



TAYLOR TOWN COUNCIL MEETING MINUTES

December 7, 2011

7:00 pm

Taylor EMS/Fire Station

411 Paper Mill Road, Taylor, Arizona



PUBLIC HEARING

The Taylor Town Council will accept public comment concerning an appeal of Planning and Zoning Commission's recommendation concerning a zone change request for parcels 205-13-015 A, B, C, D & E in the Town of Taylor, as received from Brimhall Sand, Rock & Building Materials - Rimrock Gravel, LLC.

- **Open Public Hearing:** The Public hearing was opened by Mayor Fay Hatch at 7:00
- **Receive public comment:**

In an effort to fairly portray the views of all parties, this section of the minutes is an attempt to recount the statements made by the participants. However, not every statement will be an exact quote.

Lee Hale addressed the Council stating he cannot say 100% but he thinks he and Mr. David Hamblin speak for their community. In an effort to save some time he is sure there is a couple of people here who may have some comments to make this is about the third time they have done this, I think everybody has heard it. We would like to try and save some time and just wait until #2 comes up. We would also like to ask Mr. Kirk Brimhall to be able to go first the last time we all got five minutes apiece and he got half an hour or forty five minutes so we will split it 50/50 this time. He asked if there was anybody in the audience that has any comments they would like to make before they do this or if any disagrees with this. There was no response from the audience. Mayor Hatch asked Mr. Brimhall if he had any comments for this part of the meeting. Mr. Brimhall said he would wait until the Council part of the meeting.

Mr. David Hamblin: Lives at 5050 Sunflower in Taylor. Expressed gratitude the opportunity to be able to address the Council and support the Town of Taylor has historically shown for protecting the AG-2 zoning of land in question. Both residents have been relying on this area of zoning for years now. Zoning provides peace and security for homeowners and directly impacts the health and safety of our children. I will ask before I go further what my time limit is. The Town of Taylor has made it clear that if we consider mining activities on that parcel would be a violation of the Town Zoning Ordinance. Brimhall Sand & Rock & Building Materials or BSRBM's through its attempt in February 2005 and now 2011 to get the parcel rezoned has indicated an understanding that mining would be a violation of the Zoning Ordinance. Our neighborhood was annexed into Taylor several years ago. I appreciate property rights but if the holders of the sub soil rights at the Joe's Pit area did not want the area to be zoned agricultural the time to fight it was back in 1998 when it was zoned. I understand that BSRBM did not own the parcel at that time but reportedly owned or essentially controlled the mining rights beneath it. Since the annexation and zoning proceeded apparently without any objection from BSRBM those mining rights are effectively dormant as long as the zoning permit is thirty years. Earlier this year the Planning & Zoning Commission decided not to recommend rezoning of the parcel to Industrial. I assume that

the current appeal is at least partly based on the belief that Senate Bill 1598 passed in the last State Legislative Session provides cover for mining to move forward or be favored on the parcel. However my own examination of the bill does not support this conclusion which I can go further into detail on if you would like. Further Senator Sylvia Allen the prime sponsor of the bill has stated to her understanding the bill would not have a retroactive effect that would damage the town's power to zone or to enforce this zoning. Still further Senator Allen has indicated that Stuart Kimball who played a key role in drafting the legislation agrees with this interpretation. Still further the State Mining Inspector himself while in Taylor some years ago to hold a hearing on the proposed reclamation and closure plan for the parcel said outright the best government is local government indicating that here in Taylor is where the question as to whether permit mining to move forward a parcel within town limits should be made. My opposition to mining on that parcel includes but is not limited to the following concerns. I will make further reference to BSRBM's reclamation of closure plan dated September 28, 2006 which is the best indicator I have of what the company may have had planned for that parcel. Some of my concerns:

#1) Damage to or destruction of the safety, security, health, peace property values and character of a wonderful residential neighborhood. BSRBM's reclamation and disclosure plan leaves open the possibility of Quote "pressures, screening, conveyors, mobile equipment with the support of production, readymade concrete plants, asphalt plants, block and pile plants and other construction materials related to operations" post quote.

This neighborhood is home of many healthy adults but also very young children the infirm and the aging. A mining operation especially one that is upwind from most of the people in the area directly endangers our wellbeing. I do have a map available of the parcel if you are interested in seeing it; it has the direction of the prevailing wind on it and shows how very much our neighborhood lies in the path of that wind coming off that site. I do not believe that any mitigation that BSRBM can propose for this site will adequately protect the neighborhood from adverse health and safety consequences.

#2) Questionable degree of good faith exercised by BSRBM. I've been reluctant to mention at this point I don't want to get personal I have a good working relationship with Kirk. Tomorrow morning I expect to be sitting next to him at an Economic Development Committee meeting. I appreciate him and what he contributes to this community. I appreciate his company I appreciate those who create jobs. But I do have concern about the way certain things happen not necessarily by Kirk personally but by his company or agents thereof or the company he is associated with I should say. Fox example the reclamation and closure plan claims that quote "the surrounding area has a few scattered residences to the North and South" unquote. On the contrary the site sits within a well-established neighborhood dating back about twenty years or more with over 40 residences to the South and North housing upwards of 150 people all of whom live within just a few hundred yards of the proposed mine site. Many more residences lie to the immediate NE in the prevailing down wind direction. In fact the proposed mine is by another 50 or so people there at least for about 200 total right in that area. In fact the proposed mining area shares property lines on the North side of at least 12 residential lots within a straight linear distance far less than a mile at least 10 of those lots are inhabited. Also in regard to questionable good faith when legal notice regarding the proposed plan appeared in the paper years ago it stated the parcel is located West of Taylor which of course is not correct it is located inside of the town limits.

#3) The plan provides no details on the reclamation of areas which quote "will have been subject to activities such as vehicle maintenance" post quote adding oils spillage etc. Such areas may

suffer.

#4) Once allowed to mine the parcel BSRBM could be there for many decades coming and going at will for all practical purposes our neighborhood will have been indefinitely shattered.

#5) The plan indicates that quote “settling ponds will be scattered on the property as needed” closed quote. This may be an addition to huge stands of stagnant water resulting from BSRBM earth moving operations. All of the standing water could provide mosquito breeding grounds with a threat of West Nile Virus or other contaminants being spread through the neighborhood. Standing water also presents a drowning hazard for children and animals despite fencing around the parcel.

#6) The plan does not clearly indicate whether the top soil will be stock piled on site or at a different site. If stock piled locally which I presume would be the case huge amounts of it could be expected to be lost to wind erosion and blown across residential areas perhaps carrying botulism spores.

#7) I’m concerned that this operation generating possibly 4700 plus truckloads of material per year will devastate Gene Taylor Ranch Road and an already damaged Paper Mill Road. The crossing of Cottonwood Wash by Gene Taylor Ranch Road is a special concern. It is the only direct route in and out of the area for several families including school children and is already impassable when the wash is running high. Rutting of the road by increased truck traffic will probably make this crossing even more unreliable and dangerous potentially cutting off residents from health care etc.

