

Minutes Regular Session Queen Creek Town Council

Community Chambers, 20727 E. Civic Parkway December 5, 2018 5:30 PM

1. Call to Order:

The meeting was called to order at 5:30pm.

2. Roll Call: (one or more members of the Council may participate by telephone)

Robin Benning	Council Member	Present
Jeff Brown	Council Member	Present
Jake Hoffman	Council Member	Present – via telephone
Dawn Oliphant	Council Member	Present
Julia Wheatley	Council Member	Present
Emilena Turley	Vice Mayor	Present
Gail Barney	Mayor	Present

3. Pledge of Allegiance:

Led by Mayor Barney.

4. Invocation/Moment of Silence:

A moment of silence was held in honor of the late President George H.W. Bush.

5. Motion to Adjourn into Executive Session (to be held in the Ironwood Conference Room in the Community Chambers Building) for the following purposes):

MOTION:

To adjourn to Executive Session at 5:31pm:

RESULT:

Approved unanimously

MOVER:

Council Member Wheatley

SECONDER: Council Member Benning

AYES:

Barney, Wheatley, Benning, Brown, Oliphant, Turley, Hoffman

A. Discussion and consultation with the Town's attorney for legal advice and with the Town's attorney and representatives to consider the Town's position and instruct its representatives regarding a pre-annexation development agreement and water exchange agreement with Trilogy Encanterra Construction, LLC. A.R.S. 38-431.03(A)(3) & (4)

- B. Discussion and consultation with the Town's attorney for legal advice and with the Town's representatives regarding the Arizona Corporation Commission actions related to Johnson Utilities. A.R.S. 38-431.03(A)(3) & (4)
- C. Discussion and consultation with the Town's attorney for legal advice and with the Town's attorney and representatives to consider the Town's position and instruct its representatives regarding possible extinguishment credits and water rights purchase agreements. A.R.S. 38-431.03(A)(3) & (4)
- D. Discussion and consultation with the Town's attorney for legal advice and with the Town attorney to consider the Town's position regarding the Canyon State Academy campus. A.R.S. 38-431.03(A)(3)
- E. Discussion and consultation with the Town's attorney for legal advice and with the Town attorney to consider the Town's position and instruct its attorneys regarding potentially filing an amicus brief in the Vangilder et.al v. Department of Revenue, et.al. A.R.S. 38.431.03(A)(3) & (4)
- F. Discussion and consultation with the Town's attorney and with the Town's representatives regarding annexations and providing utility services. A.R.S. 38-431.03(A)(3) & (4)
- G. Discussion and consultation with the Town's attorney for legal advice and with the Town attorney and representatives to consider the Town's position and instruct its attorneys regarding a pending lawsuit: Johnson Utilities vs. Town of Queen Creek. A.R.S. 38-431.03(A)(3) & (4)

The Regular Session reconvened at 7:00pm.

6. <u>Consent Agenda:</u> Matters listed under the Consent Agenda are considered to be routine and will be enacted by one motion and one vote. Members of the Council and or staff may comment on any item without removing it from the Consent Agenda or remove any item for separate discussion and consideration. (Items that the Council wishes to discuss may be considered under #11).

Council requested Items J, M and P removed for comment and separate vote.

MOTION: To approve the Consent Agenda except J, M & P:

RESULT: Approved unanimously

MOVER: Vice Mayor Turley

SECONDER: Council Member Oliphant

AYES: Barney, Wheatley, Benning, Brown, Oliphant, Turley, Hoffman

MOTION: To approve the Consent Agenda Item J:

RESULT: Approved 6-1

MOVER: Council Member Brown SECONDER: Council Member Wheatley

AYES: Barney, Wheatley, Benning, Brown, Oliphant, Turley

NAYES: Hoffman

Item M: Vice Mayor Turley commented on moving at the speed of business and requested the additional recommendation that if a special event liquor license was not approved by the Town Clerk that it would go to Council for consideration. Vice Mayor Turley commented she did not see it in the resolution. Town Clerk Robinson commented that the recommendation would be included in the motion.

MOTION: To approve the Consent Agenda M as discussed with

recommendation that if a special event liquor license was denied

it would go to Council:

RESULT: Approved unanimously

MOVER: Vice Mayor Turley

SECONDER: Council Member Brown

AYES: Barney, Wheatley, Benning, Brown, Oliphant, Turley, Hoffman

Item P: Council commented on the broad directives included in the 2019 Legislative Guiding Principles and requested that more specific issues should be lobbied at the Capitol.

