

MINUTES OF THE FLORENCE TOWN COUNCIL MEETING HELD ON MONDAY, MAY 5, 2014, AT 5:00 P.M., IN THE CHAMBERS OF TOWN HALL, LOCATED AT 775 NORTH MAIN STREET, FLORENCE, ARIZONA.

CALL TO ORDER

Mayor Rankin called the meeting to order at 5:04 pm.

ROLL CALL:

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

Absent: Montañó

ADJOURN TO EXECUTIVE SESSION

For the purpose of discussion and consultation of the public body in accordance with A.R.S. § 38-431.03(A)(3) and A.R.S. § 38-431.03(A)(4) to obtain legal advice from the Town Attorney and to discuss and consider the settlement of pending litigation. For the purpose of discussion and consultation of the public body in accordance with A.R.S. § 38-431.03(A)(4) and A.R.S. § 38-431.03(A)(7) to consider the purchase of water and wastewater infrastructure and discuss negotiations related thereto.

On motion of Councilmember Hawkins, seconded by Vice-Mayor Smith, and carried to adjourn to Executive Session.

ADJOURN FROM EXECUTIVE SESSION

On motion of Councilmember Walter, seconded by Vice-Mayor Smith, and carried to adjourn from Executive Session.

INVOCATION

Councilmember Walter performed the invocation.

PLEDGE OF ALLEGIANCE

Mayor Rankin 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. Samantha Shultz, Florence Resident, stated if flags are torn, ripped, or set on the ground, they need to be burned. The flags that are flying outside of the Town Hall building are ripped and torn.

Ms. Denise Kollert, Florence Resident, responded to a letter that was in the Florence Reminder which attacked the Mayor, Council, and staff by saying the Town is not ran well. She said there have been times that she has not agreed with the Council's decisions; however, she has never felt that way. The person also made comments about the Johnson Utilities purchase, the annexation, and how things are ran. She said this person is not a voting member of this community. He has a right to voice his opinion but does not have to attack everyone. She wants the public to understand that his opinions should not sway them and each person has to do their own research when casting their vote.

PUBLIC HEARINGS AND PRESENTATION

Public hearing on a zone change request by the Town of Florence to change existing zoning on multiple properties from Neighborhood Office to Downtown Commercial and first reading of ORDINANCE NO. 610-14:

Ms. Lisa Garcia, Deputy Town Manager/Town Clerk, read Ordinance No. 610-14 by title only.

AN ORDINANCE OF THE TOWN OF FLORENCE, PINAL COUNTY, ARIZONA, APPROVING THE DOWNTOWN COMMERCIAL (DC) ZONE CHANGE LOCATED IN AN AREA GENERALLY BOUND BY RUGGLES STREET TO THE NORTH, BUTTE AVENUE TO THE SOUTH, BAILEY STREET TO THE WEST AND PINAL STREET TO THE EAST AND INCLUDING PROPERTY LOCATED AT THE SOUTHEAST CORNER OF PINAL STREET AND 8TH STREET (PZC-11-14-ZC).

Mr. Mark Eckhoff, Community Development Director, stated when the changes to the DC zoning were adopted, discussions occurred on wanting to expand the utilization of the District. He said the zoning was initially applied to all of the streets on Main Street from Butte to Ruggles. The intent was to continue with blocks to the east and west because the DC Zoning District allows for the type of development patterns that were established in the downtown core area in the past. He said the reasons for the expansion are to allow and to continue to adapt the uses to be able to reuse the buildings and to allow for infill development on the properties in that area. He said some of the lots could never be developed if other zoning were applied to them.

Mr. Eckhoff stated that this is the third phase of implementing the zoning district downtown. He explained that staff has sent letters, as well as going door to door, to discuss the opportunity to change their zoning to DC zoning along with the benefits that the zoning will provide to the property owners. He explained the process that staff did to combine the applications and which properties are included. He said the Planning and Zoning Commission has forwarded a unanimous favorable recommendation.

Mayor Rankin inquired why some properties are excluded on Pinal Street.

Mr. Eckhoff stated that staff tried to obtain all the properties between Bailey and Pinal, and Ruggles and Butte. There were a few properties which were not ready to be included. He said recently, a few property owners approached staff. He said they would like to continue to expand the area.

Mayor Rankin opened the public hearing. There being no public comments, Mayor Rankin closed the public hearing.

Public hearing on Ordinance No. 606-13:

Ms. Lisa Garcia, Deputy Town Manager/Town Clerk, read Ordinance No. 606-13 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 150.047 DISTRICT USE REGULATIONS TABLES (A) AND ESTABLISHING A NEW RURAL RESIDENTIAL EQUESTRIAN SUBDIVISION (RRES) ZONING DISTRICT SECTION (PZC-34-13-ORD).