#8) The high frequency noise levels of crushing and screening operations plus the backup alarm noises from trucks and excavation equipment may severely disrupt our residential neighborhood. This problem is especially serious for any people in the area who do shiftwork.

#9) The pervasive scent of diesel and fuel engine exhaust and perhaps asphalt production.

#10) At the meeting of the Taylor P/Z Commission on October 19, 2010 when the matter of the Hall Pits West of Centennial and North of Paper Mill Road was under consideration Mr. Kirk Brimhall spoke. I understand Mr. Brimhall to be the Treasurer and General Manager of Brimhall Sand and Rock and Building Materials. According to the minutes of that meeting Mr. Brimhall said he did quote “Not want to have construction traffic next to a residential area and a church” unquote. I ask that the same consideration be given to our neighborhood.

#11) Mining on that parcel would set a terrible precedence. If this is allowed to go forward here where will it happen next? Can the owner of the vacant lot across from my house get a zoning change and exercise it’s subsoil rights to mine gravel after all his zoning is also AG-2 just like the parcel in question and frankly just like mine. The town could face

A mine field of potential perhaps litigable inconsistencies if others jump at the change to change our zoning map into a checker board. I don’t want such a legal mess for my town.

This is a critical point of decision for the Town of Taylor. I enjoy living in Taylor. I drive hundreds of miles back and forth to the Valley each month for work so my family can grow up where the water is good the air is clear and we are surrounded by down to earth solid culture of mutual respect and care. I respect property rights but every civil society must balance rights when they collide. That is why we have zoning ordinances. The town through its Zoning Ordinance has already spoken about this parcel. As we consider the future of ours we should be beautifying it not allowing it to be increasingly scarred and its roads hammered. The possibility of a few associated jobs which are far from guaranteed even if the mining were to move forward does not justify the destruction of the finances, health, safety and dreams of so many families. If you add

up all of the years of residents of the 200 or so people that live in that area we are talking about approximately 2000 years of precedence of a huge accumulated right to live in peace in a modest and a beautiful neighborhood. There is strong opposition to this mine in the Harvest Valley neighborhood. However, perhaps the greatest tragedy of all is that some people have a sense of inevitability about this situation. They apparently believe that BSRBM has so much money and so much local political influence that fairness and justice will not prevail. It is unacceptable that money and influence should steamroll the legal protections the Town of Taylor has put in place to shield our neighborhoods from harm. I trust that they will not. In sum I am perplexed that this issue is even coming before you. I don't understand the persistent determination of the Brimhall Company to do this in our neighborhood. This proposed pit is not next to our neighborhood it is in the middle of our neighborhood. I ask the Town of Taylor to put a stop to the mining plan. Thank you very much for your kind attention to this request.

Mayor Hatch thanked Mr. Hamblin

Kirk Brimhall: Mr. Mayor/Council my name is Kirk Brimhall and I would like to make a few comments. I thought this was the call to the public and you jumped right into the meeting. A little bit of history for any of those who have not attended any of the meetings or knew what had happened for the operation of sand and gravel. In 1959 Brimhall Sand and Rock was started and so was Reidhead Sand and Rock. The gravel out there in the western part of the town was identified as a valuable resource for the construction of all of Navajo County and power plants and paper mills and highways, roads, road base has been coming from that area ever since. Hatch's presently located where the Brimhall's started and Brimhall did move down to Snowflake where we had an opportunity to get some material that seemed to not have the sand stone issues with it but it does not mean because there is sand stone in the material that it can't be used. Hatch's has shipped millions of tons Reidhead's have shipped millions of tons. This is being blown up that it is going to be some extra ordinary situation that it is well above and beyond what has been occurring for decades. It's the same truck traffic that has been going. The road that people will enjoy traveling to Phoenix on that is where the material has come from. From over the rim all the way down to Christopher Creek and those areas it all comes from the Cottonwood Wash area whether it be Snowflake or whether it be the Taylor side or in between. There's hills in between that's been depleted. Different companies have moved in over the years and taken the top off of many hills. I'm aware of the dust situation out in Harvest Valley I lived there for almost 19 years. But the majority of the dust problem wasn't from the mining operations it was from people over grazing or neutering their land and then not sprinkling it or taking care of it or having too many animals or different things that happened. Mining is controlled by numerous State and Federal agencies and we have probably more restrictions and were being monitored just about more than any other industries. And so I know the concerns about the wind and the dust but we drilled the well so that we could have the emitters when we are doing the screening or crushing operation to keep the dust under control and would be able to have water trucks that run around and spray the yard there's many things we would have to do and the Arizona Department of Environmental Quality checks on us on a regular basis. They get a call they come or they schedule an unannounced visit just to make sure they are following up on whatever complaints or rumors that they are hearing so we never know when they are coming just like we never know when a mine inspector is coming. They show up unannounced. And they do that so when you're running your operation you are always aware that you need to be in compliance with all State and

Federal laws and statutes because you never know if they are going to show up and their fines can be huge. So, Mr. Hamblin stated that we own the mineral rights under this property we did not we owned the mineral rights starting on the South properties. There are numerous parcels that cover almost 800 acres that goes where Reidhead's mined and Hatch's mined and it's under many property owners that are here that do not have any mineral rights in the subdivision but they kind of refer to as Harvest Valley but it's not its El Rancho Grande. Harvest Valley starts at the wash and that whole area was named Harvest Valley because there was a situation that my Grandpa Joe was called on a special mission to go out there and be one of the very first settlers and there was a blessing and a prayer that can be found in the history books and it was to encourage families in schooling and business and industry so that people could make a living and take care of their families. The first request for a zone change was cancelled at my request and the town has copies of the letters that were sent to Mr. Sturgell that we requested that it be rescinded because we had issues and some concerns about the mining rights who actually owns them and Gene Taylor Ranch Road and does it exist is it really a road so we decided we better back off and get all those questions answered before we proceeded. We did get all those questions answered and went ahead and purchased the property and we provided the town with a copy of all the title reports research that was done on all the properties there and the research that was done on this property to verify that the mineral rights have been on the deed and recognized since 1958 and it was actually recorded in 1959 and then it succeeded as each company purchased that and if you look at the trail of ownership those companies were buying that for the sand and gravel that was on the property. It's true they did not actually start mining but they were anticipating the future and the growth and the needs. Well things don't happen real fast in Taylor Arizona and there hasn't been as much of a need until more recent years as the sources that were easier to mine started depleting. And as those sources that Reidhead and Hatch worked on were the easiest start disappearing it becomes more and more important to preserve and protect this property consequently the price kept going up because the value was there with those gravel reserves. I honestly wasn't too concerned and didn't think I'd be here in front of the council at this time because the town found out that they had to do a General Plan and follow State statutes. They had a City Council and I appreciate each and every one of you for serving. And they had a Planning & Zoning Commission and they hired a consultant and that consultant helped prepare a General Plan for the Town of Taylor. The consultant was Greg Loper. And the people that were involved were all real honorable honest citizens as everyone in Taylor is. Floyd Fuentes was the Mayor, Vice Mayor Debbie Tuckfield, Mitch Farr, Boyd Hatch, Jay Whipple, Norman Brimhall. The Planning & Zoning Commission Jim Barret, Day Ellsworth, Priscilla Fails, Leiann Fish, Sheila Hall, Gerald Hatch, Bill Solomon they were all involved with the General Plan. I received a visit from Merle Dunaway who was also working on this twice to ask me about the sand and gravel industry. And I told her that we have all these mineral rights out in the West part of Taylor that we feel very strongly they need to be protected. You have the Hall property that was in operation at the time and they need to be protected. There are various hills that have sand and gravel deposits on them and they need to be protected and then I got a call from Greg Loper who was the consultant. I explained it to him and he called me back and read me what he was going to propose to be put in the General Plan. And he assured me that the General Plan would then be the policies and procedures that the town would then write their zoning ordinances in for the future. I didn't worry about it. I had to go back in my memory I am over 50 and start thinking about when these conversations took place and who I talked to. Well I was perplexed when I went to pick up the application for a special use permit to start doing sand and gravel and I was told you can't do sand

