



MINUTES
TOWN OF MIAMI
REGULAR MEETING
OF THE MAYOR AND COUNCIL
MONDAY, AUGUST 24, 2020 AT 6:30 PM

1. CALL TO ORDER:

Mayor Gonzales calls the meeting to order at 6:29 p.m.

2. PLEDGE OF ALLEGIANCE/INVOCATION:

Mayor Gonzales led the pledge of allegiance and Councilmember Medina led the invocation.

3. ROLL CALL OF COUNCIL MEMBERS:

PRESENT: Mayor Gonzales, Vice Mayor Moat, Councilmember Black, Councilmember Bringhurst, Councilmember Medina, Councilmember Reiman and Councilmember Sosh.

STAFF PRESENT: Town Manager Heatherly (telephonically), Town Attorney Goodwin (telephonically), Engineering Tech Derhammer and Town Clerk Norris.

4. CONSENT AGENDA:

- A.** Consideration and possible action to approve Minutes of the August 10, 2020 Regular meeting.
- B.** Consideration and possible action to approve the Town Payroll for August 9, 2020.
- C.** Consideration and possible action to approve National Hispanic Heritage Month Proclamation.
- D.** Consideration and possible action to approve September 2020 as Prostate Cancer Awareness Month Proclamation.

Mayor Gonzales reads aloud both proclamations. Councilmember Black moved to approve the consent agenda. Seconded by Councilmember Reiman. Mayor Gonzales calls for the vote. Vote – Mayor Gonzales – yea, Vice Mayor Moat – yea, Councilmember Black – yea, Councilmember Bringhurst – yea, Councilmember Medina – yea, Councilmember Reiman – yea and Councilmember Sosh - yea. **MOTION PASSED.**

5. APPROVAL OF DEMANDS AND PRESENTATION OF BUDGET REPORTS:

- A.** Consideration and possible action to approve the General Demands for July 24, 2020 to August 13, 2020.

Open discussion and comments regarding various demands paid. Councilmember Reiman moved to approve the general demands for July 24, 2020 to August 13, 2020. Seconded by Councilmember Medina. Mayor Gonzales calls for the vote. Vote – Mayor Gonzales – yea, Vice Mayor Moat – yea, Councilmember Black – yea, Councilmember Bringhurst – yea, Councilmember Medina – yea, Councilmember Reiman – yea and Councilmember Sosh - yea. MOTION PASSED.

6. REPORTS / RECOGNITIONS:

- A.** Town Manager Reports.

Town Manager Heatherly reports that the audit has kicked off and 10 confirmations have been sent out. Reports that KE&G will be up here Thursday to make the connection at the old train station on Adonis; should take them just one day. Gives a brief update on the Gila County area fires.

- B.** Mayor/Council Reports.

Councilmember Medina comments on having a sinus infection and had a visit with his doctor. He was given antibiotics that helped but was still having issues with his hearing. Due to the nature of his issue it was determined that he should have a COVID-19 test done. He got the results today and they were negative.

Mayor Gonzales thanks all the local firefighters out fighting the area fires and states that the public can get updates on the fire on the Town of Miami's Facebook page. Comments on the rain last Sunday, it was nice but really made a mess of the roads, gives thanks to Public Works for going out quickly and cleaning them up; great job.

7. UNFINISHED BUSINESS:

8. NEW BUSINESS:

- A. Information, discussion and possible action:** Adoption of Resolution No. 1248 declaring and adopting the results of the primary election held on August 4, 2020.

Town Clerk Norris presents this resolution to Council. Councilmember Medina moved to approve Resolution No. 1248 declaring and adopting the results of the primary election held on August 4, 2020. Seconded by Councilmember Bringhurst. Mayor Gonzales calls for the vote. Vote – Mayor Gonzales – yea, Vice Mayor Moat – yea, Councilmember Black – yea, Councilmember Bringhurst – yea, Councilmember Medina – yea, Councilmember Reiman – yea and Councilmember Sosh - yea. MOTION PASSED.

