

**MINUTES OF THE
REGULAR MEETING OF THE COMMON
COUNCIL OF THE TOWN OF STAR VALLEY**

**Tuesday, January 19, 2016 @ 6:00 pm
3675 East Highway 260, Star Valley, AZ
(Star Valley Town Hall)**

The Agenda for the meeting is as follows:

- CALL TO ORDER
- PRAYER was offered by Pastor Dave Barber of Star Valley Baptist Church
- PLEDGE OF ALLEGIANCE
- ROLL CALL:

Mayor McDaniel X , Vice-Mayor Binney X , Council Member Hartwell X , Council Member Henderson X , Council Member Coon X , Council Member McKinney X , Council Member O'Connor X .

- **GILA COUNTY SHERIFF'S OFFICE REPORTS FOR DECEMBER, 2015.**

Lt. Tim Scott of the Gila County Sheriff's Office gave the report for December, 2015.

- **HELLSGATE FIRE DISTRICT REPORTS FOR DECEMBER, 2015.**

Fire Chief Dave Bathke of Hellsgate Fire District gave the report for December, 2015.

- **CONSENT AGENDA ITEMS:**

All items listed under the Consent Agenda will be voted on with one motion. If discussion is desired regarding any Consent Agenda item, that item will be removed from the Consent Agenda and voted on separately.

- A. Approval of the minutes from the Regular Council Meeting held on December 15, 2015.**

- B. Approval of Claims Payable from December 16, 2015 through January 15, 2016 for the General Fund and for the Water Department.**

A motion to approve consent agenda items A and B was made by Council Member Coon, and was seconded by Council Member Henderson.

A roll call vote was taken:

Mayor McDaniel X , Vice-Mayor Binney X , Council Member Hartwell X , Council Member Henderson X , Council Member Coon X , Council Member McKinney X , Council Member O'Connor X .

The motion was voted on and passed 7-0.

- **DISCUSSION ITEMS:**

- 1. Discussion, public hearing and possible action regarding a Conditional Use Permit in CASE NO: CUP 15-02; CONNIE L. AGNES, the applicant. The location of the property is 423 Valley Road, Star Valley, AZ 85541. The Assessor's Parcel Number is 302-55-001J, Star Valley, AZ. The property is currently zoned Transitional Residential (TR). Council will consider the Planning and Zoning Commission's recommendations regarding the Heart 6 Ranch and conditions of use, including, but not limited to, the number of horses to be allowed on the property.**

Town Manager Grier stated the Council was presented with the issue of whether or not to grant a Conditional Use Permit to Ms. Agnes, Heart 6 Ranch. Mr. Grier pointed out that Heart 6 was represented by attorney David Rubin, who was present. Mr. Grier recapped the conditional use permit process, and stated the Planning and Zoning Commission made a recommendation that the conditional use permit be granted, with conditions, and that now the Council needed to make a final decision.

Town Manager Grier stated the Town hired Brad Steinke and his son Casey, independent zoning experts, and they were present to answer zoning questions. Brad Steinke has drafted a proposed conditional use permit for the Council's review.

Brad Steinke gave a brief history of the operation of Heart 6 Ranch, and stated that the current use does not comply with the Town's zoning code. Mr. Steinke pointed out that zoning laws were created to protect not just the property owner's rights, but also those of the adjoining neighbors. Mr. Steinke stated the subject property is zoned transitional residential, which does not allow horse rescue or commercial horse boarding, and it does not specify the number of horses allowed. Mr. Steinke affirmed the Planning and Zoning Commission recommended issuance of a conditional use permit, with conditions, one of which was there would be no more than 12 horses. Based upon the Planning and Zoning Commission's findings, Mr. Steinke drafted the proposed conditional use permit, which requires signature of the Town and the property owner and is then recorded, thus creating a covenant which runs with the land. Mr. Steinke reviewed the permit with the Council, and pointed the Council needs to determine the effective date of the conditional use permit and the number of allowable horses on this property. Mr. Steinke cautioned the Council that issuance of a conditional use permit such as this one does set a precedence. Town Manager Grier commented that the Planning and Zoning Commission recommended 12 horses, but transitional residential does not specify a number and thus the number allowed would be zero. Mr. Grier stated he would compare transitional residential to be most similar to suburban ranch, which allows 3 horses per acre. It is up to the Council to decide on the number of horses for this property. Mr. Steinke stated if any of the terms of the conditional use permit are violated, then the Town's recourse is to take legal action. Mr. Steinke also pointed out that since Heart 6 never had a business license for the horse boarding, it was never a legal operation.

