MINUTES OF THE FLORENCE TOWN COUNCIL MEETING HELD ON MONDAY, OCTOBER 19, 2015, AT 6:00 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 6:02 pm.

ROLL CALL:

Present: Rankin, Woolridge, Hawkins, Guilin, Anderson, Wall.
Absent: Walter

MOMENT OF SILENCE

Mayor Rankin called for a moment of silence.

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.

Mr. Jim Tchida, Florence resident, stated that he cares for the community, specifically the traditional area. He made a presentation to Council two weeks ago and to the Budget Committee last month. He stated that he spoke of Florence's vision and its strategic intent. He said some thought that he said Florence needed a new strategic plan. He reiterated that the Florence Strategic Plan has not changed, but spoke instead on the strategic vision. He said Florence is the county seat for Pinal County, and that in his opinion, carries a lot of responsibility. Florence has to set the example of a successful community. Florence has made a lot of progress; however, Florence also lost Home Rule and has separated from a town manager. He said Florence has an election coming up next year for Mayor, Council and Home Rule and there are various divided fractions within the community regarding what is necessary to make progress. He explained that the vision is where the Town sees itself in 10 to 20 years. The strategic intent is how the Town intends to get to where it sees itself and what steps it will take.

Mr. Tchida requested that a statement be made that identifies what the strategic intent of the Town is along with the vision that it is trying to achieve.

Ms. Ruth Harrison, Florence resident, thanked Mayor Rankin for his prompt attention to piles of garbage that were around the trash cans at the Main Street Park. She said she called Mayor Rankin and he said Police and Public Works would pick up the debris, which they did. She asked that staff remove the containers from that location as they are an eye sore and a health hazard. The dumpsters attract trash dumping and do not belong in a downtown park.

PRESENTATIONS

Presentation regarding the U.S. Supreme Court decision of *Reed v. Town of Gilbert*, 135 S.Ct. 2218 (U.S. 2015) and the potential implications of the *Reed* Case.

Mr. Clifford Mattice, Town Attorney, stated the presentation is a follow-up to the recently adopted resolution. He provided a presentation on sign codes with regards to the the U.S. Supreme Court decision of Reed v. Town of Gilbert, 135 S.Ct. 2218 (U.S. 2015) and the potential implications of the Reed Case. He stated the following:

- Elements of many sign codes
  - Definitions of sign types
  - Prohibited sign types
  - Permitted sign types
  - Time, place and manner regulations that apply to sign types
    - Area, height, setbacks, number, spacing
    - Prohibitions or special rules for billboards
  - Location-based regulations
  - Rules for temporary signs
- First Amendment: Governments shall make no law
  - Government officials do not have unbridled discretion
  - Penalties if you are wrapped up in a law suit pertaining to First Amendment (attorney fees and cumbersome law suits)
  - Respecting an establishment of religion or prohibiting the free exercise thereof,
  - Or abridging the freedom of speech, or of the press (Free Speech)
  - Or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances
- First Amendment Affects Sign Regulations (Discretion)
  - Preserving discretion can create problems with First Amendment – protected uses
  - Signs are expressive conduct, courts distrust discretion and do not defer to your judgment
  - Ordinance that allows unbridled discretion over sign applications could be unconstitutional