and gravel it's all zoned agricultural and that's not allowed. I started wondering what happened. We went through the public process we went through writing a General Plan and have zoning and Zoning Administrators we've had many committees since. What happened to following the General Plan and protecting the sand and gravel reserves? I don't think anybody knows what happened or if they do nobody's really going to step forward and say what happened but the sand and gravel was only allowed in industrial. So I was looking on the internet trying to find an application and it was just by accident that I pulled up a General Plan and there it was everything that had been discussed and it says it's good until 2015 and it's the policy and procedure of the town to do this so sand and gravel was supposed to be protected under resource industrial code and it was to allow the mining to take all the sand and gravel off the property and then have it revert back to agricultural use. Because that resource cannot be moved. You can't go further out town or halfway between Show Low and Taylor and just go find a hill and set up and start mining. Those reserves are where they are and anybody that's in the industry knows how difficult it is to find those aggregates. We have a quarry operation and new wells we have seven different locations of property to meet different needs for the aggregate industry. Indian Wells on the Navajo Indian Reservation. We're hauling material into New Mexico clear up to Page that's what we are doing right now we've hauled it to Phoenix we hauled it to Texas those aggregates are very hard to come by. We've been hauling cobble stone the choice was get it out of central Utah or get it from us so we've hauled cobble rock from here clear up to Wahweap to Lake Powell. The sources when you're driving down the road and you look and see rock everywhere everybody thinks ah there's rock everywhere but it's not that way. Sandstone or mud rock or various types of rock will not meet the State and the Federal specifications for hardness and durability. So it's extremely important for the future of all of our communities in Navajo County, Apache, Coconino various counties to protect the sand and gravel operations because we all drive on those nice smooth roads and that material has to come from where that material is located that natural resource. So I've provided some information I'm not sure how much the Council has had an opportunity to look into the information. The town has a lot more information on file. But that's a brief history of beginning of Brimhall Sand and Rock and we've been in it over 50 years now and we're a main part of the community and provide a tremendous economic benefit to the community. I've had less employees over the last few years due to the economy but we've done surprisingly well. We have maintained close to a hundred most of the time and we supply aggregates to Show Low Block (Sand) who makes the block for all the construction that use cinder blocks. We supply Cemex quality ready mix. We supply contractors that have hundreds of employees that are out paving on the interstates or the freeways or roads or subdivisions or parking lots. And sales tax we try to support as many of the local businesses that we can. Truck parts that are purchased. Mining for the most part is tax exempt for the purchase of the repairs of that equipment but the delivery equipment all the trucks that's not tax exempt so all those tires and all those parts and over hauls we try to buy as many as we can here and support Car Quest and any tire businesses that we can with our pickups and various vehicles that run around and fuel our supplier in San Diego we made a special request to ask them to give a legal opinion of they could pay the sales tax to the Town of Snowflake which in this case it would be the Town of Taylor if we start the operation up and they got a legal opinion and said yes we can make the point of sale at delivery instead of where we pick it up. So Snowflake has received hundreds of thousands of dollars since I made that request. Because we can burn a load of diesel fuel every week and 2% sales tax on a load of diesel fuel that's costing twenty to twenty five thousand dollars it just starts clicking away and that's revenue that can come to the town. I don't know the

situation with Hatch and Reidhead if they made the request or if the sales tax just goes to where ever they got the fuel but I know that we specifically made that request for Snowflake and its make a tremendous difference for them. I could go on but I just want to encourage the passage and preservation of our jobs and the sand and gravel reserves that need to be protected and used for the public benefit safety and welfare for the entire area. Thank you.

Mayor Hatch thanked Mr. Brimhall and asked if there is anyone else that has anything new to contribute this evening or would like to speak.

Spencer Smith Attorney for Brimhall Sand and Rock: You probably don't want to hear me speak but I'm the attorney for Brimhall Rock and Sand and you have a letter from Mr. Brimhall dated October 19th I believe all the, Mayor Hatch and the Councilmembers has that letter and I'm not going to go through that because I think it's self-explanatory. I just want to summarize a couple of issues focusing on the legal side. Mr. Brimhall has obviously told you the history I think you all know how things operate in Snowflake. This is my understanding that your Planning & Zoning Commission has provided a recommendation to the Mayor and Council to deny the rezone so this is time for the Mayor and Council to decide that issue, hasn't been decided but you clearly had the recommendation from the Planning & Zoning Commission. What Mr. Brimhall is asking for is rezoning from the AG Zone that this property now is covered by to the Industrial Zone which under your zoning code would require an associate conditional use permit to be issued. You issued a conditional use permit earlier this year for sand and gravel operations I think it was an expansion of that type of permit would be required here I think if we were to rule on favorably here tonight and grant the rezoning you would direct staff to negotiate the terms of the conditional use permit and that would come back for your final approval. One of the things we wanted to make clear is that we would be willing certainly for this rezoning to be conditional and the conditional use permit could require a reversion to AG once the mining operations have concluded and the reclamation plan has been fully implemented. There's no objection to that on the part of Brimhall. I think that approval of the rezoning would be consistent with the 2015 General Plan. If you look at and we included in the October 19th letter a page from the General Plan that shows the land use map the 2015 land use map and if you look at that it has the resource industrial identified color coded and there's three locations one of which is Mr. Brimhall's property the Joe's Pit area. So clearly the folks that put together the General Plan recognized the aggregate resource and indicated that it would be dealt with in the zoning code. Now when the zoning code was adopted that didn't happen or perhaps the zoning code, the zoning code at the time that the General Plan was adopted clearly didn't have this consideration but I think the zoning code has been amended since the General Plan but for some reason there is not an industrial resource zone classification in the zoning code as was indicated in the General Plan and while you're not required to adopt just the General Plan as your zoning code you need to follow your General Plan. I think that's been reaffirmed by the legislature with the amendment to ARS 9-461(C) which is SB 1598 which we referred to earlier. And I think your comprehensive plan and the provisions of SB 1598 are very consistent I don't think 1598 is going to be limited to future applications because if it were every town in the State that had a zoning code would be exempt from 1598 that would only be for new towns. That's how the legislature intended and that's not, they intended recognition of these resources so they'd not be taken from the property owners. So I think to approve the rezoning is consistent with your plan it's consistent with SB 1598 it's consistent with the existing activities that Reidhead and Hatch it's consistent with your