Mr. Mark Eckhoff, Community Development Director, stated that staff was directed to return the ordinance to the Planning and Zoning Commission for reconsideration. The Commission was provided the comments that were given to the Council at the Council meeting along with the additional comments that were received after the Council meeting. The Commission has made some minor modifications to the ordinance that was returned to them, and contains the following:

- Allows two horses per lot, which is consistent with current Pinal County zoning
- Allows site built homes and manufactured homes, reflecting current zoning and existing conditions
- The proposed ordinance has a provision for FFA, 4-H or similar, which is consistent with the subdivision's CC&Rs
- The proposed zoning is no more intense than the current County Zoning

Mr. Eckhoff stated that the Planning and Zoning Commission has forwarded a unanimous favorable recommendation.

Mr. Eckhoff said the highlights include:

- It is a zoning district
- One dwelling unit per lot
- Lot size is a minimum of 42,000 square feet
- Conditional provisions are included in the ordinance regarding standards for maintaining agricultural animals that may be on the property.

Councilmember Walter inquired if the ordinance addresses burros.

Mr. Eckhoff stated discussions have been held with Pinal County regarding the definition of a horse, burro, and other animals similar in nature. Pinal County defined a horse being a horse, and the other animals being separate. The Town has followed Pinal County's definition. He said the proposed zoning is consistent with what Pinal County and the Conditions, Covenants, and Restrictions (CC&Rs) allows. He said the Town has knowledge that there are two properties that may have burros, and they would be non-conforming to Pinal County's zoning. If the property were to be incorporated, it would also be non-conforming with the Town.

Vice-Mayor Smith inquired if the Homeowners' Association still stands.

Mr. Eckhoff said the HOA is recorded, as well as having valid CC&Rs for the properties. The Town Attorney has interpreted both for the Council. He said to the Town's knowledge, the HOA was disbanded and there is no external body or HOA to maintain them. The CC&Rs can always be enforced on a private or civil basis. The CC&Rs still apply and the HOA could be re-established and follow the CC&Rs.

Mr. James E. Mannato, Town Attorney, stated that he does not believe the HOA was officially dissolved. He said the HOA ceased to function for reasons unknown. He said that having an HOA in existence and CC&Rs recorded are legal obligations that are binding on the property regardless of whether or not you have an enforcement entity at the moment. The CC&Rs are bound to the land for the duration of the CC&Rs and not to the owner. He said the enforcement situation may need to be improved within the HOA.

Mr. Mannato stated that he has read the declaration of the HOA that was filed by the person who subdivided the property and it is enforceable by any individual owner, a Board of Directors or a HOA is not required.

Mr. Mannato explained what a CC&R is and the difference between a CC&R and zoning. He said a CC&R can be more restrictive than the zoning. The Town only has a legal responsibility to enforce the Town's zoning requirements.

Mayor Rankin inquired if the CC&Rs can be changed.

Mr. Mannato explained the property owners' could change the CC&Rs.

Mayor Rankin inquired if the Town is required to apply comparable zoning on the property if it were to be annexed into the Town.

Mr. Eckhoff explained the Town's requirement regarding comparable zoning. He said the Planning and Zoning Commission feels that the ordinance before the Council is the best approach.

Mayor Rankin inquired how many properties are out of the County's compliance as of today.

Mr. Eckhoff stated that there are approximately 12 properties out of compliance. Pinal County is working to remedy all of the situations by citing the property owners that are in violation of the County ordinance.

Mayor Rankin opened the public hearing.

Ms. Kelly Nevis, Wild Horse Estates Resident, stated that she thought that she was going to be in favor of annexation when the Town Manager recommended sending the previous zoning proposal back to the Planning and Zoning Commission, based on the majority signature that they had collected. She said that they attended one of the first annexation meetings and has continually asked what will happen to their animals. She said she now knows the answer to that question and it is unacceptable. She said she has heard so many misstatements, incorrect information, and conflicting pieces of law and truth. Ms. Nevis said there is a section in the CC&Rs that does not allow block fencing. There is also a section on animals and pets.

Ms. Nevis said the Town of Florence was given a great opportunity to make some forward thinking changes for the good of the Town and future rural developments. She said Wild Horse Estates was built in 2001, and was previously zoned for animals. It was then zoned MH when 15 manufactured homes were installed. It was then sold to a developer who obtained 69 site build building permits by mistake, per the County. She said this became the residents' problem. There are currently 84 homes on minimum one acre parcels and they can only have two horses.

Ms. Nevis said the Town of Gilbert recently voted to allow for chickens on parcels that are 6,000 square feet. The majority of residents in Wild Horse Estates voted, via signature petition, for four animal units and still no one has told her how they want the signatures verified. She was told that the signatures are unverifiable, which is not true.

Ms. Nevis said that at the Planning and Zoning Commission meeting, a majority of residents attended via in person and in print, and they all expressed their preference for four animal units, Option C. Councilmember Hawkins was present at the meeting and heard what the majority wanted. She said that Councilmember Hawkins stated at that meeting that the law is the determining factor and not the majority. She said the Town attorneys could not agree on what the law states.

