Town of Wickenburg

MINUTES

WICKENBURG COMMON COUNCIL
REGULAR MEETING
Monday, February 3, 2025 - 5:30 P.M.
155 N. TEGNER - COUNCIL CHAMBERS
WICKENBURG, ARIZONA 85390

A. **CALL TO ORDER** – Mayor Bratcher called the meeting to order at 5:32 PM

B. **PLEDGE OF ALLEGIANCE** - Led by Interim Town Manager Troy Smith

C. **INVOCATION** - Led by Pastor Duane Middleton, Mt. Hope Assembly of God Church

D. **ROLL CALL**

Present:	Mayor BG Bratcher
	Vice Mayor Brian Jones
	Councilmember Kristy Bedoian
	Councilmember Shawn Clark
	Councilmember Margaret Nyberg
	Councilmember Rebecca Rovey
Absent:	Councilmember Art Rubash
Staff Present:	Troy Smith, Interim Town Manager
	Trish Stuhan, Town Attorney
	Tim Suan, Deputy Town Manager/Economic Development
	Steve Boyle, Community Development Director
	Amy Brown, Town Clerk
	Les Brown, Police Chief
	Robert Martinez, Finance Director
	Tarah Mayerhofer, Human Resources Director
	Ed Temerowski, Fire Chief
	Herschel Workman, Public Works Director

E. **MAYOR & COUNCILMEMBERS REPORT ON CURRENT EVENTS**

- Councilmember Shawn Clark stated that he enjoyed the hail and was able to make a small snowman.
- Mayor BG Bratcher attended the Maricopa Association of Governments (MAG) Regional Council, MAG Transportation, West Valley Mayors, Valley Metro Board, West Valley Chamber of Commerce mixer and Gold Rush Days prep meetings. She attended the League of Arizona Cities and Town's legislative update that is weekly and recommended that councilmembers watch those to see what the state legislature is proposing that will affect the town.

F. TOWN MANAGER'S REPORT

- Interim Town Manager Troy Smith thanked everyone for their warm welcome with this being his first Council meeting. Upcoming events include a Business Boot Camp, Town Academy, Gold Rush Days, Beer Fest, job fair, Town Talk, and West Fest.

G. **FINAL CALL** for Request to Speak Cards to be turned into the Town Clerk.

H. CALL TO THE PUBLIC

- Karla Mortimer, In-Town Resident, wanted to invite everyone to Gold Rush Days and said they can always use more volunteers.
- Rich Hostetter, In-Town Resident, wanted the town to look at the costs of garbage and recycling.
- Vern Correa, Out-of-Town Resident, thanked the Parks Department for their help at the rodeo grounds.

I. NEW BUSINESS

1. Action on the Consent Agenda -

MOVED BY Councilmember Rebecca Rovey to approve items a, b, c, and e of the consent agenda
SECONDED BY Vice Mayor Brian Jones
VOTE: 6 – 0 (Yes – Mayor Bratcher, Vice Mayor Jones, Councilmembers Bedoian, Clark, Nyberg, and Rovey)

a. Consideration and Action to Approve the Minutes of the Regular Meeting of January 21, 2025

By a 6-0 vote under the Consent Agenda, Council moved to approve the minutes of January 21, 2025.

b. Consideration and Action to Recommend Approval of a Temporary Extension of Premises/Patio Permit for the Palomino Club on February 23, 2025

Amy Brown, Town Clerk, reported in her Council routing form that the Palomino Club is requesting a temporary extension of the premises permit in order to allow liquor to be brought outside their building into the front parking area on February 23, 2025. They currently have a series #12 liquor license for restaurant bar sales on the premises. This permit requires Town Council approval, which will then be sent to the Arizona Department of Liquor Licenses and Control for final approval.

By a 6-0 vote under the Consent Agenda, Council moved to forward a recommendation to the AZ Department of Liquor License and Control to approve the request for a temporary extension of premises/patio permit for the Palomino Club on February 23, 2025.

c. Consideration and Action to Approve a Public Utility Easement from the Maricopa County Historical Society dba Desert Caballeros Western Museum along South Tegner Street and Wickenburg Way

Steve Boyle, Community Development Director, reported in his Council routing form that the Desert Caballeros Western Museum is proposing to dedicate a utility easement along their property located along South Tegner and West Wickenburg Way. The utility easement is required due to the previous abandonment of the alleyway that existed in the middle of the museum property. The new infrastructure and future infrastructure in the area will be located within this new utility easement.