earlier granting of the conditional use permit to expand one of those operations. I think the other thing that you may want to consider and it's not on the agenda obviously is that if you adopted a Sand and Gravel Ordinance similar to the Snowflake ordinance you could address some of these regulatory issues that the citizens are concerned about. Now one of the interesting things about mining is the fields kind of been preempted in many areas by State and Federal regulations so local governments have very little to say about how mines are operated. You have MSHA which is a safety regulatory agency that mines different than OSHA which covers everything else. You've got the Reclamation Plan approved by the State Mining Inspector. And it's not clear that the town even has authority or a zoning code to restrict mining activities and that's something that frankly the cases the law in Arizona are just not clear on. Mr. Brimhall has consistently argued both to Snowflake and to the town that you don't have that authority but he has not made that, he has not said well I won't apply for the rezoning. He's here to comply with the zoning code. Obviously if the zoning's denied then he would reserve the right to raise that argument in a judicial appeal of this decision. I think he's pointed out he's gone through all the requirements to get this resource certified by the State for use, he's got his mine safety and health administration registration to the property he's done all the archeology he's done the environmental, he's got a reclamation plan from the mine inspector so he's made substantial investments and as he pointed out based on the General Plan he thought that in the existing activities I don't think he ever thought that the operation couldn't commence. Now I can understand and sympathize with the residents out there, nobody wants development. I represent mining companies I have represented two or three mines that started up on the face of public opposition I don't think a mine ever starts up in the State without opposition with the people around it that's just the way life is. I represent people that start businesses and frequently when they go in to build in an area they're not very popular. I represent dozens of school districts and believe it or not there are people that don't like schools being located in their neighborhood. So we can't please everybody. As the first speaker pointed out and correctly it's a balancing act. But part of the balancing act is to recognize what the rights of Brimhall's and property owners, resource owners are as weighed against members of the general public and also the interest of the town with respect to economic development and development of these resources which, that's the problem with mining you mine where the resources are you don't, you can say oh Mr. Wal-Mart move 2 miles down the road. You can't do that with a mine. The mine is where the resource is and the resources are relatively scarce. The last thing I want to address is the issue of what happens if this has to be challenged in court. We've told you that that is likely to happen in the letter. I just wanted to point out there's a number of issues here it's not going to be simple. There's going to be the issues of whether or not cities and towns have zoning authority to regulate mining within their boundaries. Every owner of an aggregate resource in this State is going to be interested in this case. The Rock Products Association is going to be very interested you're going to have amicus briefs from all over because it's a big issue. Aggregate production is a State wide issue. There's going to be issues whether, to what degree do we have to follow your General Plan to what degree is ARS 9-461(C) going to apply here we've heard the argument that it won't be applied retroactively but a courts going to have to decide that. We'll have to face the issues of whether or not a denial of this rezoning would be inconsistent with the treatment of Reidhead and Hatch operations particularly in light of the conditional use permit that was granted earlier this year. We're going to have to look at the new zoning map which we actually requested last summer and we never gotten a copy so I couldn't even tell you what Mr. Brimhall's property is zoned because the AG II and the AG I Zone, it was all AG before and I haven't seen the map that says where the AG II is and where the

AG I, but I'm not 100% sure that map one that's not on the website we can't get our hands on it. There may be some problems with that with this zoning last zoning iteration may be subject to challenge. Obviously there's arguments that the State and Feds have preempted the field with regard to regulation in mining. And then the final issue will be the State has recognized that an aggregate resource is part of the real property and so if you do have the authority and maybe you do will you have to compensate any owner that aggregate resource who is denied the ability to utilize the resource because of the construction of the zoning ordinance that prohibits the use of the resource. Those are the issues that are going to be framed in some kind of litigation. It's not going to be inexpensive I can't tell you how committed Mr. Brimhall would be I can tell you that I'm involved in litigations between Pima County and the developer over the simple sewer connection fee authority case and the two parties have spent over a million and a half dollars to get through trial you'd think it would have settled but it didn't. I'm not suggesting this is going to cost that kind of money but litigation is not cheap. And I think the preference would be for you folks to think about how Snowflake has handled their issues over there. I know the neighbors are concerned but the reality is there's neighbors in Snowflake that live pretty close to some of those operations and there's neighbors that are relatively close to the Reidhead and Hatch operations and it's like if you have property next to a major road project you don't like it when the State comes knocking on the door and says were going to widen the road so we can take your property or we're going to take part of your property we're going to change your access by the way we're going to tear up your front yard your business access for a couple of years while we redo that road. That's not fair I'm not here to argue what is fair but it is within the power of the government because there's a certain level of progress that has to occur and the impact of that progress does fall disproportionately on some people in our towns and we want to make sure that they are treated as fairly as possible but not everybody can have everything the way that they would prefer. Obviously here there's the tension between the home owners and this operation. I frankly think that it won't be as bad as they think it's going to be but that's easy for me to say because I don't live in their homes but anyway I appreciate your time and would be happy to answer any questions either tonight or if you want to send questions through your attorney or through the manager or anyone else I'd be happy to help.

Mayor Hatch thanked Mr. Smith and opened the podium to Mr. Day Ellsworth for comments.

Day Ellsworth; Thank you Mr. Mayor and Councilmen it's good to be here with you. I want to mention this before I get into my statement and that is that I love the people out in the Harvest Valley area and when I say Harvest Valley as Mr. Brimhall pointed out we are talking about the bridged out to the curb and out in that whole area. Put let me make a point and I appreciate the people and their comments about what they said concerning their possible problems that they may be facing. All of you know and the people probably there in the El Rancho Grande Subdivision in that area they know what I have faced over the last twenty something years or more. I've had Reidhead Sand and Rock in my back yard or say 200 feet from my backyard with the dust the noise and so forth. Hatch's have been in my backyard they have cooked their oil in my back yard but these people are good neighbors, I love them the are good people to have around. They are there to help and they are honorable people. Mr. Reidhead is about to finish his mining operation he is about out of gravel. Where he will go from there I don't know it may be further south but if there is a concern about the road he may not be using that road much longer because he is about out of material in that particular pit he's been working. Hatch's are starting to mine material in

Snowflake and so the road out there will continue to be a big issue but it's been a good road and probably the less maintained road in the whole area but it has been a good road and has a good base under it. I asked my wife here shortly before the meeting "If this was us would we be willing to have these sand and gravel people come in" and she said "yes" and I feel the same way. I'd we willing to have these sand and gravel people in my backyard because they are good people. And they are trying to help the economy and I'm not going to go into what Mr. Brimhall quoted because it is a true statement. Let me say something about Brimhall's and some questions are they are making the pit out there comply with the ordinances. I believe that Brimhall's are honorable people. Look at our communities what they have done take for instance their plant there in Snowflake they have a wall with some plants in front of it a beautiful brick wall nothing to be ashamed of and probably benefited as an entrance into Snowflake. Look right here over on Centennial what they have done they have created a subdivision there and the first thing they did is put a flower box along. The golf course they have made improvements and great steps in beautifying the entrances into the golf course. One of the homes here in our area there are making big strides in improving it and the home on Main Street the Roger's home a fence is being built the home is being remodeled. These people have been very honorable people and I think when and if they ever come out there they will make that area to comply with all the ordinances and to be a good neighbor to all of us out there. Thank you for your time I appreciate this opportunity to visit with you.