    - Monetary damages and attorney fees are possible in litigation
- First Amendment Affects Sign Regulations: (Content- Neutrality)
    - Sign codes must be content-neutral
    - For protected speech:
        - Regulations cannot discriminate based on sign content
        - Variations and exceptions to regulations should be applied uniformly
- Regulation/Application is content- neutral then Intermediate scrutiny test
    - The law must be:
        - Narrowly tailored to serve a significant content-neutral government interest that would be achieved less-effectively without the regulations, and
        - Leave open ample alternative channels for communication of the information
    - Less likely to be fatal
- Regulation/Application is content-based then strict scrutiny test
    - To survive strict scrutiny the law must:
        - Be necessary to further a compelling governmental interest, and
        - Be narrowly tailored to that end
    - Presumptively unconstitutional
    - Likely fatal even if government motive is benign
    - Example: The law applies to particular speech because of the topic discussed or the idea expressed
- The Goals
    - Create content-neutral sign regulations (Reed vs. Town of Gilbert)
    - Limit discretion
    - Avoid differential treatment on the basis of the content of speech (Reed vs. Town of Gilbert)
- Background of Reed vs. Town of Gilbert
    - Plaintiffs are a small church that lacks a building and meets in other places such as schools (Good News Community Church)
        - Church uses temporary directional signs to guide people to weekly services
    - Defendant Town, 208,000 residents near Phoenix, AZ
    - Gilbert's sign code imposed strict limits on the size, location, number and duration of the church's sign
    - Gilbert did not apply the same restrictions on political, and ideological signs
    - The church filed suit against the Town in 2007 arguing the code is an unconstitutional restriction on its First Amendment right to free speech
- Reed vs. Town of Gilbert Decision: (June 18, 2015)
    - All nine justices agreed that the Ninth Circuit should not have ruled in Town's favor but they did not agree on the rationale.
        - The majority opinion – six justices
    - The Town's sign code is content-based regulation of speech on its face and cannot survive strict scrutiny:
        - It defines "Temporary Directional Signs" on whether sign conveys message of directing the public to an event

        - It defines "Political Signs" on basis that the message is designed to influence outcome of an election
        - It defines "Ideological Signs" on basis of whether a sign communicates noncommercial ideas
    - It then subjects each of these categories to different restrictions
    - Restrictions in sign code depends entirely on the communicative content of the sign
- Content-Neutral Options
    - Regulate aspects of signs that have nothing to do with a sign's message
    - Example: size, building materials, lighting, moving parts, portability
    - "And on public property, the Town may go a long way toward entirely forbidding the posting of signs, so long as it does so in an evenhanded, content-neutral manner."
- Rules based on the Alito Concurrence
    - Rules regulating size and location
    - Rules distinguishing between:
        - Lighted vs. unlighted
        - Fixed message vs. changing message
        - Placement on public vs. private property
        - Placement on commercial vs. residential
        - On-premises and off-premises signs
        - Number of signs per mile
        - Time restrictions on signs for one-time event
    - Government signs for safety, directional, historical sites, scenic spots
- Next Steps
    - Preparing new sign code
    - Temporarily lessen the enforcement of sign code regulations during sign code re-write of the sign code.

Mr. Mattice outlined what transpired throughout the case and what the final outcome of the case was. He explained how this case affects municipalities and how to apply the rules to signs. He said it is important to review the sign codes and to make the necessary changes to be in compliance. He said the sign enforcement has been lessened while the Town rewrites the sign code.

Councilmember Wall stated that in previous minutes it was suggested that there would be citizen input with the rewrite of the sign code. She asked if this was still in the plan.

Mr. Mattice stated that staff plans on obtaining citizen input and is creating a minimalistic draft and includes key stakeholders in the process along with the Commission and Council. The goal is to keep the process as transparent as possible.

Councilmember Anderson inquired if the Arizona League of Cities and Towns is providing assistance.

Mr. Mattice stated that the League has held meetings and discussions and is looking at the International Municipal Lawyers Association's draft code. He said the Town has a copy of their draft code and that different municipal attorneys are taking different perspectives on the case. He said his perspective on the case is that it is a very far reaching case and that he is seeking guidance from the courts on what the Town can do. Many municipalities are apprehensive about being the first to have their code out. The Town is monitoring what the League is doing.

Mr. Mark Eckhoff, Community Development Director, stated that the Town has a quasi-moratorium on signs and to lessen the enforcement unless there are health and safety issues. He said when new signs are being permitted through the current process. The Town has not had any issues but is being cautious while this issue is being worked through. He said signs that are presenting a hazard will be addressed.

Mayor Rankin inquired about the a-frame signs on Main Street.

