

**MINUTES OF TOWN COUNCIL MEETING
TOWN OF SNOWFLAKE
HELD 04/23/2013**

1. CALL TO ORDER/ROLL CALL at 7:04 p.m.

Mayor Kelly Willis, Vice Mayor Jason Whiting—excused, Bev Kay—excused, Tom Poscharsky, Stuart Hensley, Kerry Ballard, Chris Brimhall STAFF: Paul Watson, Bob Hall, Barbara Flake, Dale Call, Rob Emmett, Terry Cooper, Jerry Van Winkle

2. PRAYER/PLEDGE Willis/Hensley

3. MAYOR’S PROCLAMATIONS & ANNOUNCEMENTS

Recognition of Completion of Fire State Certifications

Dale Call presented a Certificate of Completion of Fire State Certifications to Volunteer Firefighter John Charlton.

Proclamation for Building Safety

Dale Call gave a presentation regarding the importance of building safety regulations and asked for a Mayor’s Proclamation for Building Safety declaring May “Building Safety Month”. Call encouraged everyone within the Town of Snowflake to work closely with the Building Safety Department to obtain all proper building permits and inspections. Mayor Willis read the “Proclamation for Building Safety”.

4. CALL TO PUBLIC

No comments

5. CONSENT AGENDA

A. Approve Council meeting minutes dated 04/09/2013.

B. Approve Invoice from Brown & Brown Law Offices dated 04/12/2013.

Motion by Ballard, 2nd by Poscharsky, to approve the Consent Agenda. Motion passed; unanimous

6. DISCUSSION/ACTION ITEMS

A. Approve Special Use Permit Amendment for Aggregate Mining Operations. (Dale Call)

Call said Flakes are requesting approval of an amendment of a Special Use Permit to conduct aggregate mining activities on their property. He said the amendment is to change access to the property from Highway 77 to Industrial Way. He said the crushing and sorting operation will also be relocated to the West into an area farther away from the homes on Flake Avenue. Call said stipulations were placed on the amendment by staff and Flakes met those demands. The Planning and Zoning Commission heard and approved the request on April 2, 2013. Call said the Commission and staff recommend approval of the amendment request.

Chris Brimhall stated that there is a lot of heavy traffic on the road through the Industrial Park. Call said the road was built to the standards for industrial traffic. Poscharsky said the road seems narrow. Hensley said there are holes in the road now. Call said the Public

Works Department is aware of the pot holes and there is a schedule for repairs. Poscharsky asked what provision is being made for the Northern Solution. Call said the plan is for the Northern Solution to be north of the Eurofresh greenhouse. Poscharsky said he does not mind use of the road if that is staff's recommendation but the Northern Solution should be addressed at this same time because both the Southern and Northern Solution are needed to remove the Industrial Park from the floodplain. Poscharsky said Flakes have drainage issues also.

Watson said there were discussions with Eurofresh and Flakes to address the Northern Solution. He said Eurofresh's plan was to put underground piping under their building. Watson said the town does not feel that is a good solution. He said there were discussions about building a channel to the north of the tomato farm and noting that Eurofresh built to their property line. Watson said he was acting as a mediator with Eurofresh and Flakes to look at a channel to address the Northern Solution but make it large enough to address flows from the Flake property. He said there was good progress with Flakes willing to discuss this option with Eurofresh when the discussions ceased because Eurofresh was in the process of divesting themselves of their property. Watson said that Eurofresh, in theory, had agreed that if a channel was put in then the road could be abandoned by the town and Eurofresh would make a new access road of the same standard to the west of the detention basin or to the east end of their property. Watson said he feels the town is at a point to approve this change to the gravel permit application with the stipulation that as move forward with channel Flakes might have to tie into another access road to continue operation. He said the problem of width of the road is more an issue with Eurofresh because they encroached into the public right of way with waste containers and docks. He said the town knows they have issues to address with them. He said at this point Flakes have met the obligations requested of them to approve the amendment to the Special Use Permit as long as have those stipulations.

Poscharsky stated that without the Northern Solution the Industrial Park is not out of the floodplain. Watson said map revision is contingent on both the Southern and Northern Solutions being completed. He said the engineered plans that Eurofresh received preliminary approval for are for underground pipes under buildings that tie detention basins on the west to surfaces on the other side to the east. He said in looking at information there is concern that the system will not meet the needs and the costs are tremendous. He said this provided leverage with Eurofresh to find mutual ground to work with Flakes and work out an agreement to address the flows from the Flakes. Brimhall asked if Eurofresh still owns the property. Watson said that he understands that the sale of the property was completed two weeks ago and notification of this situation was sent to the new owners. Willis asked if there is a need for more language. Watson said he feels the amendment could be approved if Flakes are willing to recognize there is a drainage issue to resolve and if the channel is put in they would have a new access to the mining operation.