Mayor McDaniel then opened the meeting up for public hearing for those who had direct questions relating to the zoning and the conditional use permit.

Phil Dickey, a resident of Round Valley, questioned why this property was not grandfathered. Town Attorney Grier responded that research indicated Ms. Agnes did not meet the test of grandfathered rights as at the time she began rescue operations she was not in compliance with zoning codes. He cited a letter from Kitty Scharf and a letter from Connie Agnes setting forth the dates rescue operations began on the property that confirmed his findings.

Belinda Minutella, a resident of Payson, and Connie Agnes both asked questions relating to other neighbors being in violation of the zoning code. Mr. Steinke and Mayor McDaniel both responded that these issues were not a part of the conditional use permit issue. Bree Sprague, 423 Valley Road, Star Valley, requested the Council to take into consideration the activities of neighbors in making its decision.

Attorney Rubin asked if a review was done of the zoning laws in effect in 1998 and 1999. Town Attorney Grier responded that was done, and further that transitional residential did not change from the county code to the town code.

Randy Reger, of Star Valley, asked if the Council had the final decision on this issue. Town Attorney Grier responded that was correct. Ms. Reger also asked if the number of horses allowed on the conditional use permit had been left blank, and Mr. Grier responded that it was blank.

Belinda Minutella asked the question if there is zoning law in place which addresses commercial use of horse property. Brad Steinke responded that another district does allow commercial horse boarding, but he did not know the number of horses allowed in that zoning area.

Mayor McDaniel asked if any Council Members had questions for Mr. Steinke. Vice-Mayor Binney discussed the provisions of the declarations of restrictions originally on property in the subject area and that the original intent was 3 horses per acre and he would not like to see that changed. Council Member Hartwell added that she would like to see the Council stick strictly with what is in place, but they could stretch it to 12 horses.

Attorney Rubin stated in Gila County there is no other horse rescue operation such as Ms. Agnes conducts on her property. Mr. Rubin also argued that there is a bona fide issue concerning the grandfathered right issue. Mr. Rubin also asked that the Council, in making its determination on the number of horses allowed, take into consideration that the boarders are needed to provide feed for the rescue horses.

Connie Agnes stated what she does in the community is important; when she incorporated 2 years ago, she was informed by Star Valley staff that she did not need a business license as she did not have any employees and was not bringing in any income; that the pictures taken by the Town were taken just after a bad storm and there was a lot of mud, but it is not like that all the time; she invited all the Council to come and see her ranch and observe the children's program; that she has applied for her 501(c)(3) non-profit status; and that she is not involved in 4-H.

April Howe, a resident of Mesa del, stated the children's program has helped her son and several other children; Joseph Herring, the father of Timothy, a resident of Mesa del, stated the program has greatly helped his son; Makayla Cabello, a resident of Payson, stated she has 4 young children and can't afford to pay for activities and is very appreciative of the free children's program offered by Ms. Agnes.

Belinda Minutella stated the number of horses on the subject property are there for a reason – some of the sanctuary horses are old and very difficult to place in another home; rescue horses take time to nurse back to health and rehabilitate; and requested that the Council allow a “decent number of horses.”

Susie Johnson, 694 Valley Road, Star Valley, asked if this matter could be sent back to the Planning and Zoning Commission; that a local contractor with equipment has committed to assist in cleaning up the property; and that personally her concern with the conditional use permit is not the number of horses, but rather the manner in which the horses are maintained.

Mimi Halgren, she and her husband own property immediately to the east of Ms. Agnes, requested the Council refuse to issue the conditional use permit as drafted based on the following points: (1) there is a very real concern regarding contamination of the groundwater, although there has not been any documented proof to date, but once it happens there is no going back; (2) the smell and flies are a major problem in the summer, and there are now 2 piles of manure on the property which smell horribly; (3) the adverse impact on their property value; and (4) one of purposes of zoning is to put similar uses together and the requested use would cause an adverse impact on the surrounding neighbors. Ms. Halgren stated she had counted 33 horses on the Agnes property on January 18th. Ms. Halgren requested that Ms. Agnes be limited to 9 horses, but they would accept 12 horses being allowed. Ms. Halgren stated the property is not being properly maintained and there are too many horses for the size of the property.

