Town and will be doing more later. Reports briefly on the Miami Homecoming Parade. Mayor Dalley comments regarding KE&G, they are doing a great job on this sewer project.

**7. CALL TO THE PUBLIC:**

Mr. Barney Anthony Absher, Miami resident, comments regarding riding the Cobre Valley Transit bus and being refused rides on the bus due to being in a wheel chair and now he has been banned from riding the bus altogether. Mr. Absher states that he wants the Town to rectify this or he will get a lawyer and sue the Town.

**8. UNFINISHED BUSINESS:**

**9. NEW BUSINESS:**

**A. Information, discussion and possible action:** Administration of Oath of Office to newly appointed Council Member Patricia Bringhurst.

Councilmember Castaneda moved to do the administration of Oath of Office to newly appointed Council Member Patricia Bringhurst. Seconded by Councilmember Hanson. Mayor Dalley calls for the vote. Vote – Mayor Dalley – yea, Vice Mayor Gonzales – yea, Councilmember Black –

excused, Councilmember Castaneda – yea, Councilmember Hanson – yea, and Councilmember Medina – yea. MOTION PASSED.

Mayor Dalley administers the Oath of Office to Ms. Bringhurst and Ms. Bringhurst takes her Council seat.

**B. Information, discussion and possible action:** Presentation by Gila County Attorney regarding qualifications of Patricia Warden to serve as Council Member. Possible approval of Resolution No. 1214 determining that Candidate Patricia Warden is not qualified to serve on the Town Council and prohibiting her from being seated.

Gila County Attorney Brad Beauchamp states that back into August he received a letter from the Town Attorney Ms. Goodwin indicating that they wanted him to look at the candidacy of the candidate that is here tonight. The letter states that this Council had voted or agreed that he should look at it, that he should investigate it and that he should take whatever action that he thought was necessary. He appreciates Council for coming to that conclusion, that is not what he does and that is not what his office does. That is what you do as a Town Council, that's what your Town Attorney advises you of. He spoke to Ms. Goodwin and he told her he would look at it. He looked at it and then contacted Ms. Goodwin and told her what he thought and she asked him to put that in writing. He said no, he would come speak to the Council directly. There are a lot of issues that he has with it but he will not give Council his opinion because he is not here to give legal advice. County Attorney Beauchamp states he was asked what can the Council do, if anything. He stated that there are three remedies: 1) Council could have prevented her from being on the ballot, the information was given to the Town in July and nothing was done at all. 2) The next thing would have been 5 days after canvassing the election somebody could have protested, and that protest could have come from anybody in the Town of Miami and that didn't happen. 3) There is really only one thing left to do and that is to decide if you are going to administer the oath. If the decision is a refusal to seat her the remedy is going to be a mandamus issue that can likely go to the court, then you are forcing the court to order you to seat her. In the end it is your decision to make and he will not give an opinion and possibly sway the Council decision. Town Attorney Goodwin states that they received the complaint on July 17<sup>th</sup>, we sent out questionnaires to Ms. Warden and to another person who was renting a home she owns in Miami. We got the responses back, it wasn't the election yet, and there probably was not time to get a court order. The results of the questionnaire were preliminary but it indicated to me, at least, that it warranted further investigation. The Council directed, properly so I think, that see if she makes it through the primary and if she does please forward this to the County Attorney for an investigation. Town Attorney Goodwin states she did talk about this with County Attorney Beauchamp and she thought he was going to do an investigation and make a recommendation so she apologizes if she misunderstood him. They also discussed the September 9<sup>th</sup> or 10<sup>th</sup> date and she understands that we were trying to get this over quickly, before the canvass but he was not able to do that and she understood that. Councilmember Castaneda states it was her understanding that we had asked for an investigation to determine whether or not Ms. Warden lived in the Town of Miami. Councilmember Castaneda states that she did speak to Ms. Warden and she told her that she did live within the city limits. Councilmember Castaneda states that she had been told by other people that she did not live within the city limits. She