Ms. Nevis stated that the law is interpreted differently, depending on who you speak with. Mr. Mark Eckhoff, Community Development Director, and Mr. James E. Mannato, Town Attorney, stated that per the annexation rules and statutes, the new zoning for Wild Horse Estates cannot be more restrictive or intense than what they currently have. The Assistant Town Attorney and others have stated that it cannot be more generous than what they currently have. She said it would appear that the Town's attorneys cannot agree on the law and statute and inquired what should they rely on. She said if the Council decides that it cannot be more restrictive than the current zoning, then staff will need to rewrite the proposal again because there is nothing in the current MH zoning that states that they cannot graze their horses in their front yards. The CC&Rs do not require them to be members of 4H to keep 4H animals on their property.

Ms. Nevis said Florence has tossed this great opportunity away. The Council has the opportunity to override the recommendation and elect Option C, or 4 animal units.

Ms. Lori Beck, Wild Horse Estates Resident, read the statement provided to her by Ms. Nevis, which stated the following: "People with animals spend money and will go without food for themselves in order to provide for their animals. The feed store in Florence has closed down and another one may come to Florence; however, if Florence is anti-pets, it is unlikely that another pet store will open in Florence. I have been your biggest advocate for annexation; I will definitely be your opposition instead unless the current option is overturned for what the majority of homeowners and Wild Horse Estates requests."

Speaker did not identify himself, Wild Horse Estates Resident, stated that he is supposedly in violation of the County, as he has four horses. He has had four horses since he moved to Wild Horse Estates. There are other individuals who had four horses when he moved in and they still have four horses to date. He spoke with animal control. He said there are no limits on pets, which is defined as any domestic animal kept for pleasure and not for utility. He has spoken with his attorneys and the Town cannot modify the definition. He has four horses that he keeps for his pleasure; therefore, by law, by definition, he is allowed to have four horses. He said per his attorneys, the Town is in violation of the law by saying only two horses are allowed.

Mayor Rankin inquired if he has been cited by Pinal County.

The speaker stated that he has been cited. He presented the same argument to Pinal County and they have not responded.

Speaker did not identify herself, said she was reading a letter from Laura Roulette, Wild Horse Estates Resident, who was unable to attend the Council meeting due to her work schedule. She has lived in Wild Horse Estates for over one year and has enjoyed the rural lifestyle. She said the atmosphere is what enticed them to move to that location. She said that she didn't know the many animals, including horses, chickens, turkeys, goats, etc., were in violation of the County ordinance. She purchased animals in 2013 and received a letter from Pinal County in March 2014, notifying her that Terry Makdad filed a complaint on her chickens. This is when she first learned that Pinal County had given them the wrong zoning. She found it odd that for months this was not an issue. She said her neighbors do not have any issues with her animals, but someone who lives on the complete opposite of the area does. She inquired how can it be acceptable to have two 1800 lb. animals on your property but not acceptable for fourteen 5 lb. chickens, or two (inaudible), or three Shetlands, or five turkeys. She said the rural atmosphere, plus the size of their properties is perfect for animals. She said she could have put up a block wall like the person did so that the neighbor couldn't see, but that distracts from the atmosphere of interfacing with neighbors and it looks ugly.

The speaker said that Mr. Makdad referenced Arizona State Statute § 9-471 at the hearing and the Zoning Committee immediately disregarded what the majority wanted.

She said no one looked into the statute that was referred to. There has been case precedence to change the zoning prior to annexation. Blanchard vs. Show Low Zoning and Planning, which was upheld as legal by the Appellate Court stated that the zoning can be changed prior to annexation. The zoning needs to be changed first because they are zoned wrong and it is what the majority wants. She said they are surrounded by cracker jack homes that are crammed together on tiny lots. She said the children and grandchildren are losing out on what it means to take care of animals, gardens that grow your food, and property that has multiple daily chores. She said that are inundated with technology and people wonder why the kids nowadays are obese. Teenagers have no work ethic and cannot fathom what hard work is. She said her grandchildren love to visit and play and feed the animals and to gather eggs. To take this away would be heartbreaking to her and another blow to teaching the younger generation (inaudible). She said if they plan on keeping the zoning the same, she votes no for annexation.

The speaker stated that she found Councilmember Hawkins to be disrespectful, rude, and offensive at the zoning hearing. (Inaudible)

Ms. Sue Ann Gutchenola, Crestfield Manor Resident, stated that she feels annexation would be a positive move. She said a couple from Wild Horse Estates went to Crestfield Manor and was misinforming her neighbors and were trying to sway them from annexation. The couple was saying that they would have higher taxes and that Florence was going to move mobile homes into their subdivision. She said it would be a shame to let a few misguided people ruin their neighborhoods by trashing up their properties by having too many animals, the smells, the flies, etc. She said it is her understanding that Wild Horse Estates has CC&R guidelines when the buyers purchased their property, just as Crestfield Manor has HOA guidelines. She has lived in Crestfield Manor since 2011. She said her neighbors take pride in their home ownership. The number and types of livestock and fowl that live in Wild Horse Estates has a direct impact on the values of the Crestfield Manor homes and quality of life. She said that she is aware that Florence, as part of the proposed annexation, is developing a new zoning ordinance to be applied to Wild Horse Estates upon successful annexation. If the annexation is approved, the Town's zoning should conform to the requirement of the present Pinal County Codes. Upon successful annexation, Florence should strictly enforce all ordinances and bring any non-compliant parcels in Wild Horse Estates into compliance. The Town must do everything in its power to eliminate the adverse impact on the Crestfield Manor residents by bring those out of control property owners into compliance.

