

**MINUTES OF THE REGULAR MEETING
AND EXECUTIVE SESSION OF THE COMMON
COUNCIL OF THE TOWN OF STAR VALLEY**

**Tuesday, February 16, 2021 at 4:00 pm
3675 East Highway 260, Star Valley, AZ
(Star Valley Town Hall)**

The Agenda for the meeting is as follows:

- PRAYER was offered by Council Member Bobby Davis.

- CALL TO ORDER

- ROLL CALL:

Vice Mayor McKinney X , Council Member Davis X , Council Member Armington X , Council Member Binney X , Council Member Rappaport X , Council Member McDaniel X , Mayor Coon X . **Council Members appeared by ZOOM.**

- **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 January 19, 2021.

B. Approval of Claims Payable from February 1, 2021 through February 15, 2021 for the General Fund and for the Water Department.

A motion to approve consent agenda items A and B was made by Council Member Davis and was seconded by Council Member Binney.

A roll call vote was taken:

Vice Mayor McKinney X , Council Member Davis X , Council Member Armington X , Council Member Binney X , Council Member Rappaport X , Council Member McDaniel X , Mayor Coon X .

The motion was voted on and passed 7 - 0.

- **DISCUSSION ITEMS:**

1. **First Reading and Public Hearing concerning Ordinance No. O 21-02 captioned as follows: AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF STAR VALLEY, ARIZONA, AMENDING STAR VALLEY TOWN CODE, TITLE 4 (PUBLIC HEALTH AND SAFETY) BY ADDING NEW CHAPTER 6 NOISE, AND ADOPTING BY REFERENCE THAT CERTAIN DOCUMENT FILED WITH THE TOWN CLERK ENTITLED “TITLE 4 (PUBLIC HEALTH AND SAFETY), CHAPTER 6 NOISE.”**

Mayor Coon explained this ordinance would amend the Star Valley Town Code by adding a new chapter six (6) titled “Noise.” Today is the first reading to allow the public and council to discuss the provisions in this ordinance. There will be a second reading for public input and at that meeting council will make a final decision on provisions that will be included in the ordinance. No final decisions will be made today, concluded Mayor Coon, and any changes considered necessary can be made.

Town Manager Grier explained the request for a noise ordinance was brought about by Council Member Armington and Mayor Coon to see if there would be an objective way to determine what is too much noise. For the most part, stated Mr. Grier, this comes about from the Tonto Rim Bar & Grill and the various noise complaints the Town has received from the Lamplighter. Mr. Grier reported he has spoken with Roy Haught and Bob O’Connor and they have some concerns about the times being too late in the morning for construction vehicles to start up. The Town certainly wants to hear from the construction industry and try to get this right before jumping into it. While this is scheduled for a first reading, explained Mr. Grier, council can instead hear from the public and have this as a discussion item today. It can then be put back on the agenda for a first reading, concluded Mr. Grier.

Mayor Coon opened the meeting to the public. Dean Mikelson of 3870 E. Highway 260 reported usually the band doesn’t run past 10:00pm. Mr. Mikelson stated he would like everyone to work together to make sure it doesn’t affect him and his business. He understands everybody has to be happy and he wants it to be fair amongst everyone. Stephanie Mikelson of 3870 E. Highway 260 stated she would like to see the data of what the baseline noise level is for traffic and construction. To make a decision that is fair for everyone it has to be made with some data. Queried Mrs. Mikelson – What do other cities use as their baseline? Mrs. Mikelson stated she agrees the Town needs something, but she wants to make sure that it is fair for everybody and is not detrimental to their business as they have already taken a years’ worth of hit and they are a business that brings people to Star Valley.

Brenda Tessier of 3933 E. Highway 260 stated businesses like the Tonto Rim Bar & Grill are part of the fabric of the community and she would hate to see anything that would make the business change. Ms. Tessier reported the quiet hours for the Lamplighter community are from 10:00pm to 6:00am and the Tonto Rim Bar & Grill have never violated that time period that she’s aware of. Bill Rawl of 3933 E. Highway 260 stated he’s a musician and plays at the bar quite often. He agrees with Stephanie that data is needed so he can adjust the sound. Ray Thompson of Houston Creek RV Park stated he is retired and to supplement his retirement he is a musician. He believes whatever needs to be done to be compatible and compliant and make the machine work for everybody would be ideal. Mr. Young of 1837 S. Moonlight Drive stated he is curious what the decibel level is with the ordinance. Town Manager Grier responded it is part of the noise ordinance that can be made available to him. Ray Thompson of Houston Creek RV Park asked for confirmation that presently there is not a noise ordinance in place. Mr. Grier responded a noise ordinance is not in place and is being proposed.

