

**MINUTES OF THE FLORENCE TOWN COUNCIL MEETING HELD ON TUESDAY, JANUARY 21, 2014, AT 5:30 P.M., IN THE CHAMBERS OF TOWN HALL, LOCATED AT 775 NORTH MAIN STREET, FLORENCE, ARIZONA.**

**CALL TO ORDER**

Vice-Mayor Smith called the meeting to order at 5:30 p.m.

**ROLL CALL:**

Present: Rankin, Smith, Celaya, Hawkins, Montañño, Walter  
Absent: Woolridge

**INVOCATION**

A Moment of Silence was observed.

**PLEDGE OF ALLEGIANCE**

Vice-Mayor Smith led the Pledge of Allegiance.

**CALL TO THE PUBLIC**

**Call to the Public for public comment on issues within the jurisdiction of the Town Council. Council rules limit public comment to three minutes. Individual Councilmembers may respond to criticism made by those commenting, may ask staff to review a matter raised or may ask that a matter be put on a future agenda. However, members of the Council shall not discuss or take action on any matter during an open call to the public unless the matters are properly noticed for discussion and legal action.**

Ms. Judy Hughes, Greater Florence Chamber of Commerce Executive Director, invited the public to McFarland State Park on January 24, 2014, for the second round of Floor Director Series, beginning with the historical and archeological preservation services.

**WORK SESSION**

**Discussion on Agenda Item No. 9a. Ordinance No. 606-14.**

Mr. Charles A. Montoya, Town Manager, stated that the Mr. James E. Mannato, Town Attorney, was asked to provide a legal opinion on the Covenants, Conditions, and Restrictions (CCRs). The Town has received additional information from Ms. Nevis, Wild Horse Estates, Resident, which has not been forwarded to the Planning and Zoning Commission as of yet. The Planning and Zoning Commission is requesting that the item be returned to them so they may be able to re-address the issues, have public hearings, and forward a clean document to the Council.

Discussion occurred on the reasons for the ordinance to be referred back to the Planning and Zoning Commission.

Mr. James E. Mannato, Town Attorney, explained his legal opinion. He explained how the CCRs are administered, enforced, and amended. He stated the CCRs are viable and can be enforced. The Town does not have the authority to change them by enacting a zoning ordinance. The only legislative body that can make changes is the State Legislature.

Discussion occurred regarding the homeowner's association.

Councilmember Hawkins inquired why the Council is returning the item to the Planning and Zoning Commission if it must legally remain status quo.

Mr. Mannato stated that in an event of the annexation, the Town is required to enact zoning that is no more restrictive than what current exists.

Councilmember Montaña stated that he would like it to be referred back to the Planning and Zoning Commission so that they may clarify the definition of acceptable animals. He said they did not discuss project animals for 4-H or FFA animal.

Councilmember Celaya stated that the animals are clearly defined in the CCRs, with the exception of pigs. He said the CCRs dictate what is allowed or not allowed.

Mayor Rankin stated that the zoning cannot be more restrictive than the CCRs.

Discussion occurred on Pinal County zoning and what the CCRs allowed.

Mr. Mannato stated that the Town's zoning must be comparable to what currently exists with Pinal County. The CCRs are binding and may prohibit what the zoning allows.

Councilmember Celaya stated that the Planning and Zoning Commission has requested to review the ordinance again and forward a new recommendation to Council.

**Discussion on ORDINANCE NO. 605-13:**

Ms. Lisa Garcia, Deputy Town Manager/Town Clerk read Ordinance No. 606-14 by title only.

**AN ORDINANCE OF THE TOWN OF FLORENCE, PINAL COUNTY, ARIZONA, AMENDING THE TOWN OF FLORENCE CODE OF ORDINANCES, TITLE XV LAND USAGE, CHAPTER 150 DEVELOPMENT CODE, SECTION 150.013 DESIGN REVIEW (PZC 38-13-ORD) (First reading held on December 2, 2013, second reading held on January 6, 2014).**

Mr. Montoya stated that several projects have come forth through the Town in the last six to eight months. Currently, the Town Code requires that many of those items go before the respective Board or Commission. The Code also requires that those looking for commercial businesses utilize professional engineers without the staff being able to assist them. Council has asked staff to streamline and simplify the process for our residents and customers. He said many of the projects will still go before the respective Board or Commission, as well as the Council; however, staff is trying to streamline the process for those individuals that are not major developers and small types of projects.