Ms. Gutchenola said that although she is in favor of annexation, she is watching and waiting to see how the Town of Florence resolves the Wild Horse Estates ordinance before submitting the annexation petition.

Mayor Rankin inquired if there were people speaking incorrectly about the annexation.

Ms. Gutchenola said last fall several neighbors came to her asking about the annexation.

They were told different information. They were told that they would have higher property taxes; mobile homes would be moved into the area; and general bullying by trying to influence a vote. She said she understands what impact the annexation will have, if approved.

Mayor Rankin stated that Florence will not be moving mobile homes into the area.

Ms. Karen Sebastiani, Crestfield Manor Resident, stated that she sent a letter to the Council. She said the zoning is very simple. There are CC&Rs in place and Pinal County has zoning in place. She said if someone doesn't know their current zoning it is because they did not do their due diligence, and it is their own fault. She said they cannot force a bunch of animals within the zoning. She said it is insane to want more than what the zoning allows for. She has no issue with the two horses per property; however, she does have an issue with hearing a (inaudible) donkey, a rooster crowing, or any other animal that is not allowed. She said any person that has any animal not allowed in the CC&Rs is breaking the law. She said the laws need to be enforced and she doesn't have a problem with adding 4H, providing the household has children.

Mr. Terry Makdad, Wild Horse Estates Resident, stated that he is glad that Ms. Nevis has heard all of the misinformation, since she is the one who has been providing the information. He said that the misinformation provided is the reason that the Town of Florence had to send out the five page notice of frequently asked questions. He said he is also the person who called in the complaint on the Kollet lot for having chickens. He said since he filed the complaint, the residents have added two goats. He said there was a person who had nine horses at one time. He said Ms. Nevis has also called him Hitler at the last Planning and Zoning Commission meeting. He said that everyone is quoting ARS § 9-741 L, which refers to comparable zoning. He said the current zoning only allows for two horses. He said he does have block walls and they are allowed by the CC&Rs. He said people need to read the CC&Rs. He said all that is required is that you must send a letter to the HOA and if they do not respond within 30 days, you are entitled to put up your block wall. He said there are 168 owners within Wild Horse Estates. He said there are 84 homes, but each home has an average of two owners; however, some have more than two owners per lot. He said he has not seen a majority of signatures being validated on any petition at this point in time. He is in favor of the annexation, if the zoning remains, allowing for two horses.

Mr. Jim Nevis, Wild Horse Estates Resident, stated that he has been attending the meetings since they have started discussing the zoning for Wild Horse Estates. He said he has heard that the Town is trying to match their MH zoning. He said at a recent meeting, Pinal County proposed correcting their zoning to rectify their mistake for giving out 69 illegal building permits for custom homes which were not allowed in manufactured home zoning. They proposed a change back to CR-1A or R43 zoning, both of which would allow a substantial amount of animals that the majority of Wild Horse Estates residents want. He said in January, Councilmember Hawkins stated that the 27 signatures that they had were not a majority, which meant to him that there were 57 that were against four horses; that is completely false. He said that Councilmember Hawkins stated that he would listen to the majority. Councilmember Hawkins was

present at the last Planning and Zoning Commission meeting and was asked if he considered the 50 signatures he had to be a majority or did not count. Councilmember Hawkins responded, yes, but the Council must follow the law. He said the Planning Department recommended Option A over Option B and Option C; however, Option C is what the majority of those who signed the petition wanted, which is four animal units. He inquired why the Council will not consider Option C. He said it is ridiculous that one person (inaudible). He said their subdivision currently is a disaster. He said 69 out of the 84 homes do not have rights. He said according to Pinal County, if one of the homes burnt to the ground they would not be able to rebuild the site built home. He said the Florence Town Council is trying to rezone by following the guidelines and not be more restrictive than the present zoning. Pinal County knows it made an error and is willing to rectify the zoning error. Their proposed zoning would allow goat, sheep, cattle, and horses. He said why would the Town Council try to change the zoning to try and get them close to manufacture home zoning as possible is beyond him. He said two wrongs do not make it right, and if the Council adopts Option A, it would be three wrongs and it still won't be right. He said to his knowledge, there are three couples in Wild Horse Estates that really do not like animals and drive around the subdivision to report people.

Councilmember Hawkins responded to the comments and stated that the signatures on the petitions were not legal and were not proper. They need to go through proper channels and have them certified. The owners, not the renters, must sign the petitions, which is why he made that statement. He will respect any lawful petition; and if the majority of the people want to go that direction, that is acceptable. He said the Council must follow the law.

