



**MINUTES**  
**TOWN OF MIAMI**  
**REGULAR MEETING**  
**OF THE MAYOR AND COUNCIL**  
**MONDAY, SEPTEMBER 28, 2020 AT 6:30 PM**

**1. CALL TO ORDER:**

Mayor Gonzales calls the meeting to order at 6:30 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 (via zoom), Town Attorney Goodwin (via zoom), Employment Attorney Jodi Bohr (via zoom), Engineering Tech Derhammer, and Town Clerk Norris.

**4. CONSENT AGENDA:**

- A.** Consideration and possible action to approve Minutes of the September 14, 2020 Regular meeting.
- B.** Consideration and possible action to approve October as Breast Cancer Awareness Month Proclamation.
- C.** Consideration and possible action to approve October as Domestic Violence Awareness Month Proclamation.

Mayor Gonzales read the Breast Cancer Awareness Month Proclamation and Domestic Violence Awareness Month Proclamation aloud. Councilmember Black moved to approve the consent agenda. Seconded by Councilmember Sosh. 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 September 4, 2020 to September 17, 2020.

Open discussion and comments regarding various demands paid. Councilmember Black moved to approve the demands for September 4, 2020 to September 17, 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 there will be no COVID relief packages after the CARES Act; does not know if anything will be resolved before the election. Reports that the Census will be ending September 30<sup>th</sup>. Reports on the loose ends of the sewer project; there are a few things that need to be completed. Reports on some pothole testing and states that the Town has received some more material to use on more of the potholes. States we will get some of those potholes filled and see how they do with this material and report back to Council.

**B.** Mayor/Council Reports.

Councilmember Medina reports the flags are at half-staff in honor of the passing of Supreme Court Justice Ruth Bader Ginsburg. Reports on his attendance at the Latinos for Trump gathering; it was very interesting. Comments briefly on the new American and Arizona flags on the Miami PD flagpole.

Councilmember Bringhurst gives kudos to the City of Globe for the beautification of their overpass; they did a nice job. Announces City of Globe also painted their G for the start of school.

Mayor Gonzales reports on the Mayors of the Copper Corridor meeting he attended, they will be having another meeting next week to talk about the schools. Reports on meeting with CAG and states that we have not heard anything yet on the ADOH grant. Reports that he has talked with the Mayor of Globe and due to COVID there is a grant becoming available for food, like cheese and milk, we can use for our citizens and possibly at the Senior Center, he will report again when he has more information.

## 7. UNFINISHED BUSINESS:

- A. Information, discussion and possible action:** Discussion and recommendation to Council regarding parking issues on Chisholm Street and other business district areas.

Councilmember Bringhurst shares some pictures of Chisholm Street from Wednesday of last week. The pictures show the issues with the parking on Chisholm. Engineering Tech, Josh Derhammer comments on the proposed Comprehensive Street Improvement Plan. Mr. Derhammer states they are going to focus on this by breaking the Town into sections and focusing on the more serious areas first; safety issues and volume of traffic. They are going to address this issue in this manner so that Code Enforcement, the Police Department and Public Works are all on the same page. They want to identify and address streets with parking situations first. Comments on addressing traffic flow and safety. Mr. Derhammer explains that they are out dated codes that need to be reviewed and updated. Mr. Derhammer comments on addressing signage and street markings. Mr. Derhammer comments on street surface conditions as well and then blight. They have set a deadline for themselves to have this completed by the end of this year. Discussion regarding the parking issue on Chisholm and if they are discussing the possibility of putting a loading zone in that area. Mr. Derhammer states yes they are. Councilmember Sosh comments on an issue he was having with parking on Adonis but he contacted the Police Department and they took care of the issue. Mayor Gonzales states that he knows that the Town was working with Tri City Fire regarding resolving some issues with the streets and the first response vehicles being able to get up certain streets. Are these the streets that they are going to recommend as "one way"? Mr. Derhammer states yes. Mayor Gonzales asks if the proposed signage budgeted for. Mr. Derhammer states it will be coming out of the HURF funds. Councilmember Black moved to give Josh and staff the go ahead to move forward with the plans discussed here. Seconded by Councilmember Sosh. 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.

## 8. NEW BUSINESS:

- A. PUBLIC HEARING, DISCUSSION AND ACTION:** To hold a public hearing and adopt Ordinance No. 374, amending the Miami Town Code, Title 8 Health and Safety, Chapter 8.08 Garbage and Trash Collection and Disposal by Amending 8.08.040 Rates for Garbage and Bulk Trash Collection and providing for repeal of conflicting ordinances:

- a) Open Public Hearing ~ Mayor Gonzales. 7:05 p.m.
- b) Open Discussion and Public Comments regarding the adoption of Ordinance No. 374; to increase base fee for garbage collection for commercial accounts.

Mayor Gonzales asks the Town Clerk and Town Manager if they received any comments from the public on this issue. Both respond that they have not.

c) Close Public Hearing ~ Mayor Gonzales. 7:06 p.m.

d) Council Discussion, Motion and Action.