MOTION: To approve the Consent Agenda P:

RESULT: Approved 5-2

MOVER: Council Member Brown SECONDER: Council Member Benning

AYES: Barney, Wheatley, Benning, Brown, Oliphant

NAYES: Hoffman, Turley

- A. Consideration and possible approval of the November 7, 2018 Regular Session Minutes.
- B. Consideration and possible approval of a lease agreement with Lauri Lock for a renewable two year lease of premises located at 22249 S. Ellsworth Road.

- C. Consideration and possible approval of a Replat of Heritage Town Square Center, a request by Trevellyan Investment Company L.P., MV Investments LLC, Pacific Oil Partners LLC, Wadsworth Queen Creek LLC, and JKG LLC.
- D. Consideration and possible approval of the Final Plat of ALA Gym, a request by Schoolhouse Development LLC.
- E. Consideration and possible approval of a two-year Master Agreement with e-PlanSoft in an amount not to exceed \$106,650 for e-PlanSoft REVIEW license subscription fees. (FY19 Budgeted Item)
- F. Consideration and possible approval of a Power Distribution Easement to be granted to Salt River Project for the temporary Fire Station #5 project located at the town owned well site at 980 West Combs Road.
- G. Consideration and possible approval of a Cooperative Purchase Agreement with Cemex through Pinal County Contract #PC-140319, for the purchase of Aggregate, Slurry and Portland Cement as needed in an amount not to exceed \$50,000 annually. (FY19 budgeted item)
- H. Consideration and possible approval of a Job Order with All American Underground for boring services in an amount not to exceed \$73,362 for the Gary Road Waterline (WA147); and necessary budget adjustments.
- I. Consideration and possible approval of a Design Professional Services Master Contract with Merge Architectural Group and a Project Order for architectural and engineering services for the Utilities Administration Building (WA288) in an amount not to exceed \$211,534. (FY19 budgeted item)
- J. Consideration and possible approval of a "Project Reimbursement Agreement" for 196th Street improvements (budgeted item) and Ocotillo Road Waterline oversizing improvements (non-budgeted item) for West Park Estates, a request by Ocotillo-30 LLC, Ocotillo-19 LLC and Queen Creek/Ocotillo LLC.
- K. Consideration and possible approval of a professional services project work order with Stanley Consultants, Inc. in an amount not to exceed \$796,542 for engineering design services for Ocotillo Road from Hawes Road to approximately 600 feet west of Sossaman Road and adjacent intersection approaches, CIP Project A0116. (FY18/19 budgeted item and the necessary budget adjustments)
- L. Consideration and possible approval of a Construction Manager at Risk (CMAR) Preconstruction Services Contract with FCI Constructors, Inc. pertaining to the construction of Fire Station No. 4 (CIP MF007) in the amount of \$58,867. (FY2019 budgeted item)
- M. Consideration and possible approval of Resolution 1240-18 delegating authority to the Town Clerk to make recommendations to the Arizona Department of Liquor Licenses and Control on special event liquor licenses; temporary extension of premises; festival and/or fair licenses; craft distillery fair licenses and acquisition of control/change of agent applications.

- N. Consideration and possible approval of a Pre-Annexation Development Agreement and a Water Exchange Agreement with Trilogy Encanterra Construction, LLC., an Arizona limited liability company, in relation to the Encanterra master-planned residential and commercial project, and to authorize the Town Manager and Town Attorney to approve and agree to subsequent minor changes in the Agreements as necessary to effectuate the transactions contemplated therein.
- O. Consideration and possible approval of a Development Agreement with Queen Creek Hospitality Group for development on the Town owned 4.9 acres located on the SWC of Ellsworth and Rittenhouse Roads.
- P. Consideration and possible approval of the Town of Queen Creek 2019 Legislative Guiding Principles.
- 7. <u>Items for Discussion:</u> These items are for Council discussion only and no action will be taken. In general, no public comment will be taken. Depending on time remaining, the Council may carryover any discussion agenda item to #15.
 None.
- 8. <u>Ceremonial Matters (Presentations, Proclamations, Awards, Guest Introductions and Announcements):</u>

None.