Mayor Coon stated he has one comment that may help a little bit concerning the data for deciding on the decibel levels. The ordinance, reported Mayor Coon, is suggesting 65 decibels for residential and commercial and 70 decibels for industrial during daytime hours. Normal conversation is 60 to 70 decibels, medium traffic on Highway 260 is 70 to 80 decibels. In his opinion, stated Mayor Coon, 65 is too low. A serious look needs to be taken at the decibel levels for the daytime hours so a decibel level that everyone can live with can be determined, concluded Mayor Coon. Council Member Davis asked if Roy Haught reviewed the ordinance as of today. Town Manager Grier answered that Mr. Haught did review the ordinance and he does have some concerns because he starts early. Council Member Davis replied the 7:00am start would be a problem with him. Town Manager Grier responded that Roy did have some concerns on that and the Town may need to have a more complete look by that industry before moving forward. Mayor Coon stated he doesn't think Roy's equipment could operate at a 70 decibel level and the decibel level would have to be raised considerably or he couldn't operate.

Council Member Binney questioned if outdoor events are included in the business license. Town Manager Grier answered they are not. The Town has tried to be hands off with business owners as much as possible and he is not sure whether or not an outdoor band is allowable in the first place. Council Member Binney stated the noise at night is always an issue and he would like to see the Town get a generator and one meter. That would even answer the question for Dean as to how loud the street is, concluded Council Member Binney. That information is available and can be found online, responded Mayor Coon, and tells you the decibel level of different sounds. It is up to council to decide what numbers they are comfortable with.

Council Member Armington stated he would like to see the Town get an official machine that will test that. Before the season starts, suggested Council Member Armington, Dean could set up a band on the patio around 5:00pm and test it at different spots to get a baseline of what's acceptable and what's not acceptable. In defense of the little bars, advocated Council Member Armington, both of them have been very honorable. Last summer at 10:00pm they shut down the outside music. Most of the complaints have come from the Lamplighter, reported Council Member Armington, so there's a few individuals over there who want to go to bed at 8:00pm. Queried Council Member Armington – Make five people happy and fifty people angry? We have to have a happy medium somewhere in there.

Town Manager Grier responded the Town knows that it has a problem with the noise. The noise is the Tonto Rim Bar & Grill and the Town has had many complaints from the Lamplighter. This ordinance wouldn't be necessary for the Town if it weren't for that one source of noise. The Town has had many law enforcement contacts that will cost the taxpayer money. Mr. Grier stated he hates to see ordinances that are not needed and he thinks that Star Valley is a group of folks that don't really want to have any more laws and being told what to do. It's a balance between the folks that are having the disturbance and then the commercial enterprises. Mr. Grier stated he would like to address this to Dean if there is some plan that he could come up with that would mitigate the noise so the Town doesn't have to go down this road.

Dean Mikelson of 3870 E. Highway 260 responded that one of the things he could do is try to build a wall and make a roof that he can make retractable or something to try to keep the noise down. He can work on something to make it coverable or some kind of sound deterrent to keep it contained in his building. Mr. Mikelson concluded he is open to other suggestions and he would like to see this noise ordinance not go through because it will affect the industrial side and their operations. Town Manager Grier acknowledged there are often unintended consequences with ordinances and that may be true with the construction industry. If pinpointed, stated Mr. Grier, the Town is really talking about the bands at his bar. If the problem can be solved maybe a noise ordinance wouldn't be needed. Mr. Mikelson responded the band doesn't have to be that loud. When they lower it down less complaints are received. Mr.

Mikelson concluded he doesn't think an ordinance is needed and he can work on it with the band to lower the decibel level.

Ray Thompson of Houston Creek RV Park stated law enforcement will need to have a tool to verify the integrity of the decibel level from the point of origin. Queried Mr. Thompson – How is this going to be realistically enforced? Mr. Grier answered he has had discussions with Chief Tischer and they have priced decibel meters prior to this. Mayor Coon added the reading would be taken at the point of complaint, not at the point where it comes from. Stefanie Mikelson of 3870 E. Highway 260 stated if they go the route of putting in walls and spending money to appease the community, she wants to know that the council members are going to support them when the complaints come in. If the complaints are still going to continue even after they've sunk money into the project, concluded Mrs. Mikelson, then she would just rather see the ordinance. Mayor Coon suggested maybe it could be done in steps. If the Tonto Rim Bar & Grill decides to put the wall up, he is sure that would help because it would stop the sound from going across the street. If that doesn't work, concluded Mayor Coon, maybe that's the time to look into an ordinance.