Councilmember Reiman states that he reads the reason for this is due to the increase in rates at the Gila County landfill and yet the proposed ordinance change, while it increases the base charge for everybody, does not increase the charges for those people who have multiple pick up during the week. Presumably those people would have more garbage and should pay a greater share of that increased dumping cost. Brief discussion regarding the current base rate and the proposed base rate. Town Manager Heatherly explains that when Gila County increased their rates the Town raised all the individual rates but due to a technicality the commercial base rate did not get increased, so this is essentially to fix that oversight. Councilmember Medina moved to approve Ordinance No. 374, amending the Miami Town Code, Title 8 Health and Safety, Chapter 8.08 Garbage and Trash Collection and Disposal by Amending 8.08.040 Rates for Garbage and Bulk Trash Collection and providing for repeal of conflicting ordinances. 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 direct staff to proceed with proposed CDBG 135-20 project; repairs to Rose Road.

Mr. Dale Miller and Rick Powers of Rick Engineering are presenting this item to Council. Mr. Dale Miller states he had a meeting with Town Manager Heatherly, Josh Derhammer, Rick Powers and Alan Urban from CAG to look at 3 or 4 streets that are in poor condition. Out of that meeting they decided that Rose Road was the best candidate for repair and they made the design for that street. Mr. Miller reviews the Street Pavement Improvement Program – it provides a maintenance strategy, optimizes the use of limited funds and prioritizes street segment repairs. Brief discussion regarding the pavement condition assessment. Review of the pavement condition ratings/rankings. Review of the street prioritization analysis. They are proposing using a cement treated sub grade for Rose Road and then put asphalt on top of that. This will improve the drainage and provide for a compliant sidewalk. Council reviews the design of Rose Road. The proposed plans are ready to be final within a week or two. The estimated cost is \$175,000.00 and the available block grant funds is \$170,000.00. Councilmember Sosh states that he don't like this at all, can't see spending this much on a road that might get 2 cars a day when we have a road down here that gets hundreds of cars a day that you have to slow down to 5 mph to get to where you are going; one of them is Adonis Avenue. Feels the money should be spent on a street that gets more traffic. Councilmember Sosh also comments on the railroad tracks and concrete that is in bad shape on Adonis Avenue. Mayor Gonzales asks if there are funds currently allocated for the repair of Adonis Avenue. Mr. Derhammer states not that he is aware of. Councilmember Black comments that he and Councilmember Sosh drove around town looking at the conditions of various roads and

there are a lot more roads in town that are in worse shape than Rose Road. Councilmember Black asks how Rose Road ranks first on the list. Mr. Miller explains because the draining issue at the Franz intersection is pretty severe. Mr. Miller states that if Council wants to reallocate some money and just fix a portion of Rose Road and do some work on another street they can certainly do that. Council has to understand that there can only do what they can with the amount of money they have. Council has to understand there is only so much you can do with \$170,000.00. Brief discussion why not clean out the drains on Rose Road to help with the drainage. Discussion regarding the issues with the drains on Rose Road. Mayor Gonzales states he would like to have the railroad tracks on Adonis Avenue removed. Mayor Gonzales suggests getting an estimate for the repair of the railroad tracks and that area on Adonis Avenue and adapt and shorten some of the proposed repairs to Rose Road. Open discussion comments regarding repairing Adonis Avenue. Mayor Gonzales moved to look at Adonis with \$170,000.00 we have in CDBG funds and make the adjustments on Rose Road. Town Attorney Goodwin advised that the agenda item has nothing to do with Adonis so Council will have to come back if they want to do something with that street. Councilmember Black moved to table this item and have them come back with another set of plans to work on Adonis as well as Rose Road. Seconded by Councilmember Sosh. 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.

**C. Information and discussion only:** Review and discussion regarding the Operating and Financial report for the month of August 2020.

Town Manager Heatherly presents the Operating and Financial report for the month of August 2020 to Council. Town Manager Heatherly briefly reviews the revenues and expenditures. Reports briefly on the CARES funds and we are good there. Town Manager Heatherly states that he is a little bit concerned that we have not been looking at the available cash, it has not been done now for 2 months so we need to get on top of that. Comments on getting the USDA project done and closed out. Gives a brief update on the Kinkaid lawsuit; court date is at the end of the quarter 2021. Comments on plans for getting a couple pieces of equipment for Public Works. Reports that they are working on hiring one more police officer. Comments on figuring out how to increase the septic receiving revenues. States we are in good shape financially. We are still waiting on notification from USDA on the OHR grant. Reports on working with staff on creating a blight plan. Brief audit update.

**D. Information, discussion and possible action:** Update on the Coronavirus-19, including discussion regarding the financial impact on the Town and possible approval to open the Council meetings for public attendance.