Mayor Hatch thanked Mr. Ellsworth and asked if there is anything else. Mr. David Hamblin addressed the Council regarding his statement on the mining rights. I don't know who owned them so what I think I said was that they were reportedly owned or essentially controlled by BSRBM. Along those lines it's interesting to note that the parcel as I understand it was bought by BSRBM and I believe another associated entity or there is two separate entities that own those parcels or that I assume they still do. At any rate I believe they were purchased in early 2005 after a request for rezoning was put forward to the P/Z Commission here in Taylor and after that commission declined to recommend rezoning so that's interesting to me the pattern of events that took place. It's not like this is a huge surprise to BSRBM in terms of suddenly owning a piece of land that was supposed to have been industrial. I mean I realize there may be some elements of that but nevertheless it was bought after an effort had been made to rezone it. Very quickly regarding SB 1598 because of that bill ARS 9-461.05(C)(1)(g) now states that municipal land use plan shall include quote "sources of currently identified aggregate and maps that are available from State agencies policies to preserve currently identified aggregates sufficient for future development and policies to avoid any out of land uses" unquote. I don't think anyone here has or would argue that the law was only meant to apply to only new municipalities but I think most of us here based on what Senator Allen and the chief architects of the bill have indicated I think that we would generally agree that the law was not meant to retroactively strip the towns of their ability to zone or enforce the rezoning. Please note that this law does not require the creation of municipal policies to preserve all currently identifiable aggregates but rather those identified in State maps that are quote "sufficient for future development" unquote. That qualifier precludes aggregates whose extraction would require destruction of current zoning and therefore existing development for the sake of future development. This is because aggregates quote "sufficient for future development" unquote are those which are sufficient to support development that has a right to proceed and that development that does not proceed at the cost of disrupting established zoning and development especially residential development on a capricious basis. In other words,

future development is limited if its impact on existing zoning of a development goes beyond reasonable levels. Of course the site has mechanisms to try to make sure that is the case. To our view otherwise to support the idea that vast built up swaths of Phoenix and many other Arizona municipalities can be dug up for aggregate mining even if deposits happen to exist underneath homes, shopping malls, freeways, skyscrapers etc. as long as someone can get ahold of the ownership of the land and start mining no matter what it happens to be next to. Please also note that according to the law a municipal policy quote “to avoid incompatible land uses” unquote as called for does not need to contemplate an incompatible land use that already exists since you can’t avoid something that has already occurred. The law clearly contemplates future avoidance of future avoidance of incompatible land uses and therefore calls for future policies not corrective actions. Therefore under HB 1598 or rather the laws it has changed, the aggregate material in that parcel is already out of the running because part of those aggregates which are quote “sufficient for future developments” unquote and the Town of Taylor is not required to make those materials accessible through the creation of retroactive policies. That’s my reading of it thank you.

Mayor Hatch thanked Mr. Hamblin.

- **Close Public Hearing:** The Public Hearing was closed by Mayor Fay Hatch at 7:56

CALL TO ORDER: Mayor Fay Hatch called the meeting to order at 7:56

ROLL CALL: Council members present: Mayor Fay Hatch, Vice Mayor Jane Lee, Council Alan Ramage, Councilman Mark Reed, Councilman Gary Solomon, Councilman Shawn Palmer and Councilman Jared Hatch

Council members absent: None

Visitors: “See List”

Attorney: Sterling Solomon present

Staff present: Manager Eric Duthie, Finance Director Gus Lundberg, Building Official/Code Enforcement Officer Jeff Johnson, Engineer Stu Spaulding, EMS Director/Fire Chief Clint Burden, Police Chief Jerry VanWinkle and Town Clerk Kelly Jones

PLEDGE OF ALLEGIANCE: Led by Councilman Gary Solomon

INVOCATION: Offered by Councilman Mark Reed

CALL TO THE PUBLIC:

Robert Trent with the American Legion reported that on Saturday, December 10th they will be placing wreaths on veteran’s graves at the Snowflake Cemetery. He invited Mayor Hatch to join with Snowflake’s Mayor Kelly Willis in placing the last wreath. They will also place wreaths at the Veteran Memorials in Taylor and Snowflake. Mr. Trent explained that they did not have enough time this year to get a list of veteran’s graves in Taylor but this is something they will work on for next year. He said this is another way of showing our community and our veterans that we appreciate them. They hope that next year they can do this on Pearl Harbor Day. Mr. Trent extended the invitation to members of the Town Council as well.

CONSENT AGENDA

A. Approve minutes of the November 2, 2011 Town Council meeting

**A motion was made by Mayor Fay Hatch, seconded by Councilman Jared Hatch
To approve the consent agenda
The vote was unanimous**

ACTION ITEMS

- 1. Discussion/Action: The Town Council may adjourn into executive session, which will not be open to the public, to discuss certain matters in accordance with A.R.S. 38-431-03, A.3 consultation for legal advice with the Town Attorney; A.4 consultation with the Town Attorney regarding possible litigation.
Mayor Hatch**

**A motion was made by Mayor Fay Hatch, seconded by Vice Mayor Jane Lee
To adjourn into Executive Session in accordance with A.R.S. 38-431-03, A.3 to receive legal advice from the Town Attorney and to have Manager Eric Duthie, Attorney Sterling Solomon, Building Official Jeff Johnson and Town Clerk Kelly Jones in attendance.
The vote was unanimous**

Councilman Jared Hatch declared a conflict of interest for agenda items one (1) and two (2) and excused himself from the Executive Session proceedings. (8:06)

At 9:19 the Council convened back into regular session

- 2. Discussion/Action: Appeal of Planning and Zoning Commission recommendation concerning a zone change request for parcels 205-13-015 A, B, C, D & E in the Town of Taylor, as received from Brimhall Sand, Rock & Building Materials - Rimrock Gravel, LLC.**