Mark Flake said they have been addressing this issue since before the second greenhouse was built. He said he met with the past mayor on the mayor's porch and pointed out Eurofresh was encroaching on Flake property forcing water flow on to Flake property

when Eurofresh was putting in the pad for the second greenhouse. He said Eurofresh has encroached on the roadway. He said he met on May 7, 2012 with Paul Watson, Johaan Van Den Berg, Frank Van Straalen, and Craig Boudell. He said they were in cordial agreement of what needed to be done and have worked all along to have the problem taken care of. He said Flake fields have been destroyed from flood waters that were diverted. He said the fields have been turned into a dust bowl that can't be put back into repair until the problem is resolved. He said Flakes are interested in seeing the issue resolved and have been willing to work with all parties. Willis asked Watson if this satisfies the town. Watson said there had been discussion that if the road was shut off there would be a new access point in place and that burden would be put on Eurofresh since they wanted to close the road for their benefit. He said that Eurofresh had in theory agreed but there is nothing in writing. Watson said he agrees with Mark Flake regarding the problem and who created it. Willis asked who is responsible for the Northern Solution if the amendment is approved tonight and the road goes on to Flake property and the gravel operation. Watson said the town would need to sit down with the new owners of the Eurofresh property who would be responsible for the project. He said the town would be willing to assist them. Willis asked who is responsible if Flake's road is washed out before the project is finished. Watson said it is Flake's road after the end of the town road.

Ballard said he did not have a problem as long as Flakes realize a channel for the Northern Solution needs to go in. Poscharsky asked if there is a chance to have a utility easement across Flakes' property to Flake Avenue to tie in the water system. Mark Flake said their interest is in developing north of Eurofresh property possibly continuing the industrial park. He said only a small part of their property is in the floodplain because of diverted flood waters. Willis asked if this needed to be done contractually. Attorney Bob Hall said that as far as amending the application to have a different entry and exit, it can be done with the Special Use Permit. Flake said nothing can be done with his fields until the flooding is fixed.

Hall said that he understands what is on the table tonight is a change of the mining operations location on the property and where aggregate will be transported out which is on the Special Use Permit change. He said he does not think some of the items discussed are part of the Special Use Permit amendment and those items would have to be negotiated separately. He said what he heard from Watson and Flake is that before Eurofresh sold the rudiments of developing a drainage system were in place and the parties were moving to a conclusion. He said the Special Use Permit issue is the location of the mining operation and all legal requirements to include how operation to occur and whether studies are done. He said all of that is done and the Special Use Permit does not need to have additional contractual negotiations. He said that what was applied for and approved in Planning and Zoning meeting can be approved in the Special Use Permit amendment.

Poscharsky asked who would pay for an acceleration lane if ADOT decides it is needed. Hall said there is a lot of industrial heavy equipment in and out of the area now and best information would seem to show that ADOT is satisfied. Poscharsky said that if there are

future costs on Highway 277 it should be paid by the mining operation. Flake said there is already truck traffic by Reidheads, Larson Waste, and the Chemical Plant. He said those costs should not be placed just on Flakes. He said the mining operation has already been approved by probably every institution in the state. He said it was first brought to Council five years ago. He said he does not feel this is a fair request when many others are using the same exit on to Highway 277.

Motion by Ballard, 2nd by Poscharsky, to approve the permit amendment for aggregate mining operation with the understanding that Flakes will work with the Town on the Northern Solution and utilities going through the property. Motion passed; unanimous

B. Discussion regarding ADEQ Small Communities Environmental Compliance Assistance Program. (Paul Watson)

Willis said he received a call from a citizen who said there was request for a public meeting regarding this item. Watson said people should understand that if the town decides to proceed with the process to continue in the program then public hearings would be scheduled. He said this item was brought up in the Call to the Public at the last Council meeting so it is back on the agenda to address questions regarding if the town will continue in the program. Poscharsky stated that there was not a representative from ADEQ at the other meeting. Watson said he contacted ADEQ and gave them the questions from the minutes of the Call to the public and invited them to address Council and the public. Watson said ADEQ realizing small communities do not have a lot of staff and ability to deal with environmental requirements offers a process for self-regulation through a planning process. He said ADEQ can then be called on for help with any issues making them a partner instead of an enforcer. He said he understands that if the town decides to not participate it does not change the environmental requirements but only the help received to comply with the requirements. He said Byron James with ADEQ is in attendance to answer questions.