Mr. Eckhoff said that a code amendment was done a few years ago regarding a-frames, banners, and promotional signs. He said that will try and incorporate the same language into the code. He said the a-frame program has been successful and staff wants to maintain the program.

Mayor Rankin inquired how verbiage on a sign addressed vulgarity.

Mr. Mattice stated that the First Amendment does not protect obscenity, fighting words or defamation. He said there are different levels in the courts of what falls under each of those categories. He said there is a limit on what the First Amendment will protect.

Presentation by the Greater Florence Chamber of Commerce recognizing People's Mortgage as the Business of the Month.

Mr. Jim Gilloon, Executive Director, Greater Florence Chamber of Commerce, stated that the People's Mortgage of Arizona has consistently helped families achieve the dream of home ownership. He explained the services that that People's Mortgage provides and added that they also volunteer for the Chamber's monthly events.

Ms. Lori Smolke, Branch Manager, People's Mortgage of Arizona, accepted the award and stated that she and her family have made Florence their home. She thanked the Chamber for the award and stated that they are always willing to assist the Chamber and the public.

CONSENT: All items on the consent agenda 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 the 2015 Groundwater Savings Agreement with Pinal County Water Augmentation Authority and Central Arizona Irrigation and Drainage District.

Authorization to enter into an Intergovernmental Agreement with Pinal County for election services.

Approval of the donation of four Panasonic Tough Book computers to the City of Globe Fire Department.

Approval of the resignation of Billie Jo Garcia from the Planning and Zoning Commission.

Approval of the resignation of Bruce Fenstermaker from the Planning and Zoning Commission.

Approval of the September 8, and September 14, 2015 Council minutes.

Receive and file the following board and commission minutes:
July 22 and September 16, 2015 Historic District Advisory Commission minutes.
July 15, 2015 Library Advisory Board minutes.
August 27, 2015 Parks and Recreation Advisory Board minutes.

On motion of Councilmember Anderson, seconded by Councilmember Guilin, and carried to approve the Consent Agenda, as written, with the exception of item 7a.

Approval of the 2015 Groundwater Savings Agreement with Pinal County Water Augmentation Authority and Central Arizona Irrigation and Drainage District.

Councilmember Wall asked if the Town is going to pay $78.00 for 2048 acre feet of water.

Mr. Wayne Costa, Public Works Director, stated that $78.00 is the capital costs associated with the acquiring CAP water through the agreement with CAP, which is a 100 year agreement. The Central Arizona Irrigation and Drainage District is the agent, or subcontractor, that handled the arrangement.

Councilmember Wall inquired if the Town budgets for this expense every year.

Mr. Costa stated that the expense is budgeted for annually.

On motion of Councilmember Wall, seconded by Councilmember Guilin, and carried to approve the 2015 Groundwater Savings Agreement with Pinal County Water Augmentation Authority and Central Arizona Irrigation and Drainage District.

UNFINISHED BUSINESS

Ordinance No. 640-15:

Ms. Lisa Garcia, Interim Town Manager/Town Clerk read Ordinance No. 640-15 by title only.

Discussion/Approval/Disapproval of an AN ORDINANCE OF THE TOWN OF FLORENCE, PINAL COUNTY, ARIZONA, APPROVING A ZONE CHANGE ON .36 ACRES, FROM NEIGHBORHOOD MULTIPLE FAMILY ZONING DISTRICT TO HIGHWAY BUSINESS COMMERCIAL ZONING DISTRICT (APN 200-47-001B). (First reading October 5, 2015)

On motion of Councilmember Hawkins, seconded by Councilmember Woolridge, and carried to adopt Ordinance No. 640-15.

NEW BUSINESS

Discussion/Approval/Disapproval of approving Task Order Nos. 7, 9 and 10, with Water Works Engineers for design of upgrades to the booster pump station, northern area pressure zones within Florence Gardens and replacement of the booster pumps at Well No. 5, for a total cost not to exceed $261,575.