Mayor Fay Hatch asked Mr. David Hamblin and Mr. Kirk Brimhall to approach the podium. He stated that where was some indication earlier in the meeting that some negotiation might be possible between these two groups would you be willing to do that? Kirk Brimhall stated they think there could be some negotiations as long as it's in compliance with all the Arizona State statutes. Mayor Hatch asked about negotiations with the goal in mind to create a Town Ordinance that has to do with this situation. Mr. Brimhall said they have been encouraging that Town Ordinance for years. Part of the reason they felt they need to bring it to the Council was because no action was ever coming forth from the town. Mr. Hamblin stated he had made a request about three years ago that the Council take up such an ordinance as a possibility not in order to protect us from this possibility necessarily not by proposing that or requesting that he was not saying that he accepted this happen but as a lasted protection for the neighborhood he wanted the town to have some protections in place. As far as the question of negotiation I cannot speak for the neighborhood in that way I don't represent them in that way. I have some ideas and some things I've heard and concerns I have so I'm afraid I can't, Mayor Hatch asked if he would be willing to try and organize so we could have a representative from the neighborhood out there to do that. Mr. Hamblin stated he would be very happy to look at that possibility and personally he would be happy to sit in on a committee looking at the creation of such an ordinance but again my view in doing so is not assuming that this in inevitable. Mayor Hatch

asked Mr. Hamblin if he were in the Council's position what he would do. We have a potential law suit here and we have a potential law suit there to keep the interest of the town foremost in his mind what would he do. Mr. Hamblin answered when we speak of the town we are speaking in his mind primarily of the people in the town. And his personal thought on this matter is the interest of the many in this case far out weight the interests of the business interests in question. I feel very strongly about that. Although even it were say just two businesses sitting next to each other in my opinion the preponderance of history and precedence and law firmly sits on the side of the neighbors shall we say or even if it were a business in this case not only is the preponderance of history and such sit on the side of the neighborhood but it also happens to contain about 200 people who have very serious health and safety needs and property values they are at risk here. So a long story short I deny the zoning change request and run the risk of the law suit from the interested party. Kirk Brimhall addressed the Council stating that he would recommend the negotiation on behalf of the town because they've got 40 families and a couple of hundred people we've got 100 employees and all their families which adds to hundreds of people and all the businesses we support that go along with that so it is a situation where you have large groups of people that are affected either way so the idea of sand and gravel ordinance but both parties participate in drafting that ordinance and both parties agree that this is the best we can come up with it's not perfect but it offers protection to the property owners and it also does not take away our private property rights to where we're getting into a fifth amendment situation so negotiations should be handled openly. Mayor Hatch said as he looks at this situation he thinks both of you when you look at that scenario are giving up something, you'd both be losing something. If this thing goes to court who knows how that's going to go. One of you could lose everything one of you could win, it's a gamble. In the best interest of the town as I see it right now would be for a negotiation to take place between the property owners and Mr. Brimhall and the town staff would do all they could to facilitate that, be in on the discussion we just want to be helpful and do all that we could to see that took place to avoid a law suit but I would hate to see a situation where just the lawyers win and we have a potential here. And that would be our proposal I thought we'd throw that out there and ask if you would see if you might both be willing to do that. We have the discretion to post pone the decision on this for two more meetings if the need is there before we have to make a decision. We would be willing to post pone it if you two would be willing to get together somehow. Kirk Brimhall informed the Mayor that he has five other partners and legal counsel but thinks he can speak that they would be more than happy to at least discuss the idea of negotiations with the community and at lease pursue that avenue. If you come to a stalemate where you are not getting anywhere you have to make the decision. Mayor Hatch stated the Council understands that if that time comes the Council needs to make a decision. Mr. Hamblin said he does believe that the town needs the ordinance but his main concern in that regard is the possible assumption the very act of holding the negotiation is an acknowledgment that the mining of that parcel will be inevitable that is essentially a precondition practically of the negotiating taking place. And so in that we will have almost lost all that we've been fighting against or fighting for. Mayor Hatch said you're not at risk at losing anyway if it goes to litigation? Mr. Hamblin responded "if", Mayor Hatch said he's pretty sure it will. Mr. Hamblin said in good faith he should mention the one option that's open to the citizens not only of that neighborhood but the town in general if to pursue referendum if the zoning were to change and a couple of lawyers he has spoken to have indicated that that would be a very powerful instrument for preventing the mining from going forward. I can't stand here and say a referendum would not be pursued I personally have great interest in pursuing that if the zoning were to be changed. When we look at this I understand the compelling arguments of the business interests. When I think of my family of my children and my neighbors the peace and quiet of

that neighborhood the idea of this happening in our neighborhood is just astounding to me. It's astounding to me that almost after seven years I'm still having this experience standing at this podium fighting something I really don't think morally should happen. I realize there's all sorts of arguments on the other side but I don't find them compelling for allowing this to move forward. That's my view it doesn't mean that I wouldn't want to participate in drafting an ordinance but like I said in the beginning I would never want it construed my participation be construed as giving into this going forward. So it really does not solve the problem. Mayor Hatch called for any other comments. Taylor Attorney Sterling Solomon said Mr. Hamblin's correct it is subject to referendum there was one thing if negotiations were to be pursued as the Mayor correctly indicated our code only allows us to postpone for a period of two meetings that would be essentially February 5th if negotiations failed, that is assuming that everyone agrees to go that long. It may be a long process which includes the month of December typically it's difficult to get people together during the holidays. Would you be willing to look at a stipulation of that time period? Maybe my question should be referred to your counsel first. Mr. Brimhall; we would need a few minutes to discuss with counsel and the other family members/partners and come back and give them an answer if they would go longer than 60 days. If you want us to go around the corner we can tell you. Mr. Hamblin stated he does not have the same luxury because there are of course people in the neighborhood there but it is difficult to foresee how, tonight they can't obviously speak for everybody out there it's a very complicated matter. Mayor Hatch asked if the best thing to do tonight is to table this item and give them an opportunity to work something out. Those in attendance opposing the request stated they did not want this item to be tabled. Councilman Alan Ramage stated this is a tough situation as Council members and both of you we've seen it from both sides. As we look at this new senate bill 1598 one of the problems and I'm just looking and I hope I don't over step my bounds it's a brand new senate bill. Mr. Hamblin interpreted it one way Brimhall's and their attorney interpreted it another. We run the risk I'm just being up front of being an example to the whole State of Arizona for litigation. We already know that Mr. Brimhall no doubt he has a huge stake at this. We heard \$1.5 million the Town of Taylor does not have the luxury of investing \$1.5 million. I'm just letting Mr. Hamblin and everyone know where we stand, I'm sorry where I stand and my thought process is one of the things that we talked about is if the litigation goes and we stop Mr. Brimhall or the entities involved from mining it's estimated they would get a lot of aggregate there and the town is found to be impeding him in a legal court comes through and says we sided with Brimhall Town of Taylor is now obligated to pay him a lot. That's why I am encouraging and I would love to see some negotiation here because what I as a Council member am obligated to do is to look out for the interests of Taylor. I love every interest I love every person out there my risk that I just see as we go we don't know what's going to happen. We have a letter from Senator Allen that explained some things but it left me in very much doubt as to what is actually in Senate Bill 1598 and I think it's going to be litigated to the point where we don't know the outcome I think Mayor Hatch is trying to explain. If we take a stance here and vote yes or we vote no either way it's going to be litigated and the courts are going to decide and that's one of the reasons that Mayor Hatch was asking is there any way we can discuss cause there are going to be some amendments to 1598 to clarify and probably put some teeth into this I think and those are just my thoughts and I know it doesn't set well with a lot of people on both sides and I love everybody in this town. I also need to make sure that both sides of the town are taken care of and that's where I sit as a Council member and that's my concern. Councilman Gary Solomon said that to put it blunt this Council doesn't seem to have the power because of the mandates that are coming down so we have the power to make a decision but it's a tough one and you can see where we are at. This Council is almost ineffective in this matter. Mr. Hamblin added that Senator Allen indicated to