B. Information, discussion and possible action: To approve Resolution No. 1249 rescinding Resolution No. 1215 adopted on November 26, 2018, declaring Patricia Warden not qualified to serve on the Town Council as of the August 18, 2018 Primary Election, and declaring a vacancy on the Town Council.

Town Attorney Goodwin states that she included a summary and detailed history of this in the Council packets. She also included the letter from the Arizona Attorney General's Office. Town Attorney Goodwin explains that in the 2018 Primary election a complaint was filed claiming that candidate Patty Warden did not meet the qualifications to be on the council as set forth in ARS Section 9-232. After an investigation, Council declared that Ms. Warden had not lived in the Town for at least 1 year prior to being elected. At that Primary election, there were 5 candidates who received a majority of votes cast for 4 seats. With the removal of one candidate, the fifth candidate, Don Reiman was moved into the empty place since he met the requirements to serve on the Council. Two years later, in June of this year, the AG's Office notified her that they had done this wrong and required a redo. The basic change is that Don Reiman does not move into the empty spot automatically. The AG's Office wants the Town to declare again that Patty Warden is not qualified to serve on the Council, rescind the amended canvass and declare a vacancy on the Council and after that fill the vacancy. Mayor Gonzales asks if moving Don Reiman up automatically was what Council did wrong. Should Council have left it vacant and then appointed someone to the seat. Town Attorney Goodwin states that this was a very unusual situation, there is no statute or case law regarding this. She researched it and she respectfully disagreed with the AG, but in order to avoid what appears to be threatened litigation, you will get virtually the same results or similar results. She doesn't know if Council is going to appoint Don Reiman or not. It is her opinion that how Council handled the situation was legal but the AG's Office disagrees. Mayor Gonzales asked whether all of Don Reiman's votes, up to now, are valid since he was officially a Councilmember. Town Attorney Goodwin states yes and she believes the Assistant Attorney General who is talking to agrees. Open discussion regarding the AG's recommendation on the procedure vs. how the Town handled the procedure. Town Attorney Goodwin states that she feels this is a good course of action to avoid possible litigation. Brief discussion regarding how Council should appoint someone to the vacant seat. Prior action by the Council was to put it out to the public to see if anyone is interested and then consider the appointment of an interested person. Town Attorney Goodwin explains that may have been Councils prior practice but statute does not require it, and it is at the Council's discretion. Councilmember Black states he will recuse himself from this because 2 years ago he was not at that meeting. Councilmember Sosh moved to approve Resolution No. 1249 rescinding Resolution No. 1215 adopted on November 26, 2018, declaring Patricia Warden not qualified to serve on the Town Council as of the August 18, 2018 Primary Election, and declaring a vacancy on the Town Council. Seconded by Councilmember Medina. Mayor Gonzales calls for the vote. Vote – Mayor Gonzales – yea, Vice Mayor Moat – yea, Councilmember Black – recuses from voting, Councilmember Bringhurst – yea, Councilmember Medina – yea, Councilmember Reiman – recues from voting and Councilmember Sosh - yea. MOTION PASSED.

Town Attorney Goodwin points out that since Council has approved this resolution Don Reiman is no longer on the Council

C. Information, discussion and possible action: Appointment to fill vacancy on the Town Council pursuant to A.R.S. Section 9-235. The Council may appoint Donald Reiman or another qualified elector.