Town Manager Heatherly comments on how well the Transit Department staff and Senior Center staff have been doing throughout the COVID ordeal. They have been doing everything possible to get through this. Still no DOC workers and no word yet of when they will be back. Would like for Council to consider opening the Council meetings again. We could require masks, take temperatures and have social distancing. Mayor Gonzales comments on the

numbers staying steady and believe the masks have been working, he is open to opening the Council meetings to the public. Councilmember Black moved to go ahead and open the Council Chambers to the public with the restrictions of 6 foot intervals between chairs just for safety and that Council get their keys back so they can come in. Seconded by Councilmember Sosh. 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:** To enter an executive session pursuant to:

- a) A.R.S. § 38-431.03(A)(3) for the purpose of obtaining legal advice from the Town Attorney regarding a personnel complaint filed with the Town, investigation of the complaint, and appropriate corrective action.

Councilmember Black moved to enter into executive session. 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.

Convened to executive session at 8:12 p.m.

Reconvened from executive session at 9:22 p.m. All members present.

- b) A.R.S. §38-431.03 (A)(1) for discussion or consideration of employment, assignment, demotion, dismissal, or discipline of the Town Manager.

Town Manager Heatherly requested this be in open session.

Ms. Jodi Bohr, Employment Attorney for this issue explains a personnel complaint was received as noted in the earlier item. An investigation was completed in regards to that complaint. Based on the investigative findings, 2 of the 3 allegations by the complainant was substantiated by the investigator. The Council must now discuss the possible discipline or termination of Mr. Heatherly. The investigator found that Mr. Heatherly's conduct is in violation of Town Policy Section 10.3, 10.6, Section 23B and Section 27.1. Based on this policy violation the investigator made the conclusion that Mr. Heatherly's conduct is inconsistent with and in violation of the provisions contained in the Town Code specifically Section 2.12.050 – Powers and Duties – A, D and P. Attorney Bohr advises that throughout this discussion, due to the sensitive nature the complainant should be referred to as "complainant" and not identified by name. If termination is determined at the next step it must be done pursuant to Mr. Heatherly's employment agreement. Based on that we will have to determine whether "cause" exists and that "cause" is determined by breach of contract, conviction of a felony or refusal to carry out a lawful direction of the Town Council.

Mr. Heatherly states that since he has not seen the report he has no idea how to address it.

Attorney Bohr states that Mr. Heatherly has seen the complainant's complaint and was given the opportunity to respond to the allegations. The first allegation that was substantiated is her

complaint that inappropriate comments were made and then the second allegation that we substantiated is that you made physical contact via touching her in ways that made her uncomfortable.

Town Manager Heatherly states that as far as the first one he never made any inappropriate comments, he believes about her attire, that never happened. The second one, yes he did put his hand around her shoulder. He don't have his records with him at this time. There was a meeting in which there was a statement made by a Councilmember that she was not qualified to do the job. That hit her pretty hard. The next day she went into his office and was crying about that statement. He did put his hand around her shoulder and told her "don't let them get to you".

Councilmember Black moved to terminate the Town Manager under Section 2.12.050 Power and Duties Sections A, B and P. Seconded by Mayor Gonzales. Councilmember Reiman states he thinks this is the biggest mistake the Town Council, Town of Miami will or has ever made. Thinks it is a decision based on allegations, while investigated, are far from true in his mind. Suspects it is a case of one or more member colluding to remove a Town Manager they don't get along with, or won't do what they think ought to be done. He will be opposing this motion. Council Member Medina comments that he has to think about the Town and the possibilities of what might happen down the road, could be very difficult and he thinks he will abstain on this item. Councilmember Bringhurst states that as the only woman on the Council she does feel for the complainant, she is her daughters age and she don't like the fact that somebody can get that emotional and take something that's not right, that she doesn't feel right about, and she doesn't know how to express it and if she did and the Town Manager didn't see it, it's like you weren't paying attention. Can't have that, can't do that. Seen it that night at the Council meeting that she was upset, but knows there were 7 other incidents that she talked about too. You have to watch out as Town Council for the Town employees also. Vice Mayor Moat states that he likes Joe but as explained by the Attorney, zero tolerance. He has seen people lose their jobs for a lot less than this. Mayor Gonzales calls for the vote. Vote – Mayor Gonzales– yea, Vice Mayor Moat – yea, Councilmember Black – yea, Councilmember Bringhurst – nay, Councilmember Medina – abstain, Councilmember Reiman – nay and Councilmember Sosh – yea. MOTION PASSED.

Mayor Gonzales asks Attorney Bohr if Item F became part it Item E(b). Attorney Bohr explains because Item E(b) was removed from consideration in executive session and moved to a public session it merged with Item F, so it has already been addressed.

**F. Information, discussion and possible action:** Possible action pursuant to executive session discussion regarding:

- a) A personnel complaint filed with the Town, investigation of the complaint, and next steps.
- b) Town Manager.

## **9. CALL TO THE COUNCIL:**

**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 9:34 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 **28th** day of **September**, 2020.

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

DATED this **12th** day of **October**, 2020.



Karen Norris, Town Clerk

**APPROVED:**

  
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Sammy Gonzales, Mayor