By a 6-0 vote under the Consent Agenda, Council moved to approve the dedicated public utility easement from the Maricopa County Historical Society along South Tegner Street and Wickenburg Way.

d. Consideration and Action Approving the Town's Pension Funding Policy for Public Safety Personnel Retirement System (PSPRS) for FY 2025-26

Tarah Mayerhofer, Human Resources Director, reported in her Council routing form that ARS §38-863.01 requires every governing body with a plan under PSPRS to pass a Pension Funding Policy annually. The law mandates that pension funding policies identify specific funding objectives, including maintaining adequate assets to cover pension liabilities and setting target funding ratios and timelines for reaching identified ratios. Additionally, the policy must be posted on the governing body's website. However, the bill does not specify where a city/town needs to place the document on its website. It may be most beneficial for some to place it in their Annual Certified Financial Report (ACFR) and for others in a different section, but the statute is silent leaving that up to each city/town.

The League of Arizona Cities and Towns provided a template for the Pension Funding Policy, which the town has used. Pensions that are less than fully funded place the cost of service provided in earlier periods (amortization of UAAL) on the current taxpayers. Fully funded pension plans are the best way to achieve taxpayer and member intergenerational equity.

The Council previously established this goal for the following reasons:
- The PSPRS trust funds represent only the Town of Wickenburg's liability.
- A fully funded pension is the best way to achieve taxpayer and member intergenerational equity.

Council plans to:
- Make annual payments to fund the Unfunded Actuarial Accrued Liability. This will be done each year following receipt of the Annual Actuarial Report from PSPRS.

Based on these actions, the Council plans to maintain a 100% funded ratio annually, thereby authorizing any required payment prior to the end of the Fiscal Year.

Councilmember Bedoian asked about the fiscal impact and how much was currently in the budget for this item. Robert Martinez, Finance Director, reported that there was $700,000 budgeted for this item with $191,859 being the shortfall.

MOVED BY Councilmember Kristy Bedoian to approve the Town's FY 2025-26 Pension Funding Policy
SECONDED BY Council Member Rebecca Rovey
VOTE: 6 – 0 (Yes – Mayor Bratcher, Vice Mayor Jones, Councilmembers Bedoian, Clark, Nyberg, and Rovey)

e. Consideration and Action Approving Amendment of the Bylaws of the Wickenburg Sportsmen's Club to Modify Officer Eligibility Requirements

Herschel Workman, Public Works Director, reported in his Council routing form that The Wickenburg Sportsmen's Club (WSC) is requesting approval to amend its bylaws in relation to the eligibility requirements for the positions of Secretary and Treasurer. Currently, the WSC bylaws require that both positions be filled by Full members who reside within the Wickenburg area. However, the club has encountered challenges in finding Full members who are both willing and able to serve in these roles.

To address this issue, the club proposes the following change:

- The Secretary and Treasurer positions will no longer be required to be held by Full members residing within the Wickenburg area.

These positions do not have voting rights on the Board. Only the 5 Board of Directors members possess voting rights. The proposed change is intended solely to make it easier for qualified individuals, regardless of their geographic location, to serve in these essential officer roles.

The WSC's lease with the Town of Wickenburg requires town approval for amendments to the bylaws that affect the Board of Directors or officer requirements. As such, approval from the Town Council is required for this proposed change.

Current bylaw:

ARTICLE V. OFFICERS

SECTION 2. Election and Term of Officers. Officers will be elected by the Board of Directors following the annual meeting. If the election of officers is not held at such meeting, such election shall be held as soon thereafter as conveniently possible. The offices of President and Vice President shall serve for one year and term limited to 6 consecutive years. Each officer shall continue to serve until his successor is elected and qualifies or until his death or until he shall resign or shall have been removed in the manner hereinafter provided. Despite the expiration of an Officer's term, the Officer continues to serve until the Officer's successor is elected. An Officer must be a Full or Life Member. Officers serve one (1) year terms.