him that if the law were to be interpreted as such as it supposedly retroactively forces or compels the town to change the zoning or to permit this mining to go forward that she would want to run an amendment to go the other direction not to put teeth in it to force the town further but rather protect the towns zoning capacity. So that's certainly of interest to me as a possible further defense for us. I think you can understand my point of view and I suspect that of many other people behind me that it feels rather extortive to stand here and be expected in an essence to agree that yes I'm willing to participate in a negotiation that indeed is taking this as inevitability. And I'm not prepared to do that this evening. Certainly not on the behalf of these folks. Mayor Hatch; let me say it this way then there is a possibility no matter how we vote here tonight that Mr. Brimhall's going to be able to go ahead and do that and if it comes to that through a court action or other way you he will be able to do whatever he want to do out there without a stipulation from you or the property owners or anybody. You will have no control over it. Mr. Hamblin; that's why I hope that the Council years ago would have put on ordinance in place and should have. Mayor Hatch; that's what we're asking you to undertake right now. Mr. Hamblin; well there's two questions here #1) would I be willing to participate in the crafting of an ordinance, absolutely I've been asking for that but the second question is am I willing to accept that by participating in that negotiation I am essentially acknowledging that it's going to happen. Mayor Hatch; we understand that. Councilman Gary Solomon; assuming that it's not a foregone conclusion that's the reason we are asking. Mr. Hamblin; I would absolutely we willing to participate. So what is the negotiating about the creation of an ordinance or is it going to be how the mining is going to take place or is it whether the mining is going to take place what am I being asked to do? Mayor Hatch; I don't think we have any control over that. Kirk Brimhall; there is a group of people behind Mr. Hamblin that could go gather for a few minutes. We have some people we could go around the corner and gather for a few minutes and at least give you an answer on behalf of those that are here. For my company it can be a definitive answer. Mr. Hamblin and the people involved here it can be a maybe answer but at least we'll know what direction we're headed. Mr. Hamblin; I would caution us to realize that no matter how many of our neighbors we meet with tonight or forever actually there may always be somebody out there even perhaps someone with property out there that doesn't actually live out there who probably would have an interest in this and it could come out of nowhere so to speak. Mayor Hatch; then wouldn't it be best right now to post pone this? Mr. Hamblin; well we'll never find all those people I certainly don't have the time and resources to do so. We can certainly put together a neighborhood association what I'm saying is we can't pretend that it will ever be comprehensive.

At this time the Council took a brief recess.

Following the recess for group discussion by both parties involved with the Brimhall Mining request Mayor Fay Hatch called the meeting back into session. Upon asking Mr. Hamblin if they were able to come to any agreements Mr. Hamblin responded; Yes, participating in crafting a mining ordinance for the town we are willing to participate in. However, participating in a negotiation that assumes that the mining is going to happen we are not willing to participate. That was the unanimous indication of this group.

Mayor Hatch; Mr. Brimhall how does that effect your participation. Mr. Brimhall; Mr. Mayor we would be willing to participate in the working with these property owners out, neighbors that we have out in that area and trying to draft some type of sand and gravel ordinance. But we would be expected a decision in the next two meetings. At the second meeting we may elect to say yes at that time

negotiations are going well we'll continue it or notify the Council that we have come to a standstill and we would like a decision. Mayor Hatch; If you are willing to do that I think the Council might be willing to go that way. Do we have a proposal from the Council, a motion or any kind of discussion? Participants from the audience agreed that they said no and Mayor Hatch asked "no" to what? Lee Hale said the response was to negotiating any type of... we'll take our chances. Mayor Hatch asked if that is really where we want to go tonight. The response was if we give in now the mines going to happen and we lose Brimhall wins 100%. Two hundred people in our neighborhood lose. Mr. Brimhall's got money he's got lawyers his got all this threat that we don't have. We're asking you the city to help protect us we've got a law that says that this is what it's to be. Councilman Gary Solomon; that will be in a vote and thank you. We are asking for that much time we sincerely believe that this is going to be State wide at least State wide and we want a little more clarification also as a Council and I think it behooves all of us to have a little bit of time this Council is asking for a continuance for a couple of months. The response was if the Council wants to put it off for a two months that's up to you it doesn't mean we have to say yea we're willing to negotiate. Mayor Hatch; we're not going to accomplish anything if it's not going to do any good I don't see the point in putting it off. Other Council members agreed. Councilman Mark Reed; I've been reading this information that's come to us and thinking about this. I've driven around the area out there I can tell you honestly if I lived on that creek I would not want, I would not be in favor of that mining operation going there. I think if we're honest probably none of us would be living on that creek and have that mining operation. By the same token we've got property owners who feel like they have legitimate rights to exercise those rights to mine property and to mine aggregate there. It's not clear legally where it's going, you obviously feel very confident. I don't feel that confidence on either side where it's going to go if it goes to litigation. The only thing I'm confident in is that if you can negotiate something in a friendly manner at the very least you would have an opportunity to have some say so how that happens because if it comes down to litigation and if it goes completely in favor of the mining rights then you've lost your ability to say well what about time stipulations some sound barriers. There are some things that you would have an opportunity right now to, I understand entirely where you're going I just feel like that you're really rolling the dice. Mr. Hamblin; we've indicated a willingness to work on an ordinance in my opinion that ordinance should have been created two or three years ago or longer. Councilman Mark Reed; before we were here but it's all we've got to work with right now. I know what you're saying, you're saying you will negotiate but you're not going to negotiate with this issue that's the way I am hearing it anyway. You're willing to sit down and negotiate an ordinance but you're not willing to negotiate any possibility that they can exercise their right to mine if I'm hearing you. Mr. Hamblin; I think you've stated accurately and it's one thing to have a business interest it's another thing to be defending your home. Councilman Mark Reed; right. Mr. Hamblin; and that's why we feel so passionately about it. Councilman Mark Reed; and we hope you understand that as a Council our responsibility is to the entire town to the business owners to the citizens we have a responsibility to everybody including you. But not exclusively you we would much rather see this worked out in a friendly fashion but it takes two parties to do that. Mr. Hamblin; well wherever it goes I hope it will be friendly it has been thus far and I'm grateful for that. But if it goes forward out there I can't help but wonder who is safe. Mayor Hatch; that's a question that none of us can answer right now. Lee Hale; because we are going to be losing our home values are we going to be able to sell our homes with an asphalt plant and a rock crusher or block plant or whatever kind of a plant sitting there. An unidentified woman in attendance; Mr. Brimhall must think that the property values are going to be going down then let him build a fund from his profits guaranteeing our value of our house now, ten years from now. Mayor Hatch; I think it would take