Mr. Montoya stated that in six months, staff will continue to evaluate the Town Code to better streamline some of the processes. He said staff could provide a quarterly report to the Council and the Planning and Zoning Commission on items that were administratively approved through development review.

Councilmember Hawkins stated that streamlining the process would be a good thing. He would prefer that the appeal process be provided to the customer in writing if they did not agree with staff's decision.

Mr. Mark Eckhoff, Community Development Director, stated that there is a section in the design review application that informs the applicant of the appeal process to the Planning and Zoning Commission and to the Town Council.

Councilmember Hawkins requested that a pamphlet be provided to the applicant on the onset.

Mayor Rankin concurred with Councilmember Hawkins and agrees with streamlining the process. He said the projects would be able to start much sooner.

Vice-Mayor stated that the Town has boards and commissions for a reason. He understands that it is important to simplify the process; however, he would like Council to be kept abreast of projects in the community.

Mayor Rankin stated that there have been instances where businesses have not been able to move forward because the engineering costs exceeded the project cost. Council requested staff to streamline its processes, and staff has moved forward with the Council's request.

## **PRESENTATIONS**

### **Presentation by Greater Florence Chamber of Commerce recognizing the Business of the Month.**

Ms. Shawn Gibson, Greater Florence Chamber of Commerce Boardmember, recognized the Happy Adobe, LLC, as the Business of the Month. She recognized their efforts and congratulated them for their great work.

Councilmember Celaya stated that he has visited the business and it is very inspirational for home projects.

**CONSENT: All items indicated by an (\*) will be handled by a single vote as part of the consent agenda, unless a Councilmember or a member of the public objects at the time the agenda item is called.**

**\*Approval of a Professional Services Agreement with Sunrise Engineering, Inc., for design of waterline in Bailey Street.**

**\*Approval of Task Order No. 3 with Water Works Engineers, LLC, for bidding and construction administrative services for Well 3B.**

**\*Ratification of the Assumption of Blessed Virgin Mary Catholic Church Special Event License for a Saturday, February 8, 2014, from 10:00 a.m. to 8:00 p.m.**

**\*Approval of the Town of Florence 2014 General Plan Amendment application and hearing schedule.**

On motion of Councilmember Montaña, seconded by Councilmember Celaya, and carried to approve the Consent Agenda, as written.

#### **UNFINISHED BUSINESS**

**ORDINANCE NO. 606-14: Discussion/Approval/Disapproval of AN ORDINANCE OF THE TOWN OF FLORENCE, PINAL COUNTY, ARIZONA, AMENDING THE TOWN OF FLORENCE CODE OF ORDINANCES, TITLE XV LAND USAGE, CHAPTER 150 DEVELOPMENT CODE, SECTION 150.031 DEFINED WORDS, SECTION 150.047 DISTRICT USE REGULATIONS TABLES (A) AND ESTABLISHING A NEW RURAL RESIDENTIAL EQUESTRIAN SUBDIVISION (RRES) ZONING DISTRICT SECTION (PZC-34-13ORD) (First reading held on January 6, 2014).**

On motion of Councilmember Montaña, seconded by Councilmember Celaya, and carried to table Ordinance No. 606-14; and to return to the Planning and Zoning Commission for further review.

#### **NEW BUSINESS**

##### **Resolution No. 1418-14:**

Ms. Lisa Garcia, Deputy Town Manager/Town Clerk, read Resolution No. 1418-14 by title only.