Town Attorney Goodwin states that she has provided information in the Council Packet to help guide the discussion for this item. Council can appoint someone to the seat now or go through a process of advertising for applications. Councilmember Black feels we should follow our policy, give two weeks for people to submit their names for it, at least give them the opportunity. Mayor Gonzales asks if we have a policy in place for this. Town Attorney Goodwin states it has just been a practice, there is no formal policy in place. Councilmember Sosh states that if we do not have a policy in place Council should just appoint him and be done with it. Mayor Gonzales states that he agrees with Councilmember Sosh. Councilmember Bringhurst states she feels that Don Reiman is an asset to the Council. Councilmember Black states he will recuse himself from voting on this item he was not here when he was seated. Mayor Gonzales moved to appoint Don Reiman to the vacant seat until 2022. Seconded by Councilmember Medina. Mayor Gonzales calls for the vote. Vote – Mayor Gonzales– yea, Vice Mayor Moat – yea, Councilmember Black – recuse from voting, Councilmember Bringhurst – yea, Councilmember Medina – yea, and Councilmember Sosh – yea. MOTION PASSED.

D. PUBLIC HEARING: To hold a Special Use Permit Public Hearing for property located at 223 S. Adonis Avenue. Property is zoned R-1 Single Residential Family Dwelling Unit. Special Use Permit is to park and live in a 5th Wheel RV Trailer on the property until such time they can purchase a manufactured home to place on the property:

- 1) Open Public Hearing ~ Mayor Gonzales. 7:06 p.m.
- 2) Open discussion and public comments regarding the proposed Special Use Permit.

Engineering Tech, Josh Derhammer presents this item to Council. Ms. Bade wants permission to live in a 5th RV on the property until such time she can purchase a mobile home or manufactured home to put on the property. She was originally applying for a variance but staff changed it to a Special Use Permit as to give Council flexibility to set time restraints and it reduces the criteria that comes with a variance. Mayor Gonzales asks Town Manager Heatherly and Town Clerk Norris if there were any public comments received on this. Town Clerk Norris states that there are some written comments from surrounding neighbors, provided by Ms. Bade in their packets. Other than that there were no other comments.

- 3) Close Public Hearing ~ Mayor Gonzales. 7:09 p.m.
- 4) Discussion and possible action to approve Special Use Permit for property located at 223 S. Adonis Avenue. Property is zoned R-1 Single Residential Family Dwelling Unit. Special Use Permit is to park and live in a 5th Wheel RV Trailer on the property until such time they can purchase a manufactured home to place on the property

Councilmember Black asks if that property is zoned for a manufactured home. Mr. Derhammer states yes as long as it is a permanent structure. Brief discussion regarding if they are approving the special use permit for the RV or for a mobile home/manufactured home. Town Clerk Norris explains that when it came to staff's attention that the RV was no longer on the property she contacted Ms. Bade to see if she wanted to move forward with the Special Use permit. Ms. Bade indicated that yes she did because she was still trying to buy the manufactured home. Town Clerk Norris informed Ms. Bade that when she was ready to put a manufactured home on the property she would need to contact the Town because that is a whole different process. Ms. Bade wants to proceed with the Special Use permit in the event she needs to put the RV back on the lot. Councilmember Sosh comments on how Ms. Bade has really cleaned that property up, but he was shocked that she removed the RV from the property. Councilmember Sosh feels Council should approve this for the RV with understanding that if she puts something else there it is a whole other process for that. Councilmember Black moved to approve the Special Use Permit to allow her to put the RV on there until she can get a mobile home and then come back to the Town to continue the process. Seconded by Councilmember Medina. Vice Mayor Moat comments on the Town allowing her to hook the RV up to sewer and then told her she could not have the RV there. Councilmember Reiman suggest if Council is going to approve this, shouldn't Council set a time limit. Mayor Gonzales states he would recommend a period of one (1) year. Councilmember Black amends his motion to include a time limit of one (1) year. Amendment seconded by Councilmember Medina. Mayor Gonzales calls for the vote. Vote – Mayor Gonzales – yea, Vice Mayor Moat – yea, Councilmember Black – yea, Councilmember Bringham – yea, Councilmember Medina – yea, Councilmember Reiman – yea and Councilmember Sosh - yea. MOTION PASSED.

E. Information, discussion and possible action: Information and possible direction to staff regarding the ½ cent excise tax loan repayment findings.