Ms. Denise Kollert, Florence Resident, stated that she is speaking on behalf of Nancy and Logan (no last name provided), as they could not attend the Town Council meeting. She said they are residents of Wild Horse Estates. She said Nancy provided a letter for her to read, which stated that annexation is a very important matter, and from her perspective, will be a good thing. She said many people, like her, want the annexation because they will benefit from the Town's fire, police, water and sanitation services. She said they currently pay premium prices to private companies for those services. She appreciates the Town's government that allows its citizens to be heard. She said Wild Horse Estates is not zoned general rural and does not allow more than two horses per property, nor does it allow any other farm animals or fowl. She said if the approximate twelve non-compliant households (inaudible). Those in violation of the animal restrictions are the ones who want you to change the rules to suit them. There are seventy plus households that are adversely affected by their animals' odors, noise, and flies. She said they did not agree to live in a neighborhood that allowed all these animals and the problems that come with it. The zoning ordinance and the CC&Rs do not allow it, and they did not put down their hard earned money in an area that is noisy, smells, and is ridden with flies. She said many people have come to Wild Horse Estates to look at homes to purchase but were turned off by the animal smells and the trashiness of some of the properties.

Mayor Rankin said this will come before Council on May 19, 2014 for a vote.

Mayor Rankin closed the public hearing.

Presentation on Southeast Valley Transit System Study.

Mr. Jorge Luna, Senior Service Planner, Valley Metro, and Ms. Sonia Pastor La Sota, Community and Outreach Coordinator, Valley Metro, provided a presentation on the Southeast Valley Transit System Study, which included the following:

- Study purpose: Identify efficiencies and service gaps for existing and future transit services; optimize existing services; identify current unmet needs; and address changing study area conditions, connectivity, travel demands,
- Identified study area
- Outlined proposed schedule
- Identified transit service characteristics
- Identified opportunities in the Southeast Valley
- Discussed key issues and concerns
- Performing community outreach: survey is on the website for the public to take to provide feedback
- Will continue ongoing coordination with the Project Advisory Committee

Mayor Rankin inquired if MAG is providing a portion of the funding for the study. He inquired how much input are they receiving from Arizona Department of Transportation regarding the Rapid Rail for the rural areas.

Mr. Luna stated that MAG is providing a portion of the funding. He stated that they are looking at all of the studies that have been done within the study area. Mark Pearsall, MAG, is the Co-Project Manager for this study and is very familiar with the commuter rail and the intercity rail component. He has great relations with ADOT staff and is in communication with them to keep them apprised of what is being proposed and how that best meshes into the analysis for the study area.

Mayor Rankin inquired if the study includes the North – South Corridor.

Mr. Luna stated that he will provide that information at a later time.

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 accepting the register of demands ending March 31, 2014, in the amount of \$1,616,075.05.**

***Authorization to enter into an intergovernmental agreement for provisions of services with the Pinal County Recorder for elections and voter registration services.**

***Resolution No. 1432-14:**

Ms. Lisa Garcia, Deputy Town Manager/Town Clerk, read Resolution No. 1432-14 by title only.

A RESOLUTION OF THE TOWN OF FLORENCE, PINAL COUNTY, ARIZONA, AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR STATE HOUSING FUNDS (WHICH MAY INCLUDE FEDERAL FUNDING THROUGH THE HOME INVESTMENT PARTNERSHIP PROGRAM OR STATE HOUSING FUNDS), CERTIFYING THAT SAID APPLICATION MEETS THE COMMUNITY'S HOUSING AND COMMUNITY DEVELOPMENT NEEDS AND THE REQUIREMENTS OF THE STATE HOUSING PROGRAMS, AND AUTHORIZING ALL ACTIONS NECESSARY TO IMPLEMENT AND COMPLETE THE ACTIVITIES OUTLINED IN SAID APPLICATION.

On motion of Councilmember Walter, seconded by Vice-Mayor Smith, and carried to approve the Consent Agenda, as written.

NEW BUSINESS

Discussion on the development of a Town of Florence Art Program.

Ms. Jennifer Evans, Management Analyst, provided a PowerPoint Presentation, in which she outlined the following for the Florence Arts Program:

- Program goals are to integrate art into public building
- Outlined the benefits
- Ways to encourage public involvement
- Possible creation of an Arts and Cultural Commission
- Funding for project through a Percent for Art Ordinance and how funding is derived
- Process to implement the Florence Public Art Program

Councilmember Celaya stated that he visited Oro Valley's art exhibit and the art adds a lot to the community. It will help diversify the Town and will enhance what Florence already has.

Discussion/Approval/Disapproval of the FY 2014-2015 employee benefit program with Blue Cross/Blue Shield of Arizona for medical; Teladoc for 24/7 physician access benefits; Principal Financial Group for dental and life insurance; Vision Service Plan for vision insurance; EAP Preferred for Employee Assistance Program; AFLAC for supplemental insurance products; and Infinisource to administer our Section 125 flexible benefit account plan.