9. <u>Public Comments:</u> Members of the public may address the Town Council on items not on the printed agenda and during Public Hearings. Please complete a "Request to Speak Card", located on the table at the rear of the Community Chambers and turn it in to the Town Clerk prior to the beginning of the meeting. The Town Council may not discuss or take action on any issue raised during public comment until a later meeting. There is a time limit of three (3) minutes for each speaker.

None.

10. Committee Reports:

A. Council summary reports on meetings and/or conferences attended. This may include but is not limited to Phoenix-Mesa Gateway Airport; MAG; East Valley Partnership; CAG. The Council will not propose, discuss, deliberate or take legal action on any matter in the summary unless the specific matter is properly noticed for legal action.

See attached report.

- B. Committee and outside agency reports (only as scheduled)
- 1. Transportation Advisory Committee November 8, 2018: Spencer Hale, newly elected Chairman, reported on the presentations on capital improvement projects in the design phase and current construction phase; flashing yellow left turn arrow signals;

and overall transportation challenges. Also discussed at the meeting were roadway designs in the agritainment districts. Mr. Hale also announced an upcoming open house.

- 2. Parks & Recreation Advisory Committee November 13, 2018: David Dobbs, Chairman, reported on the Committee's development and recommendations to Council for the naming of shade structures at the Splash Pad located at Founder's Park and adding them to the rental program. The committee also recommended updated rental fee structure.
- 11. Carryover Consent Agenda Items: Any Consent Agenda item that was pulled for a separate discussion and vote will be heard at this time. None.
- 12. Public Hearings Consent Agenda: Prior to consideration of the Public Hearings Consent Agenda, the Mayor will ask whether any member of the public wishes to remove a Public Hearing item for separate consideration. Members of the Council and or staff comment on any item without removing it from the Consent Agenda or remove any item for separate discussion and consideration.

MOTION: To approve the Public Hearing Consent Agenda:

RESULT:

Approved unanimously

MOVER:

Council Member Brown

SECONDER: Council Member Wheatley

AYES:

Barney, Wheatley, Benning, Brown, Oliphant, Turley, Hoffman

- A. Public Hearing and possible approval of a Series 12 Restaurant Liquor License Application (License #35876) submitted by Patrick Edward Castle for Pei Wei Fresh Kitchen, 21051 S. Ellsworth Loop Rd. #101. (QC District)
- B. Public Hearing and possible action on "Wienerschnitzel" Conditional Use Permit (P18-0052) and Site Plan (P18-0075), a request by Joseph Cross (Select Engineering Services) for a Conditional Use Permit and Site Plan to allow construction of a new 831 square foot Wienerschnitzel restaurant with a drive-thru on Lot 7 within the Heritage Town Square Center, located approximately 750 feet south of the southeast corner of Old Ellsworth Road and Rittenhouse Road.
- C. Public Hearing and possible action on "Rock Point Church Phase II" Conditional Use Permit (P18-0022) and Site Plan (P18-0023), a request by Craig Goldstone (Todd & Associates, Inc.) for a Conditional Use Permit and Site Plan for expansion of the existing Rock Point Church consisting of a new 46,547 square foot worship center with future seating capacity greater than 1,500 seats on approximately 20.25 acres, located at the northeast corner of Power Road and Ivy Lane.

- D. Public Hearing and possible action on Ordinance 690-18 "Orangewood Planned Area Development Rezone" (P18-0125), a request from Sean Lake, Pew and Lake PLC, to rezone from R1-43 to R1-7/PAD and R1-12/PAD for 93 lots on approximately 44 acres located at the northwest corner of 220th Street and Cloud Road.
- E. Public Hearing and possible action on Ordinance 682-18 "Madera West Planned Area Development Rezone (Case P18-0041)", a request from Michelle Yerger, of Communities Southwest, to rezone a 94-acre property (approximately) from RU-43 (Maricopa County; R1-43 Town equivalent zoning) to R1-7, R1-12, R1-18, and C-2 with a Planned Area Development (PAD) Overlay to facilitate the development of a 192 lot residential community with a commercial corner. The project site is located at the southwest corner of Queen Creek Road and Signal Butte Road. (A continuance to January 16, 2019 has been requested)
- 13. <u>Public Hearings:</u> If you wish to speak to the Council on an item listed as a Public Hearing, please complete a Request to Speak Card and turn it in to the Town Clerk. Speakers will be called upon in the order in which their cards are received. Speakers are limited to three (3) minutes each.
 - A. Public Hearing for "Encanterra Annexation" (Case P18-0103), a proposed annexation of numerous parcels totaling approximately 755 acres, generally located south and east of the corner of Gantzel and Combs Roads.