Town Clerk Johnson read letters from Pat Woolsey, of 379 N. Valley Road, and Billie Hensley, of 458 N. Valley Road, both of whom complained of too many horses, the smell, the flies, possible groundwater contamination, and the condition of the horses.

Terry Mannino, of 526 N. Valley Road, Star Valley, read her letter in support of the horse therapy program and rescue program conducted by Ms. Agnes.

Randy Reger stated the current condition of the property should not be used for judgment about the usual condition of the property.

Unnamed lady who formerly lived at 123 Nola Lane, Star Valley, stated she had always observed the Agnes property in immaculate condition.

Marie Smith, of Payson, spoke in favor of the children's program and stated it also is available to veterans and people with anxiety disorders.

Ray Berry, of Mesa del, stated he had adopted one of the rescue horses from Ms. Agnes.

Debbie McGee, a resident of Star Valley, stated one of Ms. Agnes' horses was rehomed to her just last month, and spoke in support of Ms. Agnes' programs.

Cindy O'Neal, 600 Mayfield Canyon, Star Valley, but just moved to Tonto Basin, spoke in support of Ms. Agnes' programs and also in favor of more than 12 horses being allowed.

Attorney Rubin stated Ms. Agnes is aware of the consequences if she does not comply with the Council's decision; that she originally asked for 24 horses, the Planning and Zoning Commission recommended 12 horses, and she is requesting a split and be allowed 18 horses and a reasonable amount of time to reduce the current number of horses on her property, plus a review as to whether that is working.

Mayor McDaniel then opened the meeting up for discussion by the Council. Discussion ensued concerning the number of horses to be allowed on the Agnes property; the possibility of groundwater contamination; consideration of the complaints of surrounding neighbors; the maintenance of the property; the length of time to grant for compliance with the conditional use permit and conditions, if granted. Brad Steinke pointed out that the Council can establish the number of horses to be allowed under the conditional use permit, Ms. Agnes then has to prove she can abide by the conditions of the permit, and then in a year she can request an amendment after she has proven she can handle more horses. Mr. Steinke further recommended that the Council not set a termination date in the conditional use permit. The Council continued discussion concerning the number of horses; possible testing of the groundwater for nitrates; timeframe for and compliance with the conditions of the conditional use permit if it is granted; and removal of the manure. Brad Steinke stated if the Council chooses to adopt the conditional use permit as presented, the two items in the permit that still need to be addressed are: (1) effective date; and (2) number of horses. Town Attorney Grier also suggested that the Council should clarify who should ride horses as the suggested conditional use permit would not permit volunteers to ride. Brad Steinke suggested the word "volunteers" be added to the conditional use permit, page 2, paragraph 6(d)(3).

Council continued discussion regarding the effective date of the conditional use permit, and also discussed amending the hours of operation to 6:00 a.m. to 9:00 p.m., which Ms. Agnes agreed was reasonable.

A motion that the Council allow only 12 horses, that the permit become effective June 1, 2016, the hours of operation be 6:00 a.m. to 9:00 p.m., and on page 2, paragraph 6(d)(3) add the word "volunteers", and all other conditions of the conditional use permit drafted by the Bradlee Group was made by Council Member Hartwell, and was seconded by Council Member Henderson.

The motion was voted on and passed 7 – 0.

- **COMMENTS FROM THE PUBLIC**

During this portion of the meeting, members of the public may address the Town Council on items that are not on the printed agenda. Any remarks shall be addressed to the Council as a whole and not to any individual member. Speakers are limited to three (3) minutes per person unless additional time is granted by the Mayor. The Council may not discuss or act upon matters raised during public comments.

There were no public comments.

- **ADJOURNMENT**

A motion to adjourn the meeting was made by Council Member Henderson, and was seconded by Council Member Coon.

The motion was voted on and passed 7 – 0.

APPROVED:

Ronnie O. McDaniel, Mayor

Date: _____

ATTEST:

Lois V. Johnson, Town Clerk

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 Star Valley held on the 19th day of January, 2016. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 28th day of January, 2016.

Lois V. Johnson, Town Clerk