Byron James said he is the community liaison. He said this program does not add requirements and is available to communities with a population of 10,000 or less. He said there no impact on businesses or landowners. He said the Compliance and Enforcement Handbook—Chapter 12 is available online. He said these small community plans are assistance to these communities. He said they are a good faith effort and compliance is the goal. Willis asked if ADEQ is only dealing with the compliance of city projects. James said the only operations involved are drinking water, sewer/wastewater, and asbestos. Willis asked if other communities have had problems with the program. James said 8 communities are participating but it is in the beginning stages with the communities. He said there have not been any negatives yet. He said the planning process establishes standard operating procedures and the community develops their own goals to be in compliance. He said it is a good training process for employees. He said Pinetop-Lakeside Sanitary District has realized a positive outcome with the program.

Chris Brimhall asked if there are yearly reporting requirements. James said the steps are a good faith effort to environmental compliance through planning, recognizing violations, and making a plan to correct the violations. He said the plan does talk regarding internal

reports but no reporting is required with the program. He said there is self-assessment questionnaire which is not submitted to ADEQ. He said the Pinetop-Lakeside Sanitary district plan is online. Poscharsky asked if this program is unique to Arizona. James said that the basis for the 10,000 population cutoff was to be consistent with EPA policy. He said ADEQ wanted communities to have some protection if EPA came in.

Supervisor Sylvia Allen encouraged Council to study the documents. She said to consider if the town is already trying to meet the requirements and why ADEQ will only partner if the town joins this program. She said ADEQ is a political agency dependent on the Governor in office so it can change. She said anyone that the town does business with will be affected. She said the program requirements go over and above what is regulated now and an independent audit would be required. She said the town does have to file a report with ADEQ every year. She said she does not know why it is needed to go to another level and if the town now works with ADEQ to do what is right than why should they go to another level to avoid fines.

Byron James said the program is voluntary and the goal is compliance. He said sometimes penalties and fines have to be used. Willis asked James how often ADEQ comes to look at operations in Snowflake. James said they come once a year for the water operation and on a regular basis for the other operations. He said it is always good to self-report and it works in the town's favor.

Ballard said the town was out of compliance with wastewater and ADEQ came in and helped with building the new wastewater treatment plant. He said we feel scared when we hear the federal level is trying to control and also when we hear environmental agency. He said he knows that those who have worked with ADEQ know they do good things. He said he is not for control but assistance from ADEQ is great. He said the area is losing businesses because of environmental issues. James said he lives in the area and sees what is going on. He said this is the town's plan and ADEQ does not dictate the plan and goals. Allen said there are things regarding CO 2 and recycling in the program. James said they were only intended as examples and that the towns set their own plan priorities.

Rob Emmett said he does not see the program as a detriment. Kent Gibson said he knows that when congress passes what they want to happen it is broad and then it goes to an agency for the nuts and bolts and that is where it gets into trouble. He said he would like to see local government control over what happens in our community. He said we elect those who are going to do what we want in our community. He said he would like to see our leadership in control of what happens rather than ADEQ and EPA. He said we have a good track record and it is important that we have confidence in our own abilities. He asked if this question had not been brought to Council who would be responsible for coming up with a community plan and would we have had any say in the plan. Willis said all town meetings are open and the public is welcome. Gibson asked who would make the plan and would we have anything to say about it. Willis said he understands Gibson to be saying that he wants Council to do what citizens of Snowflake want. Willis asked if what Gibson is saying is what the majority of citizens want. Willis said the Town Manager and

Engineer have said that the program sounds good, is voluntary, and would keep the town out of trouble so why should Gibson's word be taken over theirs. Gibson said he has the right to ask questions. He asked at what point the town is in the plan.

Brimhall said the town is involved in the process to look at the program and the program has not been implemented. He said the citizens are welcome to express concerns. He said it helps to have Byron James here to explain what they are trying to accomplish. He said the state is more reasonable than the federal government. Willis said he will not allow himself to believe that government and everyone in government is bad. He said he believes this program wants to help. He asked if it is wrong to be environmentally safe. Gibson said he wants our community to have control over what happens in the community. He said that just because an agency says they are a friend and are not going to fine does not mean they can be trusted. He said time will show that. Willis asked if Gibson understands that this community is totally dependent on government. He said there is not enough made through sales tax to pay the staff. Gibson asked if this program cost anything. James said the cost would be staff time to do the planning process and software if the town decides to implement the plan. He said there are no additional requirements and he fees the town will find cost savings in the planning process.