Town Manager Heatherly presents this item to Council explaining that attached to the notice from the Auditor General's Office is a review of three different issues found in the audit of 2016. The Town of Miami had a loan balance of \$140,000 in FY 2018, Miami repaid \$87,439 reducing its loan balance to \$53,378. In FY 2019 Miami loaned an additional \$21,921 of excise tax monies to other funds, raising its inappropriate loan balance to \$75,298. Town Manager Heatherly explains that in 2019 the Town did not make repayment due to the lack of payment from ADOT. He is not sure yet what action is going to be taken. He is working with the auditors on this to show the Auditor General's Office that for 2020 we will be in compliance. We have to do a better job of budgeting and monitoring where the funds are coming from. Mayor Gonzales states that we have to repay the \$75,298 at 10% for every year, are we not going to receive the ½ cent excise tax until we pay that in full, or if we continue to pay will they not withhold the funds. Town Manager Heatherly states he does not know if that decision comes from the treasurer or from ADOT. Mayor Gonzales ask how much will they be holding back per month? Town Manager Heatherly states \$11,000.00. Brief discussion regarding the possibility of getting this \$75,000 paid off sooner. Town Manager Heatherly states the next 3 to 6 months are going to be dicey, should, at a minimum, pay the 10% and put any excess in a reserve. Discussion regarding putting a policy in place regarding how to handle these funds.

Councilmember Black states his opinion is that we should continue paying the 10% and if we have the funding, pay more. Councilmember Black moved to continue paying 10% of \$75,298 and if it arises that we can double the payment or pay it off at some given time, we should. Seconded by Councilmember Medina. Councilmember Reiman states that he is going to oppose this because he does not feel that Council should be in the business of trying to conduct financial management. Mayor Gonzales calls for the vote. Vote – Mayor Gonzales – yea, Vice Mayor Moat – yea, Councilmember Black – yea, Councilmember Bringhurst – yea Councilmember Medina – yea, Councilmember Reiman – nay and Councilmember Sosh - yea. MOTION PASSED.

F. Information and discussion only: Review and discussion regarding the Operating and Financial report for the month of July 2020.

Town Manager Heatherly presents his report to Council. Town Manager Heatherly explains the 13th month to Council. Town Manager Heatherly comments on the Cares Act funds. Gives a brief update on current projects. States that staff is still looking at a few things they can do with the leftover USDA monies, has to be wastewater related. Reviews major accomplishments for the month of July. Mayor Gonzales asks for an explanation of the \$9,000 expenditure in July in the Parks and Recs fund. Town Manager Heatherly states he does not have the details there with him but he can look at it and send him a breakdown of that account. Councilmember Black states he would like a copy of that breakdown as well.

G. Information, discussion and possible action: Discussion and possible direction to staff regarding parking issues on Chisholm Street and other business district areas.

Councilmember Bringhurst states that she asked for this to be on the agenda because of continued issues on Chisholm and Gibson Streets. She has a concern for the bed and breakfast business on Chisholm. She has included some photos in the packets to show what she is talking about. There is a residential house right next to the bed and breakfast business, there is between 3 and 6 cars parked in front of that house pretty much on any given day. They are always outside working on a car there, they actually had a pop up tent over one of the cars one day. Councilmember Bringhurst states she has had complaints expressed to her by the owner of the business and residents who live on Chisholm. She just don't know what a solution to this issue would be. She feels that as a Town Council they should look at this and try to come up with something to alleviate the problem. Mayor Gonzales states he agrees 100% with Councilmember Bringhurst. He was contacted by the business owner regarding the issue. He has talked to the Town Manager regarding this issue as well. Mayor Gonzales states that he has driven by the area and it is very congested and there was garbage and trash all over the place. Mayor Gonzales states the bed and breakfast is a top notch establishment and they keep it very clean, they also bring in business to the Town. Councilmember Black states he agrees with Councilmember Bringhurst and that it is a very narrow street and there is only parking on one side of the street but the bed and breakfast has its own parking lot. This is tough because you cannot restrict the parking on the street. Councilmember Bringhurst states she is concerned that if people come to look at the town and the bed and breakfast, they are not going to want to stay there. Open discussion and comments regarding the parking issue on that street, as well as, the trash and garbage everywhere. Town Manager Heatherly suggests