Mr. Scott Barber, Human Resources Director, stated that the Town has insured its eligible employees since July 1, 2009 in a high deductible health savings account program and the Town contributed the plan as well. He said Garry L. Johnson & Associates; the Town's consultants for health related insurance, solicited bids, reviewed the bids and provided the Town with a comprehensive analysis of what was received.

Staff received several great plan alternatives with extremely competitive pricing for both Health Savings Account (HSA) and fully insured coverage.

Mr. Barber stated that staff is recommending leaving the HSA/High Deductible Plan for medical insurance coverage in favor of a fully-insured, PPO-type plan. The plan will offer co-pays for physician, urgent care and emergency room visits, and a standard 3-tier co-pay design for prescription benefits. He said there will be a savings to the Town and to the employees for coverage.

Councilmember Walter inquired what the Recommended Plan PPO S 500 90/50 ratio means.

Mr. Barber stated the 90/50 are percentages for co-payments and co-insurances. He provided an example of how the ratios are applied.

Councilmember Walter inquired how the employees who have met their deductible for the current calendar year be affected since the new insurance will start in July. She asked if they will have to meet another deductible.

Mr. Barber stated there are issues that overlay; however, employees will receive credit for the deductibles that they have paid for the in the first half of the year. He said there are differences between an HSA and PPO plan. He said there are issues that could pose additional out of pockets expenses for certain employees.

On motion of Councilmember Hawkins, seconded by Vice-Mayor Smith, and carried to approve the the FY 2014-2015 employee benefit program with Blue Cross/Blue Shield of Arizona for medical; Teladoc for 24/7 physician access benefits; Principal Financial Group for dental and life insurance; Vision Service Plan for vision insurance; EAP Preferred for Employee Assistance Program; AFLAC for supplemental insurance products; and Infinisource to administer our Section 125 flexible benefit account plan.

Discussion/Approval/Disapproval of setting a date to approve the Johnson Utility, LLC, Purchase Agreement and Management Agreement.

Ms. Lisa Garcia, Deputy Town Manager/Town Clerk, stated that the staff has added the Purchase Agreement and Management Agreement to the agenda packet; it is available to the public.

Mayor Rankin stated that his preference is to accept what staff has submitted on the five year management agreement. He is aware that the majority of the Council is not in agreement with it; however, he feels it is something that needs to be done for the benefit of the Town. He said the issues brought up in executive session can be addressed by all parties concerned.

Vice-Mayor Smith stated that the motion is to set a date. He said the public will vote on this item and it is his belief if they vote prior to the public's vote, the Council is sending a

message to the public as to how the Council is voting. He said the public may choose not to vote. He is requesting that a date be set after the public vote.

Mayor Rankin said that he does not see that the public will perceive the Council's action as such. He said there is a time element concerning the Corporation Commission and it is imperative for the continuation of the program that it be set prior to the vote.

Daniel Hodges, Johnson Utilities, stated that they have been working with the Town since September 2013. They have conducted an engineering study, accounting study, and economic study. He said it was their understanding that they would enter into a purchase agreement with the Town, and the residents would know what the deal was and would know what they were voting on. They have been out in the community at numerous events, and have been asked what the purchase agreement entails. Their response is that the agreement is in the works and they are working out the legal issues. They also have a proceeding before the Arizona Corporation Commission on May 19, 2014. It has been requested by the judge at that proceeding that they have an executed purchasing agreement at that time.

Mr. James E. Mannato, Town Attorney, stated that the Evidentiary Hearing in front of the Administrative Law Judge is May 19, 2014. The open meeting before the Corporation Commission to render a final decision is on June 10, 2014.

Mr. Hodges stated with regards to the Corporation Commission, the judge and the parties involved need to see what the terms are, so they are asking to have the agreements executed as soon as possible. He said from Johnson Utilities standpoint, they have expended an extraordinary amount of money and knows there are things that the Town staff is looking at, subject to a deal this size. He said the agreements outline in the agreements themselves that it is subject to the vote of the public. He said it is important for the public to know what the terms of the agreements are. He said Johnson Utilities needs to know that there is a deal in place. He said several people have asked to purchase Johnson Utilities, but they have a first right of refusal with the Town, and in good faith, they came to work out a deal with Florence first. They feel that they have fulfilled their obligation. He asked Council to vote tonight on the agreements.

Mr. Drummond stated the agreement itself does not unconditionally commit the Town to purchase the assets any more than the agreement unconditionally requires Johnson Utilities to sell the assets. There are conditions in the contract that benefit both the seller and the buyer, which will need to be satisfied in order for the transaction to be consummated. The conditions include the positive results from the election, the approval of the Corporation Commission, and the agreement of the Phoenix Industrial Development Authority (IDA) to issue bonds. There is nothing that requires the Town to purchase the assets by executing the purchase agreement.

Vice-Mayor Smith stated that however the Council chooses to vote, it will sway the votes of the voters. He said some of the Council would prefer to wait until the voters decide before the Council votes.