Proposed bylaw change:

ARTICLE V. OFFICERS

SECTION 2. Election and Term of Officers. Officers will be elected by the Board of Directors following the annual meeting. If the election of officers is not held at such meeting, such election shall be held as soon thereafter as conveniently possible. The offices of President and Vice President shall serve for one year and term limited to 6 consecutive years. Each officer shall continue to serve until his successor is elected and qualifies or until his death or until he shall resign or shall have been removed in the manner hereinafter provided. Despite the expiration of an Officer's term, the Officer continues to serve until the Officer's successor is elected. **President and Vice President** must be a Full or Life Member. Officers serve one (1) year terms.

By a 6-0 vote under the Consent Agenda, Council moved to approve the proposed amendments to the Wickenburg Sportsmen's Club bylaws, specifically modifying the eligibility requirements for the Secretary and Treasurer positions to allow for candidates who are not Full or Life Members, while maintaining the current voting rights structure for Board members.

2. Presentation and Discussion Regarding Insurance Requirements for vendors, facility rentals, and special events

Tarah Mayerhofer, HR and Risk Management Director, reported that this item was requested by councilmembers after a concern was raised from the public. In September 2022, the Town Council approved Resolution No. 2311, which updated the insurance requirements for vendors, facility rentals, and special events based on recommendations from the Arizona Municipal Risk and Retention Pool (AMRRP). The goal of the policy is to protect the town from liability and ensure public safety. In April 2024, the town received a notice of claim that resulted from a facility rental. At that time, the town did an internal review that included a legal review that recommended greater review and tracking of subs insurance. In quarter 4 of 2024, renters and vendors were educated on the need for all subs to provide insurance as stated in the requirements and contract.

Resolution 2311 had some key points:

- Vendors, renters, and event organizers and all subs must carry insurance to cover potential liabilities
- The Town must be named as an additional insured
- Waiver of subrogation and to be endorsed

- Specific coverage required for certain activities (e.g., inflatables, rodeo grounds, liquor liability) due to the exclusion of these activities on the town's insurance
- TULIP and Gather Guard insurance options available to help vendors obtain coverage
- Case-by-Case Flexibility: Town Manager has the ability to waive or modify insurance requirements on a case-by-case basis for low-risk activities

Some vendors find insurance requirements to be cost-prohibitive, specifically those who only sell periodically. There is also a concern that some of the umbrella policies don't meet the town's specific insurance requirements including the endorsements. The town offers the Gather Guard insurance that meets all the requirements. Recently the town became aware of another option that vendors can purchase insurance through a company called ACT Insurance for artists, crafters and tradesmen for an annual cost of $24.25 per month, $49 for a 3-day event or $99 for a 7-day event.

Risk management's goals are to:
- Protect Town assets and mitigate risk to taxpayers
- Align with industry standards and AMRRP guidelines
- Ensure vendors and event organizers bear responsibility for their risks
- Maintain affordable premiums for the community

Troy Smith, Interim Town Manager, stated that the Town of Wickenburg has guidelines for employees called the Wickenburg Way on how to serve residents. Director Mayerhofer has gone out of her way, meeting with several organizations, to help them understand the requirements and to find options.

Councilmember Nyberg asked if the vendors at the Wickenburg Art Club (WAC) events are covered under their insurance. Director Mayerhofer stated that she reached out to WAC and they said that their insurance does not cover their subvendors, so those vendors have to provide their own insurance. There are lots of insurance policies that vendors can purchase to cover their booths.

Ed Bantel, Program Administrator for Arizona Municipal Risk Retention Pool (AMRRP), stated that he has been dealing with insurance for over 40 years and has been with AMRRP for twenty-four years. The town has been with AMRRP since 1986. AMRRP covers all the insurance for the town including property, casualty, workers compensation, auto, crime, and cyber. He is going to explain some insurance terms and how insurance works for the town as well as industry standards.

- <u>Insurable Interest</u> - The person or entity that would suffer a loss if there is a claim is the only person or entity that can purchase insurance. You can't insure property you don't own, and you can't insure the liability of someone else.

- Additional Insured - If someone is working on your behalf or holding an event on your property, you can become involved if they cause a claim. Being additionally insured on their policy means their policy will defend you and pay on your behalf. In order to be named as an additional insured on a policy, the policy must be amended and that must be done by an endorsement issued by the insurance carrier (not the agent). It is very common today, for an insurance carrier to require that you have a written contract or agreement with a vendor before they will endorse a policy to grant you additional insured status.