he have a meeting with staff and come up with something to bring back, some alternatives for Council consideration. Councilmember Black moved to table this item until the 2nd meeting in September so staff can give some direction to Council on what they can do. Seconded by Mayor Gonzales. Mayor Gonzales calls for the vote. Vote – Mayor Gonzales – yea, Vice Mayor Moat – yea, Councilmember Black – yea, Councilmember Bringhurst – yea, Councilmember Medina – yea, Councilmember Reiman – yea and Councilmember Sosh - yea. MOTION PASSED – ITEM TABLED.

H. Information and discussion only: Update on the Coronavirus-19, including discussion regarding the financial impact on the Town.

Town Manager Heatherly comments that staff has done some fantastic things during this pandemic; public works, senior center and transit especially. Reports that we had another employee on quarantine status but is fine and back to work today. We will continue to do what we have been doing to keep things going. Comments on some issues that the Globe Senior Center is having and that the Miami Senior Center is helping out with that. Councilmember Medina comments on a positive note, he heard on the news today that plasma donations have approved for treatment.

I. Information and discussion only: Update report on the buildings involved in the Sullivan Street Fire.

Engineering Tech, Josh Derhammer states that a few meetings back he reviewed the environmental report with Council. The report was finalized a couple of weeks ago and we got the engineers estimate. At that time ADEQ provided a list of contractors who are authorized to do the cleanup work. The Town and Wood Environmental Group selected 4 contractors to come up for a bid walk, which took place this morning. They will be submitting bids within a week. The Town will select a bid and work with ADEQ to secure the funding for the cleanup. Mayor Gonzales asks what was the reason for the increase in cost from 1 million to 5 million? Mr. Derhammer explains that one of the buildings fail a T Clip test (a composite sample of the whole building) and they had to do some extra research to find out what they could do to abate the building. That involved taking pretty much the entire building up to Nevada, which increased the cost significantly. They discussed with the contractors, conducting another survey when they are on site, separating the materials and testing it again in order to try and reduce that cost. Brief discussion regarding the T Clip test and why it wasn't done initially. It was but the extra research is what increased the cost. Brief discussion regarding the Town applying for a Brownsfield grant for the project. Vice Mayor Moat comments on the mines having capability to dump hazardous wastes, may want to check with them to see if they could help with disposing some of this material. Discussion regarding the grant money and how much is being reimbursed by the property owners. Town Manager Heatherly explains that only municipalities can apply for this grant, it is a 100% grant, not a loan. The only way for this to work is for the town to take ownership of the properties. If the owners do not give the property to the Town they will be required, by ADEQ, to clean the property themselves, at their own expense.

9. CALL TO THE COUNCIL:

Councilmember Reiman comments regarding seeing something on Facebook about something going on at the YMCA building, people should look into it.

10. ADJOURNMENT:

Councilmember Black moved to adjourn the meeting. Seconded by Councilmember Medina. Mayor Gonzales calls for the vote. Vote – Mayor Gonzales – yea, Vice Mayor Moat – yea, Councilmember Black – yea, Councilmember Bringhurst – yea, Councilmember Medina – yea, Councilmember Reiman – yea and Councilmember Sosh - yea. MOTION PASSED.

Meeting adjourned at 8:15 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 **24th** day of **August**, 2020.

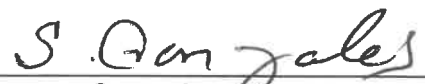
I further certify that the meeting was duly called and that a quorum was present.

DATED this **14th** day of **September** 2020.



Karen Norris, Town Clerk

APPROVED:



Sammy Gonzales Mayor