Watson said that all the town has done is tell ADEQ they want to participate. He said the town has not started to do work on the pan and the plan does include public hearings. He said this is not a covert operation to saddle the town with more regulations. He said the town needs to know what the regulations are so that its own plan can be developed. He said if we want to be more educated than we have a program to participate in to obtain help in knowing what to implement. He said he heard administrations can change and there are interpretations to law and governors change but those issues should be taken up at that level. He said to say as a community that we will ignore them is wrong. He said laws have to be obeyed and we have agencies to help us in supporting that.

Rulon Johnson said the town can handle its own affairs and does not need to have to look over their shoulders. He said nothing is free. He gave the following examples:

- years ago when the seatbelt law was passed it was promised that you could not be pulled over for no seatbelt and that has changed
- it was promised that income tax would not go over 2% and that changed
- the school system has changed

He said the more that is given the more that will be taken. He cautioned Council to think twice before taking from someone who says they are giving a free service.

Wendi Moore said she moved from Chandler, Arizona because she did not like how things were dictated in that community. She said she lived on a county island and they controlled her life. She said Snowflake is listed online as a participant in this program and as citizens they feel Snowflake is participating because they are listed. She said she is concerned about the roots of this program above the federal government to include the United Nations (UN).

Lowry Flake said he is wondering how many of the town representative have looked into what the true agenda is and how close it comes to individual rights or environment or who the environment is provided for or is environment king now. He asked if anyone can tell the EPA to go away. He said that Byron James says the program is voluntary but he is paid by the taxpayer and the taxpayers do not have any say over what he does. He said EPA is a cult/religion and many have given them unconstitutional powers. He said it comes about through socialism and faced with choice you can not vote for any form of socialism and have the blessings of God. He said his question to James would be how to get out from under ADEQ and EPA.

James said he has done his best to explain the program. He referred to Watson's comments and stated they were accurate about the program. Willis said the town has to abide by the law. He said he believes you can fight the system within the system.

C. Approve Resolution No. 13-04 Supporting the Arizona Governor's Medicaid Plan.
(Paul Watson)

Watson additional information both pro and con on this issue was sent to Council. He said that this issue is being debated on the state level. He stated that he serves on the Governing Board of Summit Regional Healthcare. He said there are impacts on the regional hospital because of having to provide emergency care to the indigent because of the state's position to step back on the AHCCCS program due to budget cuts. He said the hospital estimates the cost to be \$5 to \$6 million and this coming year without this additional reimbursement program the cost could be \$9 to \$10 million. He said that this means on the local level that some of the programs offered, subsidized programs in particular, have to be given serious consideration; for example, the OB Department. He said there are significant numbers of cases that are handled and that are not reimbursed.

Comments by Supervisor Sylvia Allen:

- Ask Council not to pass this resolution
- Things have changed in our country with laying on socialist programs that don't work and yet more taxpayer money is put into them
- It will cost Arizona hundreds of millions of dollars—true costs have been hidden
- Projected cost savings are likely incorrect as the experience with Arizona's last Medicaid expansion illustrates—promise that expanding Medicaid would save the state money did not pan out
- Do you trust the federal government—Governor's Office has acknowledged that Washington will likely cut its promised funding level
- This is not free money—our children and grandchildren will pay
- This will bring an estimated 200,000 people on
- When people dependent on the government they don't want to be cut off
- Circuit breaker may not be enforced by a future governor/legislature
- There will always be an element of uncompensated care
- Need to create real wealth not burdens for taxpayers to pay
- Voters passed healthcare freedom act
- A 2/3 vote is needed to pass a tax but Governor is saying the Director of AHCCCS will set tax which is unconstitutional

- There are other answers than the hospital going broke
- Childless adults are part of uncompensated care of hospitals and AHCCCS is saying they will not accept them if expanded Medicaid is not approved
- Going back to Prop 204 population can help the hospital without joining Obamacare
- Governor can go to court to show the federal government that they can not withhold funds if expansion is not accepted
- Take back from socialist programs one step at a time
- No way back once Obamacare is implemented
- People can take of themselves when they are forced to figure it out
- Compromise is to take Prop 204 population and stand up to the federal government and take back Arizona