Principal Planner Christine Sheehy stated the public hearing was to receive testimony and comments. She reviewed the boundaries of the proposed annexation of approximately 755 acres. Ms. Sheehy also stated that as of December 5, 2018, 58 letters in support and 30 in opposition had been received and provided to Council. She reviewed the next steps in the annexation process, and that signatures can begin to be collected on Saturday December 8, 2018. A second public hearing will be scheduled once 51% of property owners sign with 50% of the property value. Town Attorney Holcomb also explained the public hearing process and public comments.

Mayor Barney opened the public hearing.

Leah Gumm, Encanterra (San Tan Valley), the applicant for annexation, spoke in support of the annexation, commenting on the future Encanterra and annexation vs. incorporation.

Merle Pfeifer, Encanterra (San Tan Valley), spoke in support of annexation and commented on the San Tan Valley incorporation efforts and how annexation gives residents a choice and incorporation doesn't.

Bob Delena, Encanterra (San Tan Valley), spoke in support of annexation and commented on the improvements to Queen Creek roads and shopping during the past five years.

Nancy Naylor, Queen Creek, spoke in support of annexation and commented on the recent annexation of Ironwood Crossing.

Beth Riley, Queen Creek, spoke in support of annexation, and the benefits of annexation.

Erica Christman, Encanterra (San Tan Valley), spoke in opposition to annexation, lack of internal communications and commented on duplicate charges, taxes, fees and services. She stated the HOA is responsible for maintaining inside the gates and current community services are superior.

Laura Moncrief, Encanterra (San Tan Valley), spoke in opposition to annexation. She stated she stated she chose to live in the county and sees no advantage to annexation except higher taxes.

Milt Fernandez, Encanterra (San Tan Valley), spoke in opposition to annexation, and commented that he didn't want to pay higher taxes or pensions.

Helen Schafft, Encanterra (San Tan Valley), spoke in opposition to annexation, and commented on higher taxes, fees and public safety being further away.

Ted Jones, Encanterra (San Tan Valley), spoke in opposition to annexation, and commented on opposition to increased taxes with no additional benefits and his support for Rural Metro.

Gayle Peters, Encanterra (San Tan Valley), spoke in opposition to annexation, and commented on enjoying the amenities of Queen Creek but Encanterra is self-sufficient and don't need services from Queen Creek.

The following submitted comment cards but did not speak:

Helene Irwine(?) - in favor

Timothy Mullen, San Tan Valley - in favor

Al Sundstrom, Queen Creek - in favor. We are building in Encanterra and fully support annexation to Queen Creek.

Nancy Warr, Pinal County - in favor

Maureen Sundstrom, Queen Creek - in favor. Building at Encanterra and support annexation to Queen Creek.

Scott Imberman, Encanterra - in favor. I think it would be beneficial to Encanterra & Queen Creek for Encanterra annexed.

Carol Luse, San Tan Valley - in favor

Robert Luse, Encanterra - in favor

Alan Pruess, San Tan Valley - in favor. I am in favor of the annexation. I believe Queen Creek is a well-managed & progressive city.

Sherry Pruess, San Tan Valley - in favor. What an asset to be part of Queen Creek.

Patricia Spinner, San Tan Valley - in favor. I am in favor of annexation because I believe in growth and future development of happiness.

Anita Sunday, San Tan Valley - in favor

Patti Fassler, San Tan Valley - in favor

Christine Pfiefer, Encanterra - in favor

Donald Warr, Encanterra - in favor

M.D. Aritz, Queen Creek - in favor

Randy Williams, San Tan Valley - in favor. Thank you for the opportunity to allow us to join the Town of Queen Creek.