Mr. Drummond said it is not their intent to persuade the voters to vote yes because they are asking the Council to adopt the agreement. There are some competing needs; they are having difficulty getting the Corporation Commission to approve the transaction without an executed agreement. They are unable to start the proceeding with the Phoenix IDA to issue bonds without having an executed agreement. They will not be able to satisfy everyone's concerns, but have spent a considerable amount of time negotiating the agreements. They weren't intending to negotiate the agreements, in earnest as they have, and then wait for the election or for the Town to review due diligence materials. They wanted to do things concurrently instead of sequentially to be more efficient and to save the Town and Johnson Utilities money. They are happy to educate the voters. He said the purchase agreement is available for review and they can see the conditions that have to be satisfied before either party is obligated to close.

Vice-Mayor Smith stated that Council received the agreements today and has not had time to review the documents.

Mr. Drummond stated that the Council is not being asked to approve the transaction. They are asking for the Council to set a date to approve of the transaction.

Discussion occurred on the possible execution of the agreement.

Councilmember Woolridge stated that their obligation is to the voters of Florence. She said a meeting should be scheduled after the vote to discuss this further.

Councilmember Celaya said he is optimistic about the transaction and there are a lot of great opportunities. There are things that need to be reviewed and possible changes that may need to be made. They received the agreements today and have not had a chance to review the documents or provide any input. He inquired if there is an opportunity to make changes once the agreements are executed.

Mr. Drummond stated that agreements are months of works by both parties and their consultants.

Councilmember Celaya stated that they have not received the input from the Council.

Mayor Rankin inquired if the Town is in receipt of all of the requested items.

Mr. Mannato responded no.

Mr. Drummond stated that Mr. Mannato may be referring to some of the due diligence materials, which they have been assembling and are available for review by the Town's consultants. In the purchase agreement, one of the conditions to closing is the review of the materials and a reasonable approval of the materials.

Mr. Mannato responded that that Mr. Drummond is referring to a provision in the agreement that came after the last meeting with them, to allow as a condition of the buyers obligation to close escrow, its review and satisfaction approval with the

requested material. He said that term is like any other term that can be put into a contract and is subject to interpretation and construction, depending on how you choose to utilize it, either to someone's advantage or disadvantage. It is incumbent to review the material prior to the Council's decision to execute the agreement or not.

Mayor Rankin asked Mr. Charles A. Montoya, Town Manager, for his recommendation.

Mr. Montoya stated that he believes it is a great deal; however, the attorneys have not received all of the documents that they need to validate some of the numbers. As Mr. Mannato stated that having some of the items not there that are listed in the appendices are causing some concern with the Town's counsel and the Town's outside counsel.

Mayor Rankin inquired if there is some reason as to why the documents have not been received.

Mr. Drummond said it has not been a refusal on behalf of Johnson Utilities. They have been working for months to develop the two agreements. It was their understanding that the agreements would be entered into and they would provide the Town with the due diligence materials. The Town would have an opportunity to review those materials prior to closing and prior to having any obligation to close.

Councilmember Woolridge stated that the scenario might work in the corporate world; however, when dealing with government entities and taxpayer dollars, they are held to a higher standard. She asked for him to consider the Council's responsibility to the tax payers.

Councilmember Celaya inquired what effects would the delay have.

Mr. Drummond stated that it puts Johnson Utilities in an awkward position because they have provided certain assurances to the Corporation Commission that the execution would occur. He said they will now have to go before them to explain that there will be a delay.

Mr. George Johnson, Johnson Utilities, explained that all of the studies that the Town has requested have been done. He asked the Council to vote one way or another.

Councilmember Walter said that a date needs to be set and the requested information needs to be provided so they can come to a mutual agreement.

Mayor Rankin inquired how long it would take to review the documents and provide a response back to Council if they were delivered tomorrow.

Mr. Mannato stated said he cannot speculate how much time it would take to review all of the documents; however, they would review the items in a reasonable amount of time. He said there are approximately 500 line extensions agreements, approximately 52 master utility agreements, and approximately 52 pieces of real property which belong to Johnson Utilities which are the subject of survey and title reports. He said it would be

incumbent on the Town to find out what is involved in getting policy of titles insurance after review of the documents. A golf course is included in the real property as well.

Mr. Drummond stated that they cannot get a time frame from the Town's consultants as to how long it will take to review the documents. He said they are not depriving the Town from the materials. They would like the Town to review the documents concurrently and not sequentially. Stipulations can be included regarding review of the documents. They have spent tens of thousands of dollars for the title reports which they are prepared to provide to the Town.

Mr. Mannato stated that they have requested the information for quite some time and the objective of their meeting on Friday, May 2, 2014, was to find out if they were going to be handed this information. They left the meeting without the requested information. He met with Mr. Johnson three weeks ago, and at that meeting he was given the impression that the information was nearly complete and would be forwarded to the Town.