**A RESOLUTION OF THE TOWN OF FLORENCE, PINAL COUNTY, ARIZONA, APPROVING THE PRE-ANNEXATION AND DEVELOPMENT AGREEMENT WITH**

**DQCRESTFIELD, LLC., an ARIZONA LIMITED LIABILITY COMPANY, AND AUTHORIZING EXECUTION OF SUCH PRE-ANNEXATION AND DEVELOPMENT AGREEMENT (Annexation No. 2013-02 – “CRESTFIELD MANOR” PROPERTY).**

Mr. Mark Eckhoff, Community Development Director, stated that DQCrestfield, LLC, has approximately 53 acres, and 360 lots within the Crestfield Manor subdivision. He explained the development that has taken place within that subdivision and stated some lots are ready to go vertical. He said the owners realize that they will need to spruce up the area and address the retention basin, which has issues. He said as soon as the market improves, they will be ready to build on the lots.

Mr. Eckhoff stated that Mr. James Mannato, Town Attorney, developed the model pre-annexation and development agreement. He said the agreement is similar to others that have come before Council. He said the agreement has been routed to all the parties, which may be slightly different from one another based on each owner's circumstances.

Councilmember Montaño inquired about the area of annexation.

Mr. Eckhoff explained the areas that may be annexed. He explained what the pre-annexation and development agreement would entail.

Mayor Rankin inquired if the property owners already have a development agreement with Pinal County.

Mr. Eckhoff stated that there are development agreements with Pinal County, and the Town's agreement will supersede the existing agreements they have with Pinal County upon annexation. Those who enter into the agreements will have certainty on what the fees will not exceed within the first five years of the annexation.

Discussion occurred on issues with the Magma Flood Dike, improvements in the area, and if Florence will have to accept responsibility for improvements if needed.

Mr. Eckhoff explained the present issues with the Magma Dam and improvements that are needed.

Mr. Wayne Costa, Public Works Director, explained what is currently being done to address some of the issues with Magma Dam and the middle Magma channel. He also explained what work has been completed thus far.

Councilmember Celaya is concerned that the annexation pays for itself coming in to the Town and that the financial burden does not fall on the responsibility of the Town.

Mr. Costa stated that the Town would not pay for the improvements as it is currently not part of the Town.

Mr. James E. Mannato, Town Attorney, explained what the assessment for the Magma Flood District entails. He explained that they raised the assessment on the property owners to raise the funds needed for improvements.

Councilmember Celaya said it is the financial responsibility of the person developing the property to pay for the necessary improvements.

On motion of Councilmember Montaño, seconded by Councilmember Walter, and carried to adopt Resolution No. 1418-14.

**Resolution No. 1419-14:**

Ms. Lisa Garcia, Deputy Town Manager/Town Clerk, read Resolution No. 1419-14 by title only.

**A RESOLUTION OF THE TOWN OF FLORENCE, PINAL COUNTY, ARIZONA, ADOPTING REVISIONS TO THE TOWN OF FLORENCE FY 2013-2014 EMPLOYEE CLASSIFICATION PLAN.**

Mr. Scott Barber, Human Resources Director, stated that the request is for two new positions that currently do not exist in the current classification plan. The positions are for Management Analyst – Pay Range 47, and Parks Maintenance Superintendent – Pay Range 45.

On motion of Vice-Mayor Smith, seconded by Councilmember Montaño, and carried to adopt Resolution No. 1419-14.

**Discussion/Approval/Disapproval of authorizing the Town Manager to accept the award for Federal Emergency Management Agency (FEMA) Staffing for Adequate Fire and Emergency Response (SAFER) grant program funds in the amount of \$463,902.**

Mr. Ernie Feliz, District Manager, stated that on August 19, 2013, the Council authorized the submission of the grant, and on January 10, 2014, the Town was notified of receipt of the award a SAFER grant in the amount of \$463,902.

Mr. Feliz stated the monies will be used to pay for the hiring of three additional firefighters. The funding amount is based on the salaries for the three firefighters for two years. The Town has until February 10, 2014, to accept the award.

Mayor Rankin inquired how many SAFER grants have been awarded in Arizona.

Mr. Feliz stated that he is not aware of any other SAFER grants that have been awarded.