Comments by Ron McArthur, Summit Regional Healthcare

- Due to budget shortfall in 2011 AHCCCS payment were cut 10%--loss to hospital of \$2.6 million
- Elimination of Prop 204 benefit (childless adult coverage) reduced hospital payments by \$4.8 million
- When childless adults not eligible they used emergency room as primary care
- Hospital is prohibited from turning anyone away based on ability to pay--\$50,000 fine
- Bad debts have doubled
- Operated in the red last year with no salary increased and building projects on hold
- 74% of OB patients are funded through AHCCCS
- Helping the Governor's Plan to restore Prop 204 would reduce hospital bad debt and charity care expenses
- Expanding Medicaid to 133% of Federal Poverty Limit would increase access to Medicaid statewide by 57,000 with impact on our service area to be determined
- Hospitals would pay a hospital provider assessment to obtain federal matching funds to pay for restoring Prop 204 and expanding Medicaid
- We have to live within existing laws
- Hospital does not want to close OB—closest facility would be Flagstaff
- Why punish the hospital for a program that the general population put in place—Obamacare
- Until the law can be changed we want to be able to provide services to citizens
- This is crucial to our success—Mesa General closed, Florence closed
- Financial relief is needed now
- Hospital has to generate \$7.7 million for debt service—would take 3 to 5 years to burn through reserves

Willis asked what would happen to the hospital if the Governor's Plan is not passed. McArthur said they would look at staff and services cuts. Brimhall said that Sylvia Allen stated that reinstating Prop 204 population would bring substantial funds. McArthur said that in order for the federal government to match funds the state must accept 133% level.

Allen said the federal government lies and the Supreme Court says that they can't withhold the funds. Willis asked if we want to believe that Governor Brewer is not trying to do what is best. Allen said the Governor is a good woman but makes decisions based on politics. She said hospitals are a big powerful lobby. She asked Council to make a decision based on principle. She said a compromise is restoring Prop 204 population and forcing the federal government to match funds and then make changes. Watson said that on the state level the Governor's support group is working aggressively to see if there are they have the necessary votes. He said if Council passes the resolution it might have impact on that vote but probably not because our representatives are already strong in their opinions.

Lowry Flake said Senator John McCain stated that Obamacare is not the answer and as written would lead to higher healthcare costs. He said he thought the majority of people in Arizona would against Obamacare.

Brimhall said there is an obvious divergence among citizens and he does not feel he could vote for the resolution. He said the state representative should be contacted instead of Council making that decision for citizens. Willis said we are looking at losing the OB Department and have to be in the game. He said we have to fight the system within the system. He asked those speaking in opposition if they could say that all the people in town feel the same as they do. He stated that citizens in Snowflake have not voted to put in infrastructure in the last 10 years. He said citizens say to wait and see if grants will help or if the government will provide. He said what is being said tonight is to not do anything but have the hospital saying we will lose hospital services. He asked those in opposition if we will be okay with doing nothing and then losing services. Poscharsky said people are split on the issue and Council has not heard from all the people. He said other states are taking the money and the Governor decided to take Arizona's share. He said he does not like that we are becoming more socialized but feels a need to take the money to help people and the hospital.

Motion by Poscharsky, 2nd by Brimhall, to table item requiring a majority vote of the council to bring it back before the council for potential action in the future. Motion passed; unanimous

D. Approve Resolution No. 13-05 Establishing Mayor and Council Election Terms to Comply with the New State Consolidated Election Law (HB2826). (Barbara Flake)
Mayor Willis stated this is necessary to either lengthen or shorten terms to comply with new election law.

Motion by Poscharsky, 2nd by Brimhall, to approve Resolution No. 13-05 to shorten Council terms by 6 months. Motion passed; unanimous

7. COUNCIL MEMBER'S SUMMARY OF CURRENT EVENTS

Poscharsky said a newly formed group, "Friends of Petrified Forest", held their first meeting. He said if a person is 62 or older a senior pass to the national parks can be purchased for a one-time fee of \$10.

8. MANAGER'S SUMMARY OF CURRENT EVENTS AND REPORT

Watson will send his report to Council.

9. ADJOURNMENT at 10:10 p.m.

I certify that the foregoing minutes are a true and correct copy of the Town of Snowflake Council meeting held April 23, 2013. I further certify that the meeting was duly called and a quorum was present.

Barbara Flake, Town Clerk