Mr. Drummond stated that their understanding of the May 2, 2014 meeting was to see if the agreement was in a form to present to Council. It was not their understanding that they needed to provide the due diligence materials prior to the contract being executed. He said it takes time to pull the due diligence material together due to the size of the system.

Mr. Mannato stated that he has made no representation to Mr. Drummond or Mr. Johnson that the agreement would be executed by the Town Council. He said his point in going to their office on May 2, 2014, was to see if they had reached a state in the negotiations where each side has done all that they could do and the negotiations are over and this is what will be presented to Council.

Mr. Mannato stated that each side has done all they could do and it would be up to the Council to make a decision if they like it or not.

Councilmember Celaya asked about the possibility of having Council review the contracts and making changes.

Mr. Johnson stated since August 2013, they have worked with staff and have had issues with Mr. Mannato. Rather than looking at the global picture and putting it in context of a good and reasonable contract for the purchase of their assets, there have been last minute things thrown at them. They have tried to comply; however, there is nothing that states if they comply with each of the items and they are correct, that the Town will approve it. He said it is not fair to continue for months on end. He requested that the Council approve the contract subject to the conditions that are appropriate.

Councilmember Wooldridge stated that the Town has requested the information for quite some time. Johnson Utilities does not want to address this issue but are attempting to get the Town to fast track this item without Council having all of the information they need to do their due diligence.

Mr. Hodges stated that a meeting was held with all of the attorneys prior to the May 2, 2014 meeting to address the issue. The agreements were brought up at that time. He said they have scanned all of the line extension agreements for the Town. He said title work was also mentioned. He said there are numerous items and they have been starting the title work. He said normally title work is done after they have a purchase agreement. He said the discussion at that meeting was never an agreement, it was a subject to, and so they had no idea that the contracts would not be executed tonight because they need additional items.

Mr. Johnson stated they cannot be put in a position where Mr. Mannato does not like one thing and the entire negotiations get thrown out. He said action needs to be taken and make it subject to all conditions that are appropriate and reasonable to be complete.

Mr. Michael Cafiso, Bond Counsel, Greenburg Traurig, stated that he has worked with several municipalities when they have purchased utility systems. He said the Town is in the process of considering a \$121 million acquisition, which is approximately ten times larger than any acquisition done by any municipality. He said the larger the acquisition, the deeper the due diligence and the more time you take with up front diligence. He said when they worked with Queen Creek for their acquisition, they did all their due diligence before it went to an election. He said what Mr. Mannato is suggesting is not unreasonable. There are a lot of contingencies and several things can change the price, management, operation and how much money may need to be borrowed. He agrees with the Town Manager in that it is a fantastic deal for the Town. Mr. Mannato's responsibility is to the citizens of Florence and has been judicious on how he is approaching this. The diligence that he is requesting is not unusual. Dan Jackson, Utilities Consultant, Economists.com, has recommended the same diligence. Mr. Mannato does not deserve the criticism he has been getting for the work that he is doing.

Mr. Drummond stated that he is not at the meeting to criticize anyone, but simply at the meeting to express their views in connection with the transaction. He said the Town will have the opportunities to invoke the clauses and review the due diligence.

On motion of Vice-Mayor Smith, seconded by Councilmember Woolridge, to set a date of May 27, 2014, to approve or disapprove the Johnson Utilities, LLC, Purchase Agreement and Management Agreement.

Roll Call Vote:

Vice-Mayor Smith: Yes

Councilmember Woolridge: Yes

Councilmember Walter: Yes

Councilmember Hawkins: Yes

Councilmember Celaya: Yes

Mayor Rankin: Yes

Motion Carried: Yes: 6; No: 0

DEPARTMENT REPORT

Manager's Report

Department Reports

Community Development

Courts

Finance

Fire

Library

Parks and Recreation

Police

Public Works

Utilities

Mr. Montoya stated that the crosswalks on Main Street will be cleaned tomorrow evening.

Councilmember Hawkins inquired if the barricades in front of the elections building on Main Street can be moved back to the sidewalk.

Mr. Wayne Costa, Public Works Director, stated there is a structural modification that needs to take place on 6th Street, and has been approved by a Right-of-Way Permit. The permit was issued approximately four to six weeks ago. The Pinal County contractor has not started the work.

CALL TO THE PUBLIC

CALL TO THE COUNCIL

Councilmember Celaya stated that Pinnacle Restoration started remediation on the interior contents of the elections building today. They have added another dumpster and remediation needs to be done to the side and front of the building. They have been asked to remove the dumpster and move the fence in as close as possible, as soon as possible.

Councilmember Walter thanked Ms. Shultz for speaking to the Council and asked staff to address her concern within the week.

ADJOURNMENT

On motion of Councilmember Walter, seconded by Councilmember Hawkins, and carried to adjourn the meeting at 9:21 p.m.



Florence Town Council Meeting Minutes

May 5, 2014

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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 May 5, 2014, and that the meeting was duly called to order and that a quorum was present.



Lisa Garcia, Town Clerk