claims to live on Reppy and her (Councilmember Castaneda) side street is on Reppy so she knows she doesn't live there. County Attorney Beauchamp states that when he spoke to Ms. Goodwin she indicated that Council wanted him to investigate and he told her he does not do that, he does not go and investigate elections in the county for municipalities, that's not what we do. He can take a conflict on things, which is what he did. Everything Council has looked at is what he already had and the statements from the people who live there were statements. The candidate filled out something and signed it under penalty of perjury that she lived at 177 S. Reppy and those documents are on file at the Records Office. The statements that he got were not sworn affidavits from the people, nobody indicated under penalty of prudence that this is what we are doing, this is what needs to be done. If you are asking him what his legal opinion is on this we are not doing that in open session, we will do that in executive session, where legal opinions need to be done. Brief discussion and clarification regarding the statute on residency. County Attorney Beauchamp states that when they looked at everything he had her sworn statement under oath that she is a resident. He had people's statements that said that she is not, they live there, hers is under oath and theirs isn't. He is just telling Council what the evidence is. Town Attorney Goodwin asks County Attorney Beauchamp, you did review the questionnaires, did it establish residency under the statute one year prior to the election? County Attorney Beauchamp states that when he looked at her residency and she indicated under oath that was where she lived and that she lived there for the time she was running that's what she says. There is another remedy if she is not telling the truth. County Attorney Beauchamp states the other issue he kind of has with this is the complaint came in July, we sent out questionnaires and we do things and the questionnaires and things come back, then it appeared to him that nobody wanted to make the call, so it was sent to him to make the call. You don't want me making the call, that is in the 7 of you, not in me. Town Attorney Goodwin states that she did not believe the Council had the authority to keep her off the ballot. County Attorney Beauchamp states the Council can choose not to seat her, if that is what they want to do. If you do that, that is not the end of it. There is recourse that the candidate can take as well. Councilmember Castaneda states that what Council needed to know was whether she lives in that house. She knows she does not live in that house, she lives four houses down from where she lives. Brief discussion regarding ways of establishing residency. Councilmember Hanson comments that they were hoping the County Attorney could authenticate the evidence in the complaint that was sent over to him. Councilmember Hanson asks how did the proposed resolution come about, was it from the County Attorney? The proposed resolution was drafted by Town Attorney Goodwin. Councilmember Hanson moved to approve Resolution No. 1214 determining that Candidate Patricia Warden is not qualified to serve on the Town Council and prohibiting her from being seated. Seconded by Councilmember Medina. Vice Mayor Gonzales states that he is here to make a decision and he has to base his decision on facts listed. In the documents listed there is no documents that prove that she does not live there and no documents that say that she does live there. He don't have any kind of evidence and at the same time he don't feel that it is up to him to decide this. He thought that it is up to the residence that live here in the Town of Miami that voted for her, they are the ones, not him, to make that decision. Without any evidence, facts, he has to think fairly and without any facts he can't make a decision. Councilmember Hanson states that the County records indicate that the property over there has a renter in it and it is listed that way, a secondary property with a renter. Vice Mayor Gonzales states that's his problem, yes he understands that, but once again, it was not under oath whether it is fact or not fact. He has to base his decision on facts, without having a true authorized statement, he has to be fair.

Brief discussion regarding the questionnaire provided by the Town Attorney being different than making a statement under oath.

Susan K. Imperatrice, 4476 W. Highway 60, Miami, comments that she is surprised that we are here tonight. For years she has been getting reports that the Mayor doesn't live in the City of Miami. Ms. Imperatrice states she has witnesses who can prove it but she just let it be so she is shocked that we are here over this. If she is not seated she guarantees that there will be an investigation into that situation. Do we know where his kid goes to school? We didn't really look into that because he is on our side, he does what we want but Patty is not going to do what you want so you want to be sure to get rid of her before she gets on the Council and exposes things that some of you, not all of you, have been trying to hide. This question of an equal investigation, and the Town using its resources to investigate her, subpoena her. You say that you spoke to her tenants, you didn't speak to her tenants, you spoke to the guy that has the lease on the house that she stays with her friend in that house. You did not talk to anybody that lived there. You just wanted to get her off the Council. You're going to use the Town, the tax payer's money to investigate her but you're not investigating yourself are you. Ms. Imperatrice comments that they want equal investigation. Stop using the rules to keep people out that you don't want in while allowing people that agree with you to stay in. Ms. Imperatrice states that the people matter, the people voted for Patty and you are going against what the people want to cover something up and whether you seat her or not we are going to find out what it is.