Mr. Costa stated that the task orders are for retro fits on some of the projects that the Town has. Task Order No. 7 includes the replacement of the two booster pumps at Well No. 5. He said the existing pumps are 28 years old and have been rewound a few times each, In May/June 2015, the painter who was going to paint the pumps was pressure washing the pumps, noticed the pump housings were severely pitted, and blew a hole in one pump. He said one pump is not operational and the other pump is operating at 60% capacity.

Mr. Costa stated that staff would also like to replace the sand separator, which is 28 years old as well as provide lightning protection for the entire site. He said this would be accomplished by attaching a lightning rod on the tower and a ground grid throughout the facility. He said the facility has been struck by lightning at least three times during his tenure. He would also like to have the Supervisory Control and Data Acquisition System (SCADA) to tie into the water wells and remote computers.

Mr. Costa said the piping header system throughout the yard will be rearranged in order to accommodate the booster pumps and also to tie in the water transmission main. He said the distribution main that was recently installed from Well No. 4 to Well No. 5 is to provide additional water in case of redundancy to the two water storage tanks at Well No. 5. He said it was meant to be a fill line. He said it was tied into a smaller line on Adamsville Road and the intent, in accordance with the Adamsville Water and Roadway Project was to make that tie in on Adamsville Road with a 12 inch line.

Mr. Costa said they had a Capital Improvement Project, U-65, in which they wanted to replace the booster pumps in FY 2013-2014. He said the the only thing done at that time was packing seals were applied around the shaft of the pump, which prevents most

of the leakage. He said it is now time to replace the pumps. The life cycle of the pumps is approximately 15 years.

Councilmember Anderson inquired why the Town waited so long to replace the pumps.

Mr. Costa stated that he cannot respond as to why they were not replaced ten years ago; however, he can say that it was identified as a potential replacement in 2011, in accordance with Capital Improvement Project, U-65.

Mr. Anderson stated that it is concerning that the Town allows its critical support services, the water supply to the Town, to come to this level of deterioration. He finds it unacceptable and the Town needs to keep the water supply in top-notch order. He inquired if other pumps were in the same condition.

Mr. Costa stated that the Town just replaced the booster pumps at Well No. 4 and there is still one more booster pump that should be installed at that location. He said in the other task order, the request is to replace two higher capacity booster pumps at the north tank. The Town also recently replaced the entire booster pump systems in North Florence.

Councilmember Hawkins stated that over the years, in order to save money, rather than buy new pumps, the Town did have the pumps rewound and brought up to Code. He said it was not like the Town was ignoring the pumps. The Town was using its money in a prudent fashion.

Mr. Costa stated that Councilmember Hawkins is correct. He said Coolidge Engine and Pump was the company who rewound the pumps and provided a replacement pump when the facility was struck by lightning and the the pump needed to be repaired. He stated that staff is conscious of the equipment.

Councilmember Hawkins stated that the Town is not neglecting the water supply system.

Councilmember Anderson stated that the motors look fine, the deterioration is below where the motors are located. He said it appears as though there was leakage, and thought that someone would have noticed it.

Councilmember Hawkins inquired if the bases are the original bases.

Mr. Costa stated that the bases are the original bases and they are 28 years old.

Councilmember Hawkins stated that the bases are made of iron and will rust. It is nature of the material to rust.

Mayor Rankin inquired when this issue was brought to the attention of Ms. Garcia, Interim Town Manager.

Ms. Garcia stated she does not recall the exact date it was brought to her attention but it was during a tour of the facility with Councilmember Wall.

Mr. Costa stated that Task Order Nos. 9 and 10 are for upgrading the two booster pumps at North Tank Reservoir and Booster Pump Project, which included installation of a 560,000 gallon water tank. The Water Design Report showed that two pressure zones were needed in North Florence, one north and one south of Arizona Boulevard. There are additional stipulations that require two pressure relief valves also be installed, as well as a loop system during the installation of the north tank. He said the work was not previously done, so it is being requested to allow the work to be done now. He said the request is to install two booster pumps and install a 1200 lineal foot loop water line, which will increase the pressure to 60 psi.