Mayor Rankin inquired if the Town is to absorb the costs after two years, if the Town chooses to retain the employees.

Mr. Feliz responded yes, the Town would absorb the costs after two years for the three individuals.

Councilmember Celaya inquired if the staff will be notified that these positions are grant funded and may not be funded after the grant funding is gone.

Mr. Feliz stated that the Town is not required to retain the employees after the funding is gone.

On motion of Councilmember Celaya, seconded by Councilmember Walter, and carried to authorize the Town Manager to accept the award for Federal Emergency Management Agency (FEMA) Staffing for Adequate Fire and Emergency Response (SAFER) grant program funds in the amount of \$463,902.

**Discussion/Approval/Disapproval of Task Order No. 2 with Water Works Engineers, LLC, for bidding and construction administration of effluent pump station, chlorine system upgrades and administration building improvements at the South Wastewater Treatment Plant.**

Mr. John Mitchell, Utilities Director, stated that in October 2013, Council approved a professional services agreement with Water Works Engineers, LLC, in order to capture various tasks currently being performed by them. Staff informed Council that each task would be covered in separate task orders.

Mr. Mitchell stated that the Town entered into a Consent Order with Arizona Department of Environmental Quality (ADEQ) because of exceedences in chlorine residuals out of the plant. He said the projects will fix the consent order. The Town has a work plan that has been negotiated and approved with ADEQ covering the projects.

Mr. Mitchell said the effluent pump station and the chlorine system design have already been completed. He said the administration lab building and expansion is at 90% completion. He said the engineering needs to be completed and assembling the bid packets and sending the project out to bid. Staff will present the lowest bidder to Council for authorization to award the bid. Water Works will perform the inspections.

On motion of Councilmember Walter, seconded by Councilmember Montaña, and carried to approve Task Order No. 2 with Water Works Engineers, LLC, for bidding and construction administration of effluent pump station, chlorine system upgrades and administration building improvements at the South Wastewater Treatment Plant.

**Discussion/Approval/Disapproval of Task Order No. 4 with Water Works Engineers, LLC, for construction of a new water storage tank, booster station and site improvements in North Florence.**

Mr. Charles A. Montoya, Town Manager, pulled this item from the agenda and it will be brought back to a future agenda.

## **MANAGER'S REPORT**

There is no Manager's Report.

## **CALL TO THE PUBLIC**

Mr. Terry McDadd, Wild Horse Estates Resident, stated that he is disappointed that Ordinance No. 606-14 is being referred back to the Planning and Zoning Commission. He said they have had numerous meetings, evidence has been submitted, and several discussions have taken place. On November 21, 2013, there was a very large Planning and Zoning Work Session and he is disappointed that those making the decision to return it to the Commission were not at the work session. He said numerous options were presented at the Work Session, discussions were held and they were voted upon. The final two options were forwarded to the Commission and they chose from those two options.

Mr. McDadd stated that the Town Attorney explained the CCRs. He said everyone who purchased property, by virtue, has agreed to the covenants. He said the Town should put in the two horse restriction the same as what Pinal County has and the same that is in the CCRs. He does not understand why they want to waste time by going over it again. It is an inconvenience to the public to have to come to so many meetings when there was already a resolution.

Nancy Cincotta, Wild Horse Estates Resident, stated that there are CCRs and everyone agreed when they purchased their property. She said the neighbors like each other and do not want any fighting amongst themselves. She said that is not right for the Town of Florence or for any government to say they are going to change the zoning, which is a direct conflict with the current CCRS, and then expect the neighbors to sue one another because they have too many animals. She said that the Council is making the neighbors do the Council's job. She said they should have a zoning that is not in conflict with the CCRS so they don't have to do the Council's job. She said they can pay their taxes so the Council can do their job and they can live happily in their neighborhood. They all understand they are only allowed to have two horses. They want their neighborhood to look nice and don't want neighbors with too many animals. She is asking Council to do their job.