Sharon Licano, 5582 Alberta Drive and 162 S. Reppy Avenue. Ms. Licano states that she has not lived on Reppy for a couple of months but she has lived there for 18 years and she knows darn well that Patty Warden does not live in that house and she never has. Ms. Licano points out the last person to live in that house, her stepson and states her sister as well. Ms. Licano comments regarding her going to the Recorder's Office and questioned it and have questioned several people and was told that there was nothing they could do.

Ms. Connie Ramos, 1192 W. Sullivan Street. Ms. Ramos comments that is all hearsay what she [Ms. Licano] is talking about. Ms. Ramos states that she is going to read a statement written by her sister who is unable to speak at the time. The letter states that her name is Brenda Spurgeon and she rents from Patty Warden at 177 S. Reppy Avenue, Miami. No one came to question her about her home next to her home. As her friend and renter she was there when she needed her and that she allowed her to plug into her electric when she was living there. She would visit with her and have dinner with her in her home. Just because she has no utilities in her name that doesn't mean she does not live there. She has live there since August to May 2017 and in 2018 her dad got sick and she went stay with him to take care of him. Ms. Ramos states that she has never voted in her life and this is the first time she actually registered to vote. She always thought our vote did not matter because you are going to put in who you want to put in. She decided to vote this year and she voted for Patty, she won and now you are trying to say my vote didn't matter. My vote matters.

Ms. Patty Warden, 177 S. Reppy Avenue and 437 N. 4<sup>th</sup> with her father. Ms. Warden states that she got the 60% in of that one year that you are specifying. Ms. Warden states she has nine months of living there. Ms. Warden comments that her and her husband (present) were having problems and they split up and she had nowhere to go, that was her home. Ms. Warden asks Mayor Dalley if he did not have on his state taxes that his primary residence is in Mesa and doesn't he have a child in school in the valley. Ms. Warden states you are trying to tell us that you live here but your family is down in the valley. You only come here twice in a

month, every other Monday, or that you don't go home and that your family is down there by themselves. Ms. Warden states it is a conflict here and the optics do not look good. Ms. Warden comments that he knows she will not vote for him for Mayor and that is why he is keeping her out. He knows that if she is on that side of the bench she will nominate Dan Moat for Mayor. She will vote for Dan Moat for Mayor because that is what the people said, he won in a landslide. As far as the investigation, you didn't even talk to the tenant of the home, she is here but she is not well and cannot get up and speak. She is willing to go under oath. Ms. Warden states that she lived there. Ms. Warden addresses Councilmember Castaneda asking if she has been up her road. She does not believe she has been up her road for a very long time.

Mr. Robert Wilkinson, 142 S. Canyon Avenue. Mr. Wilkinson comments regarding moving here in 1999 and has known Patty Warden and her family this whole time. She has lived in Miami most of the time that he has lived here. Mr. Wilkinson states that he registered to vote and he voted for Patty also and now you are going to say our votes don't matter. What's going on here? He would just like to see what's fair get taken care of.

Mr. Barney Anthony Absher, 133 W. Bird Street. Mr. Absher states he walked down the road on Reppy every day and he seen her at that residence several times so to him, she lived there. Mr. Absher states that maybe you didn't see her, but he did. Mr. Absher states that he will go under oath for this because he seen her all the time when he walked down that street, at that residence. Mr. Absher states our votes do count.

Mr. Thomas Warden, 593 Starview Drive, Miami. Mr. Warden states that he did live in that house about 7 years ago. He knows for a fact that she's in there, he helped her get set up with the electrical, the water heater and helped clean the yard. It's not just because he is her stepson, it's true.

Ms. Sharon Licano, 5582 Alberta Drive and 162 S. Reppy Avenue. Ms. Licano sates she just has to laugh at these people because she knows darn well and she will swear under oath that she [Patty Warden] does not live there. Ms. Licano states that tonight is the first night that she has seen two vehicles there and comments regarding the black truck has been in the same spot with the trash in it.

Vice Mayor Gonzales states for the record that he will be abstaining from this vote because he don't have the true facts. Mayor Dalley calls for the vote. Vote – Mayor Dalley – yea, Vice Mayor Gonzales – abstain, Councilmember Black – excused, Councilmember Bringhurst – yea, Councilmember Castaneda – yea, Councilmember Hanson – yea, and Councilmember Medina – yea. MOTION PASSED.