Mr. Costa stated that currently, the system is operating at 40 psi. The next future project would be to analyze the balance of the water line, just below Arizona Boulevard, which consists of two inch and four inch lines, and provide loop water systems throughout the area. He stated that staff would be able to install additional fire hydrants between Cochise and Arizona Boulevard and provide sufficient capacity. A minimum six inch water line would have to be installed, to have those additional fire hydrants.

Mr. Costa stated that they would also add lightning protection to the area and two pressure relief valve stations.

Mayor Rankin inquired if the improvements will address the majority of the situation with low pressure in the majority of areas in Florence Gardens.

Mr. Costa stated that the improvements will address approximately 95% of the issues in the Florence Gardens area but there is a small section below Arizona Boulevard that could be problematic because there are two and four inch lines. He said that the system needs to be looped and will be reviewed through modeling which will allow staff to determine what the best avenue to tie that system to allow for better pressure. He said one project will be to change the system to a six inch line.

On motion of Councilmember Hawkins, seconded by Councilmember Wall, and carried to approve Task Order Nos. 7, 9 and 10, with Water Works Engineers for design upgrades to the booster pump station, northern area pressure zones with Florence Gardens and replacement of the booster pumps at Well No. 5, for a total cost not to exceed $261,575.

MANAGER'S REPORT

Councilmember Hawkins inquired if the 10 acres in Territory Square has been brought out of the flood plain.

Ms. Garcia stated that the land is out of the flood plain. Staff is drafting a Request for Proposals which will be brought to Council for review before it is released.

Ms. Garcia stated that a budget calendar is included in the Manager's Report with updated dates that will track when the timeline gets off track, new estimated dates and showing Council having more meetings than last year.

CALL TO THE PUBLIC

Mr. Ruth Harrison, Florence resident, stated with regard to the Request for Proposals for the Territory Square Development Project, she suggested that staff focus on the following:

- Downtown Florence area and Florence Gardens
- Focus on infrastructure both below and above ground
- Save historic buildings
- Bring restaurants to existing buildings
- Develop greenway project which was first developed in 2005
- Postpone building a recreational facility
- Focus on improving the quality of life in downtown Florence

CALL TO THE COUNCIL – CURRENT EVENTS ONLY

Councilmember Anderson thanked Town staff for the Community Facilities District meeting in the Anthem area. He said the meeting was very informative.

Councilmember Guilin complimented the Library and Parks and Recreation Staff. She said the Movies in the Park event was very well attended. She said that staff said they may have to move the event to a bigger facility.

Mayor Rankin thanked Ms. Garcia for the work she had done in her capacity as Interim Town Manager and Town Clerk as well as keeping Council informed of the election process and working with all of the committees.

ADJOURN TO EXECUTIVE SESSION

For the purpose of discussion of the public body in accordance with A.R.S. §38-431.03 (A)(1) to review the applications received for the position of Town Manager and discuss candidates to be interviewed.

For the purpose of discussion of the public body in accordance with A.R.S. 38-431.03(A)(3) and (A)(4) for legal advice and to consider the Town's position and instruct its attorneys in regard to pending litigation in Maricopa County Superior Court: Town of Florence v. Florence Copper, Inc. CV 2015-0001325.

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

ADJOURN FROM EXECUTIVE SESSION

On motion of Councilmember Wall, seconded by Councilmember Guilin, and carried to adjourn from Executive Session.

ADJOURNMENT

Council may go into Executive Session at any time during the meeting for the purpose of obtaining legal advice from the Town's Attorney(s) on any of the agenda items pursuant to A.R.S. § 38-431.03(A)(3).

On motion of Councilmember Anderson, seconded by Councilmember Hawkins, and carried to adjourn the meeting at 8:00 pm.

Tom J. Rankin

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 October 19, 2015, and that the meeting was duly called to order and that a quorum was present.

Lisa Garcia, Town Clerk