Mike Gagliardo, San Tan Valley - in favor

George Tamayo, San Tan Valley - in favor

Pat Aritz, Queen Creek - in favor

Mark Stevens, San Tan Valley - in favor

Susan Nicer(?), Queen Creek - in favor

Carlos Vargas, San Tan Valley - in favor

Susan Robinson, Queen Creek - in favor

Vickie Heisler, San Tan Valley - in favor. I support annexation.

Michelle Imberman, San Tan Valley - in favor. I live in Encanterra and wholeheartedly want to annex into Queen Creek. I would be honored to be a part of your community.

Case Blom, Encanterra - in favor

Kathryn & Earle Door, Encanterra - in favor. We support annexation.

Rebecca Kolesiak, San Tan Valley - in favor. In favor of annexation of Encanterra.

Gerald Spinner, San Tan Valley - in favor. 100% for Encanterra annexation into Queen Creek

Suzanne & Jerry Koemstedt, San Tan Valley - in favor

Linda Sheath, San Tan Valley - in favor

Terre Williams, San Tan Valley - in favor. Very strongly support annexation.

Joanna Stevens, San Tan Valley - in favor

Jay Peck, San Tan Valley - in favor. Highly in favor.

Jerome Knoll, in favor

Mike Bollwes, Encanterra - in favor

Tara Luther, San Tan Valley - opposed. No annexation.

Britt Hancocks, Encanterra - opposed

Annette Kopf, San Tan Valley - opposed

Rich DeNicola, San Tan Valley - opposed

Syd DeYoung, San Tan Valley - opposed. No benefits for Encanterra. Will have to pay higher taxes.

Jerry DeYoung, San Tan Valley - opposed. Being annexed by Q.C. would offer no greater benefits to us as a private gated community.

Becky Potter, San Tan Valley - opposed

Joann Gonzalez, San Tan Valley - opposed. Higher tax rate in sales tax & property tax from 7.2% to 9.45 in Encanterra. Residents can not vote for sheriff in Maricopa County.

Robert Clement, San Tan Valley - opposed. Excessive sales tax rate in Encanterra would be 9.45%. Law enforcement from different county unable to vote for sheriff in Maricopa Co.

Jared McGowan, San Tan Valley - opposed. The fact that a town can team up with a giant corporation like Shea Homes to "force" an area to annex as well as the commercial property which surrounds it. Scary.

Peter Christman, Encanterra - opposed. Very opposed to annexation.

Mart Kennelly, Encanterra - in favor. Support annexation to Queen Creek

Connie Kennelly, Encanterra - in favor. I support annexation to Queen Creek

Ernento & Marta Kanashiro, - in favor. I'm for annexation.

Jean Lissou, San Tan Valley - in favor

Mike Lissou, San Tan Valley - in favor

Don Vecchetti, San Tan Valley - in favor

Judy Bollweg, San Tan Valley - in favor. I am in favor of annexation.

Elizabeth McMurray, San Tan - in favor

Natalie Wolcott, San Tan Valley - opposed. I am opposed to annexation of Encanterra to Queen Creek until such time as the build is complete and the benefits can be assessed at that time.

Susan Casper, San Tan Valley - opposed George Kintscher, San Tan Valley - opposed Scharlene Kintscher, San Tan Valley - opposed David Stone, opposed. Not in favor.

Scott Sunday, San Tan Valley - in favor Ted Jones, San Tan Valley - opposed

red Jones, Gan ran valley - opposi

The Public Hearing was closed.

The meeting was recessed 7:57 - 8:08pm. Council Member Hoffman disconnected from the meeting at this time.

Vice Mayor Turley requested to suspend the rules to reconsider an earlier item - Consent Agenda #M

MOTION: To suspend the rules:

RESULT: Approved unanimously (6-0)

MOVER: Vice Mayor Turley SECONDER: Mayor Barney

AYES: Barney, Wheatley, Benning, Brown, Oliphant, Turley

ABSENT: Hoffman

Vice Mayor Turley stated that she misunderstood the appeal process if a special event liquor license was denied by staff and requested that if an application was denied that it automatically be scheduled for the next Council Meeting rather than the applicant requesting an appeal.

MOTION:

To approve Consent Agenda M with the amendment that if an

application was denied by the Town Clerk that it would automatically be scheduled for the next Council Meeting:

RESULT:

Approved unanimously (6-0)

MOVER:

Vice Mayor Turley

SECONDER: Council Member Brown

AYES:

Barney, Wheatley, Benning, Brown, Oliphant, Turley

ABSENT:

Hoffman

B. Public Hearing on the Town's Biennial Impact Fee Audit covering fiscal years 2014-15 and 2015-16 and possible approval of Resolution 1241-18 accepting the Town's Biennial Development Impact Fee Audit Report.