**C. Information, discussion and possible action:** To approve closure of Plaza Avenue and entrance to Bullion Plaza Museum on November 12, 2018 for the filming of a movie.

Town Manager Heatherly introduces Mrs. Molly Cornwell to make this presentation to Council. Mrs. Cornwell states with her capacity as manager of the Globe Downtown Association they manage several facilities in Globe so they work with a lot of film makers. Mrs. Cornwell gives

some brief details of the film. Filming will be in the Globe and Miami area November 8<sup>th</sup> to the 14<sup>th</sup>. The working title of the film is Patsy Lee and the Keepers of the 5 Kingdoms; it is a family film. The director is Zack Ward. They will have their whole cast and crew here for the production. Councilmember Hanson moved to approve closure of Plaza Avenue and entrance to Bullion Plaza Museum as stated. Seconded by Councilmember Medina. Vice Mayor Gonzales asks what day will they be filming in Miami. Mrs. Cornwell states they are working on the schedule right now but from the tentative schedule it looks like the downtown scene, the huge festival scene, will be happening on the evening of the 9<sup>th</sup> and evening of the 12<sup>th</sup>, but she will let Town Manager Heatherly know of any changes. Mayor Dalley calls for the vote. Vote – Mayor Dalley – yea, Vice Mayor Gonzales – yea, Councilmember Black – excused, Councilmember Bringham – yea, Councilmember Castaneda – yea, Councilmember Hanson – yea, and Councilmember Medina – yea. MOTION PASSED.

**D. Information, discussion and possible action:** Possible direction to staff on interest to proceed with adoption of Town of Miami policy concerning nepotism.

Town Manager Heatherly comments regarding reviewing all the Town policies and he has not seen a policy on this issue. This policy is to protect the employee and the organization itself. The provided copy is not in the Town's format but just for Councils review and possible direction to staff to proceed with drafting a policy for the Town. Open discussion and comments regarding this being an issue in the past. Brief discussion regarding nepotism being a state law and exactly how does the state law read. Councilmember Bringham comments regarding the proposed policy includes common law marriage and as she understands it Arizona does not recognize common law marriage and she would like to not see that in the policy. Vice Mayor Gonzales states his understanding is Section A is state law, is that correct. Town Attorney Goodwin states that state law does not read exactly what is here, this is a summary of what the state law is. Vice Mayor Gonzales states going back to Section B, Section B is not a state statute is it? Town Attorney Goodwin states that is correct. Vice Mayor Gonzales states he would agree with Councilmember Bringham, we should abide by nepotism under Section A. Town Attorney Goodwin reads the state statute and states that she always thought that if you recuse yourself as the appointing power and delicate it to somebody else that you could do that. Town Attorney Goodwin states that when we go back and look at this after we get direction from Council she thinks would should look at how broad the definition of appointing power is. Town Attorney Goodwin thinks we can get around a lot of the conflicts by addressing that. Councilmember Hanson moved to approve for staff to work on this. Seconded by Vice Mayor Gonzales. Vice Mayor Gonzales states that he would like to see also that department heads can recuse themselves and bring somebody else in if there is a conflict. Mayor Dalley calls for the vote. Vote – Mayor Dalley – yea, Vice Mayor Gonzales – yea, Councilmember Black – excused, Councilmember Bringham – nay, Councilmember Castaneda – yea, Councilmember Hanson – yea, and Councilmember Medina – yea. MOTION PASSED.

**E. Information, discussion and possible action:** Council recommendation to staff regarding their preference on the monthly reporting of departmental activities.

Town Manager Heatherly states the Attorney General has revised some of the interpretations of the Open Meeting Law, who can talk about what and basically department heads are not allowed to do that in a forum where it is not specifically an agenda item. They can't just report

to Council about just anything. We have some different scenarios: we can put an agenda item out there every month in which we are going to do departmental reports and highlight what we are going to talk about in all the areas. He thinks that is a bit cumbersome. Town Manager Heatherly states he would suggest trying, next month, letting him put together a monthly report, he will take each department report and put them into a condensed monthly report and on the second month that will be part of the packet that everyone gets. If something big comes up during the month we can make it an agenda item for discussion. Councilmember Hanson agrees and thinks this will work and will save some time on the meetings. Vice Mayor Gonzales agrees with Councilmember Hanson but he would like to see the department reports in the packet on a regular basis. Mayor Dalley would like the Town Manager to get the reports and report to Council and if there is anything of importance it can be made an agenda item. Town Manager Heatherly states he will try something for the reporting next month and if it don't work out we can modify the way it's being done.