Ms. Kelly Nevis, Wild Horse Estates Resident, thanked the Council on behalf of the 50 residents who have Council to reconsider making it animal units versus horses. She said at the Planning and Zoning Commission Work Session there were a majority of votes in favor of the two options that were forwarded to the Commission. One of the options included allowing donkeys and mules. The Planning and Zoning Commission put forward the other option that did not include as many votes. She is requesting that

their voices be heard, even though they are not part of Florence yet. She would like to believe that the Council will listen to the people. She said there are those who are in favor of four animal units. She thanked the Council for reconsidering. She asked if the Town Attorney's legal opinion on CCRs is available to the public. With regards to the CCRs, there is no current board and has been disbanded for several years. There is no one to govern or manage the CCRs. Those who were on the original board have moved away.

Ms. Denise Kollert, Florence Resident, said that after listening to all the discussion, it appears that those who are living out there are breaking the law. She doesn't understand why the Planning and Zoning Commission should have to go over the same information that they have had to make the decision they made to allow them to keep breaking the law. She said if they have CCRs with Pinal County, whether there is a board or not, it is enforceable. Pinal County also has rules regarding animals, and those residents are breaking those laws. She stated what the Planning and Zoning Commission recommended was less harsh than what Pinal County has, so she doesn't understand why there needs to be further discussion and waste Council and Planning and Zoning Commission meeting time to continually reiterate people breaking the law.

Person unknown, Wild Horse Estates Resident, stated she purchased property in Wild Horse Estates, continually is hearing about CCRs; however, she never received them nor does she know what they are. She said she doesn't even know how to comply with them since she doesn't even know where she can obtain a copy of the CCRs. She owns three small horses and purchased the property specifically because you could have horses on your property. She said there are dairy farms in close proximity that emit smells; however no one complains about the waste that the dairies and other farms generate. She said in the four states that she has lived in, you were never allowed to commit waste on your property and doesn't understand why this is being addressed.

### **CALL TO THE COUNCIL**

Councilmember Hawkins stated that the funeral for Charles Bussey will be Thursday, January 23, 2014, at 9:00 am for visitation and 11:00 am for services.

Councilmember Celaya stated that returning the annexation item back to the Planning and Zoning Commission will provide more clarification to the Wild Horse Estates residents as to what is within the Council's ability to offer them. What they may find is that regardless of what they are authorized or what the Council grants, their CCRs are still in effect and will be held by those. He said people may expect the Council to increase their ability to have animals; however, that is not within the Council's ability to do.

Councilmember Montaña stated that the Florence Unified School District is completing their community forums regarding their budget reductions. Their deficit is \$1.7 million so they are trying to work with the community on things that they can do to make a

determination on what they are going to do regarding the cuts. He said it is a good opportunity to get involved.

**ADJOURN TO EXECUTIVE SESSION**

**For the purpose of discussion of the public body with the Town Attorney in accordance with A.R.S. § 38-431.03(A)(4) for discussion and consideration of Town's position with regard to pending litigation.**

On motion of Councilmember Hawkins, seconded by Councilmember Walter, and carried to adjourn to Executive Session.

**ADJOURN FROM EXECUTIVE SESSION**

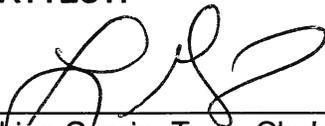
On motion of Councilmember Celaya, seconded by Councilmember Hawkins, and carried to adjourn from Executive Session.

**ADJOURNMENT**

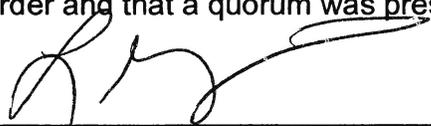
On motion of Councilmember Celaya, seconded by Vice-Mayor Smith, and carried to adjourn the meeting at 7:35 pm.

  
\_\_\_\_\_  
Tom J. Rankin, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Lisa Garcia, Town Clerk

I certify that the following is a true and correct copy of the minutes of the Florence Town Council meeting held on January 21, 2014, and that the meeting was duly called to order and that a quorum was present.

  
\_\_\_\_\_  
Lisa Garcia, Town Clerk