negotiating with Mr. Brimhall for something like that. The unidentified woman; why isn't the Council negotiating. Councilman Gary Solomon; we want to be a part of it only in the respect we are limited to what we absolutely can do we have both interests at heart believe us. Lee Hale; well it just seems to me Council that Mr. Brimhall knew four or five years ago when he first started this he was going to buy the property contingent on the zoning going to be able to be changed. It was defeated at that point. Now he made the decision to buy the property and try to bull doze his way through and apparently it's working because we don't seem to have any backbone anywhere else that we're looking for. Our little community's the only place standing up and saying this is where we live and we're fighting for it. Nobody else wants to help us apparently it that what I'm hearing from the Council. That's exactly what it sounds like to this group of citizens out here. A hundred families are going to lose property values and never be able to sell your house never. Councilman Alan Ramage; the lady sitting back there I don't know your name. "Maria". If your negotiating one of those things that we're talking about and asking for would be one of those things to negotiate with Brimhall's to say can we work out a deal put together maybe protect your property I'm not saying that Brimhall or the County Attorney will be willing to do that maybe getting with Brimhall. Would you be willing to do X, Y, and Z if it goes through. And I'll still go back to we don't know I don't think anybody knows how this new senate bill works. Lee Hale; Mr. Ramage if a guarantee from Kirk Brimhall to make up the difference would you go and buy my house would you live there with your family? Councilman Alan Ramage; I totally understand I'm torn because I don't know exactly where you're at I'm not in your situation but I also with the new litigation with the new government coming down here in two months it may just happen. If we were to say, say we vote and say no Brimhall can't litigation goes through according to some of the interpretations it may go through. Just because we said no they may be mining next week. Mayor Hatch; those that may want to speak would you come up the microphone please so we can get this on record. Lee Hale; for forty some years I was in the same business Mr. Brimhall is in. I did the exact same thing trying to fight Council people, trying to fight citizens and the big business always won. With the threat of a law suit from the threat of this or he gives "X" number of dollars to Sylvia Allen's convention or, we don't have that luxury we don't have it. And I just can't tell you how firm I believe this that when Kirk stood up there five minutes ago and said I'll buy this property if you change the zoning and it didn't happen he bought it anyway. That's his fault. If there was a crusher a mining pit there and I built a house next door to it it's my fault. But I live there I bought that property now if this goes through every one of my neighbors is going to be suing a realtor a title company it's going to be big because nobody told us that was, that was agricultural and if you look on the zoning map when we went to closing it was agricultural. We knew Hatch was there we knew Reidhead was there we knew we was on the edge of town. You guys brought us into your town for the well that we had. We never got paved roads we never got anything out of that we had to fight to get four fire hydrants in our community. The closest hydrant was at Reidhead Sand and Rock. We haven't got anything out of this Council we can't even get our roads bladed. I've even offered to buy the water. We just can't seem to get anything out of you people but just trampled over and pushed aside and it's up to us to stand up and say oh well gosh maybe we should stand up and make some kind of agreement. I just don't think my residents and my neighbors and my friends are willing to lose their properties over this. Mayor Hatch; you're not listening to what we're saying are you. Mr. Hale; well I think you're not listening to what we're saying. You tell me what you want to say again I think I've heard you four times. Mayor Hatch; what I'm saying is if this goes to court you're going to lose you will have no say in what happens. Mr. Hale; I understand that. Mayor Hatch; are you willing to take that risk? Mr. Hale; what have I got otherwise. Mayor Hatch; well then we just a well vote tonight. Mr. Hale; I think you should just as well vote there's no

point in putting it off because I don't think any of my neighbors out here are going to stand up as say well gosh maybe we could do this or what if that we've got a crusher and a dirt sand and gravel pit in our back yard it's not in the front yard. Mayor Hatch; we're trying to get by this without any litigation or hard feelings or a big fight. Mr. Hale; Gene Taylor's not even a real road you guys don't even maintain it you don't do anything. Mayor Hatch; any further comments from the Council. Is there a motion on the Council? Councilman Mark Reed; you know I feel like we're making a mistake to make a decision in the heat of emotion. I think we need to table it for at least 30 days and see if we can talk. Mayor Hatch; you heard what they've said they don't want to table it. Is that a motion Mark?

A motion was made by Councilman Mark Reed, seconded by Councilman Gary Solomon To table this item for thirty days

“Yes” votes from Councilman Mark Reed, Councilman Gary Solomon, Vice Mayor Jane Lee, Councilman Alan Ramage, Councilman Shawn Palmer

Mayor Fay Hatch voted “No” stating that he wants to vote right now. This is not going anywhere it's not going to get any better in 30 days. Somebody needs to make a decision The motion carried (5-1)

Councilman Jared Hatch had previously declared a conflict of interest and abstained from voting.

3. Discussion/Action: Intersection visibility; Potholes / Street maintenance; Striping – East Center and Love Lake Road.

Councilman Shawn Palmer stated he would like to see a street maintenance plan put together. He sees a lot of things that need to be looked at. He said one of our greatest assets is our roadways and there does not seem to be a plan in place and he sees roadways getting in worse condition. The plan would identify problem areas and a way to report problem areas to management so they could see carried out and resolved. He proposes utilizing the Police Department and have officer's spot damaged roads, tree overgrowth, street lights that may be out and signs that may need to be moved. Things would be documented and listed on a level of urgency. The Chief could compile the list to submit to management. Councilman Palmer said it makes sense to tackle problems when they are small and he would rather see this happen in house using our own equipment and personnel. Councilman Jared added that he thinks this is the right track to follow. Engineer Stu Spaulding reported on an assessment of streets he completed going over every street in town. He reviewed what needs done this year adding that we do have an on call pothole contract. The Public Works Director Ron Solomon had a list of potholes to give them but he does not know what the status is. Stu said he came up with quantities and costs for next year and we would need \$200,000 to get the streets ready for slurry seal. It would take 5 years to do the town at today's prices. Councilman Palmer said there are cracks that need to be taken care of. Mayor Hatch said it would be good to do the potholes as soon as possible. Councilman Palmer said we can identify the costs of Center Street. Stu said as soon as the weather turns good and we will do all the striping the town needs. Mayor Hatch asked Councilman Palmer if he would work with staff as the Council representative on this proposed plan.

4. Discussion/Action: Identification of potential assessors to participate in annual ICMA Town Manager assessment.

The Town Council may adjourn into executive session, which will not be open to the public, to discuss certain matters in accordance with A.R.S. 38-431-03, A.1 in discussion or consideration of employment related issues;

**A motion was made by Mayor Fay Hatch, seconded by Councilman Jared Hatch
To adjourn into executive session in accordance with A.R.S. 38-431.03m A.1 in discussion or consideration of employment related issues and to have Attorney Sterling Solomon, Manager Eric Duthie and Clerk Kelly Jones in attendance
The vote was unanimous. (10:40)**

FUTURE AGENDA ITEMS

ADJOURNMENT

**A motion was made by Vice Mayor Jan Lee, seconded by Councilman Alan Ramage
To adjourn the meeting
The vote was unanimous (11:03)**

Certification of Minutes:

I hereby certify that the foregoing minutes are a true and correct copy of the Taylor Town Council Public Hearing/Council meeting held on the 7th day of December, 2011. I further certify that the meeting was duly called to order and that a quorum was present.

Dated this 8th day of December, 2011

Kelly Jones
Taylor Town Clerk