Mayor Coon announced he would like to call this an informal public conversation and give Dean a chance to look into that option. Dean Mikelson of 3870 E. Highway 260 reported a lot of the calls that he personally received from the Lamplighter were people that come up from the valley in the summertime wanting peace and quiet. They have to realize – you move next to an airport and all of a sudden the noise is there – you can't get rid of the airport. Those people have to understand that they are not moving to a country spot where they are going to get quiet. They get it for most of the part, concluded Mr. Mikelson, except Friday and Saturday night till 10:00pm. Council Member Armington pointed out if the ordinance is passed little noises like roosters could affect many people.

Council Member Rappaport commented it's been interesting listening to the public and she thinks they made some valid points. Council could make more informed hearings if they knew what 60 or 70 decibels sounded like. Council Member Rappaport stated she agrees building a wall would take care of a lot of noise and she's all for having this be an informal hearing for a while. Council Member Rappaport then thanked the public for showing up. Council Member McDaniel stated she would like to see how the sound wall goes because that could possibly solve the whole thing. She suggested waiting to create an ordinance the Town may not even need, and that she would also like to keep it informal and see how that goes. Council Member McDaniel concluded she wants to support the local businesses and the Tonto Rim Bar & Grill deserves a chance to do the wall they said they wanted to do. Council Member McKinney stated he agrees with Belle.

Mayor Coon stated he thinks the general consensus is to put the ordinance on the backburner for a while until Dean can possibly come up with a solution to contain the sound within his establishment. Hopefully, concluded Mayor Coon, that will take care of it and the Town won't have to worry about roosters. Mayor Coon stated the Town will not consider this the first reading. Town Manager Grier explained that if council doesn't want to do the first reading at this time and if nobody makes a motion to do a first read, then it just dies. Mayor Coon entertained a motion. There was none and the motion died. Vice Mayor McKinney stated he appreciates the spirit with which Dean is approaching this problem and hopes he can come to an accommodation that will satisfy all parties.

2. Discussion and possible action to adjourn into Executive Session, pursuant to:

A.R.S. § 38-431.03.A.3 - Discussion or consultation for legal advice with the attorney or attorneys of the public body.

Discussion for the purpose of consulting with Town Attorney Timothy W. Grier regarding CASE NO: CUP 20-01 for William “Bill” Armstrong.

Mayor Coon asked if there was any discussion. Council Member Binney asked under what grounds is the council going into Executive Session. Town Manager Grier answered council is going into Executive Session under A.R.S. § 38-431.03.A.3 for a discussion and consultation for legal advice with their attorney. Mayor Coon then entertained a motion.

A motion to adjourn into Executive Session was made by Council Member Binney and was seconded by Council Member Davis.

A roll call vote was taken:

Vice Mayor McKinney Yes, Council Member Davis Yes, Council Member Armington Yes, Council Member Binney Yes, Council Member Rappaport Yes, Council Member McDaniel Yes, Mayor Coon Yes.

The motion was voted on and passed 7 – 0.

- **ADJOURNED INTO EXECUTIVE SESSION**
- **REGULAR MEETING CALLED BACK TO ORDER**

3. Discussion and possible action to instruct the Town Manager/Attorney how to proceed with CASE NO: CUP 20-01 for William “Bill” Armstrong.

Mayor Coon asked if there is any discussion. There was no discussion.

A motion to authorize the Town Attorney to modify the Conditional Use Permit with the following modification: to eliminate provision 4d and replace it with “the Conditional Use Permit shall continue for one year and is subject to annual renewal upon review by council” was made by Council Member McDaniel and was seconded by Council Member Armington.

A roll call vote was taken:

Vice Mayor McKinney Yes, Council Member Davis Yes, Council Member Armington Yes, Council Member Binney Yes, Council Member Rappaport Yes, Council Member McDaniel Yes, Mayor Coon Yes.

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.

The Mayor opened up this portion of the meeting for public comment. There were no comments and the Mayor closed this portion of the meeting.

• **ADJOURNMENT**

A motion to adjourn the meeting was made by Council Member Davis and was seconded by Council Member Armington.

The motion was voted on and passed 7 – 0.

APPROVED:

Gary Coon, Mayor

Date: _____

ATTEST:

Eddie Chapin, 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 16th day of February 2021. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 19th day of February 2021.

Eddie Chapin, Town Clerk