**F. Information and discussion only:** Review and discussion regarding the Miami Wastewater Collection System Improvement Project Phase 2 and Phase 3-5.

Town Manager Heatherly states we are making progress on Phase 2, a settlement package was sent out to all of the parties involved at the end of last week. We are forcing the issue now, as much as we can, stating we are either going to settle something or we are going to go to court. Things from Phase 2 are getting worse and we need to get this settled. Town Attorney Goodwin states the goal is to get the parties to the table and feels we are making progress in doing that. Mr. Rick Powers gives a presentation on the pavement replacement/repairs in regards to the sewer project Phases 3-5. Review and brief discussion of Phase 3 Paving Analysis. Review and brief discussion of Phase 4 Paving Analysis. Review and brief discussion of Phase 5 Paving Analysis. Mr. Jesse Grinsteiner of KE&G shows Council a sample of the CIPP finished product. Mr. Grinsteiner gives a PowerPoint presentation showing a brief overview of the CIPP process start to finish.

**G. Information, discussion and possible action:** To approve, subject to funding agency concurrence, payment application for Town of Miami, in the amount of \$69,483.68 for sewer project related expenses, as recommended by the Wastewater Advisory Board.

Town Manager Heatherly presents this item to Council and states it has been recommended for approval by the Wastewater Advisory Board. Councilmember Hanson moved to approve, subject to funding agency concurrence, payment application for Town of Miami, in the amount of \$69,483.68 for sewer project related expenses, as recommended by the Wastewater Advisory Board. Seconded by Councilmember Medina. Mayor Dalley calls for the vote. Vote – Mayor Dalley – yea, Vice Mayor Gonzales – yea, Councilmember Black – excused, Councilmember Bringhurst – yea, Councilmember Castaneda – yea, Councilmember Hanson – yea, and Councilmember Medina – yea. MOTION PASSED.

**H. Information, discussion and possible action:** To approve, subject to funding agency concurrence, payment application for KE&G, in the amount of \$561,222.63 for sewer project work completed, as recommended by the Wastewater Advisory Board.



Town Manager Heatherly presents this item to Council and states it has been recommended for approval by the Wastewater Advisory Board. Councilmember Hanson moved to approve, subject to funding agency concurrence, payment application for KE&G, in the amount of \$561,222.63 for sewer project work completed, as recommended by the Wastewater Advisory Board. Seconded by Councilmember Medina. Mayor Dalley calls for the vote. Vote – Mayor Dalley – yea, Vice Mayor Gonzales – yea, Councilmember Black – excused, Councilmember Bringhurst – yea, Councilmember Castaneda – yea, Councilmember Hanson – yea, and Councilmember Medina – yea. MOTION PASSED.

**10. CALL TO THE COUNCIL:**

Councilmember Medina states that it is a shame that all those who know about the Town goings on and happenings are gone but would like to thank those who stuck around for the entire meeting.

Vice Mayor Gonzales announces that the Miami Junior High football team will be playing a championship game tomorrow at 6:00 p.m. and invites everyone to come out and support the team.

Mayor Dalley announce the Globe/Miami rivalry football game Friday at 7:00 p.m.

**11. ADJOURNMENT:**

Councilmember Castaneda moved to adjourn the meeting. Seconded by Councilmember Hanson. Mayor Dalley calls for the vote. Vote – Mayor Dalley – yea, Vice Mayor Gonzales – yea, Councilmember Black – excused, Councilmember Bringhurst – yea, Councilmember Castaneda – yea, Councilmember Hanson – yea, and Councilmember Medina – yea. MOTION PASSED.

Meeting adjourned at 8:55 p.m.

**CERTIFICATION:**

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular meeting of the Town Council of the Town of Miami, AZ held on the 22<sup>nd</sup> day of October, 2018.

I further certify that the meeting was duly called and that a quorum was present.

DATED this 13<sup>th</sup> day of November 2018.



Karen Norris, Town Clerk

**APPROVED:**

  
Darryl Dalley, Mayor