Deputy Finance Director Dan Olsen explained the statutory requirements on how impact fees are collected and spent; audit requirements including holding a public hearing to accept the audit report.

Kevin Byrne, Willdan Financial Services, reviewed the audit objectives and results.

Mr. Olsen explained the 24-month fee hold period on a development and that the Town adopted a new fee schedule with decreased fees that applied to all permits after August 1, 2014 which resulted in some permits being overcharged. He said all permits in the audit period will be reviewed and any refunds will be made to entity who pulled the permit. Mr. Olsen added that new software now verifies the 24-month fee hold period automatically. He added that other jurisdictions are experiencing similar results with the first audit under the new requirements.

The Public Hearing was opened. No one came forth and the Public Hearing was closed.

MOTION:

To approve Resolution 1241-18 accepting the Town's Biennial

Development Impact Fee Audit Report.

RESULT:

Approved unanimously

MOVER:

Council Member Benning

SECONDER:

Council Member Wheatley

AYES:

Barney, Wheatley, Benning, Brown, Oliphant, Turley

ABSENT:

Hoffman

14. Final Action: If you wish to speak to the Council on an item listed under Final Action, please complete a Request to Speak Card and turn it in to the Town Clerk. Speakers

will be called upon in the order in which their cards are received. Speakers are limited to three (3) minutes each.

None.

- **15.** <u>Items for Discussion:</u> These items are for Council discussion only and no action will be taken. In general, no public comment will be taken. Any agenda items listed for discussion under #7 and were postponed may also be discussed at this time.
 - A. Discussion on outreach and collaboration efforts with Canyon State Academy. This item was continued indefinitely.
- **16.** Motion to Adjourn to Executive Session The Council may reconvene the Executive Session for any of the items listed on the Executive Session Agenda.

 None.

17. Adjournment

The meeting adjourned at 8:22pm.

TOWN OF QUEEN CREEK

Gail Barney, Mayor

ATTEST:

Jennifer F. Robinson, Town Clerk

I, Jennifer F. Robinson, do hereby certify that, to the best of my knowledge and belief, the foregoing Minutes are a true and correct copy of the Minutes of the December 5, 2018 Regular Session of the Queen Creek Town Council. I further certify that the meeting was duly called and that a quorum was present.

Passed and approved on January 16, 2019



Council Committee Reports (1)

- 11/08 11/10 NLC City Summit, Los Angeles (Benning)
- 11/08 EVP Board Meeting (Wheatley)
- 11/08 QC Middle School Veteran's Day Dinner (Barney)
- 11/08 TAC Meeting (Brown, Turley)
- 11/10 Do More Blue / America Recycles Day (Barney, Brown)
- 11/10 Gilbert Days Pony Express (Barney, Benning, Oliphant)
- 11/11 San Tan Memorial Gardens Veteran's Day Service (Barney)
- 11/13 PRAC Meeting (Wheatley)
- 11/13 QCUSD Business Partnership Breakfast (Oliphant)
- 11/14 Senior Program Thanksgiving Celebration (Barney, Oliphant)
- 11/14 Meeting with Brett Burningham (Turley)
- 11/15 Thanksgiving Luncheon (Barney, Benning, Oliphant, Wheatley)



Council Committee Reports (2)

- 11/17 Pancake Breakfast (Barney, Benning, Brown, Wheatley)
- 11/20 Meeting with John Kross (Hoffman)
- 11/27 More than Sad Suicide Prevention Education (Oliphant)
- 11/28 Speaking with Boy Scouts (Turley)
- 12/01 QC Holiday Festival and Parade (Barney, Benning, Brown, Turley, Wheatley)
- 12/02 Farewell Ceremony for HHC and B Co, 98th ESB (Barney)
- 12/04 Speaking at MAG Human Services Conference (Barney)
- 12/04 Tour of MCSO and Fire Station #1 (Wheatley)
- 12/05 Safeway Grand Opening Ceremony (Barney, Brown,
- 12/05 Able Engineering Groundbreaking (Turley)