- Primary and Non-Contributory - All insurance policies have an “Other Insurance” clause and in most cases that clause will state that their coverage is excess. When their policy and your policy are both excess, you could end up paying the claim on a pro-rata basis unless you require their insurance to be primary.

- Waiver of Subrogation - Subrogation is a legal concept where one party takes over the rights and claims of another party. This often occurs in insurance contexts, where an insurance company, after paying a claim to its insured, steps into the shoes of the insured to pursue recovery from the party responsible for the loss. For example, if your car is damaged in an accident caused by another driver, your insurance company might pay for the repairs and then seek reimbursement from the at-fault driver's insurance company. This process helps ensure that the responsible party ultimately bears the cost of the damage. Another example would be for Workers’ Compensation, if you hire a vendor and the employee trips in the parking lot. The employee makes a WC claim and then the WC carrier for the vendor makes a liability claim against you for reimbursement of their claim. Insurance policies allow you to waive subrogation as long as the request is made and agreed to, before there is a claim. Of note is that this does not relieve you of independent negligence, it simply means the vendor carrier agrees not to pursue you.

Insurance agents will issue a Certificate of Insurance (COI), but that is just a paper showing the insurance of the insured. In order to have protection added for the certificate holder, the policy must be endorsed, which is issued by the insurance company because it amends the policy and could add additional costs. The town has a contract with the vendor that also has an exhibit for their subvendors to have a contract with them as many insurance companies will write on the paperwork that the insurance is only provided if there is a written contract.

AMRRP has 78 participating members. The insurance covers the Town Council, town employees and town volunteers, if being supervised by the town. Vendors, tenants, contractors, subcontractors and participants in special events aren’t covered by the town’s insurance. COI’s are required when hiring an independent contractor, using vendors, activity that is excluded from the town policy and for anyone using municipal facilities, especially when there is a large group, catered food or liquor being served.

Special Event exclusions include the following:

- Mechanically operated amusement devices
- "Mobile equipment", "auto", snowmobile, motorcycle or other item in or while being prepared for any racing, pulling, pushing, speed, demolition or stunting activity
- Rodeos
- Fireworks displays or exhibitions
- Ski facility
- Climbing wall
- Trampolines, bounce houses and other similar rebound device(s)
- Skateboard facility or skateboard activity
- All inflatable devices unless specifically approved and endorsed on the policy by representative of the pool

The town can add back certain events if the town is in charge including fireworks, skatepark, climbing wall and liquor liability. The town has a separate airport policy, not covered by AMRRP, so air shows can be covered under that policy. In addition, the town can get specific rodeo insurance if the town is putting on the rodeo. There are certain activities that are difficult or unable to be covered including mechanical devices, bounce houses, and racing events. One town wanted to include bounce houses and the cost to add them was $6,000 per day.

The reason for many of the exclusions is because most of their risk pool members don’t have that risk. There is a base policy and members that have those exclusions, such as a skate park, can add coverage for those items, but there is a charge for those additional areas of coverage. They are not automatically added; the pool has to be informed that a skate park is in the town so that it can be added to the plan.

Gatherguard, previously called TULIP or Tenant User Liability Insurance Policy, can be used to address liability issues, is purchased online, the town is automatically added as additionally insured and an email notification is sent to the town with all the forms needed. The basic policy is $1 million with no deductible and higher limits can be purchased. This is purchased by the renter or subvendor by them to cover what they are doing.

Mr. Bantel stated that it is a tough market right now, but the basic premise is that the person responsible should take the risk and pay for the insurance. You can’t take on someone else’s liability. The policy needs to be in the vendor or person’s name. If the town doesn’t get insurance and there is a claim, then the town will be responsible for what happens without any assistance from the person who caused the problem. The town taxpayers end up paying for someone’s liability because claims against the town could very well increase the premiums that the town will pay. Anyone who has renters or house insurance can get coverage through that. If you want to increase your liability amount for a day for an event, State Farm will just increase for the one day and then reduce it back down. For an increase to $1 million for the day, it will cost about $7 for that day.

He gave a few examples of what can happen:

- A town had a contractor paving a road and they left a mess. A bicyclist hit a pothole and suffered brain damage. The contractor only had a $6 million policy. The total settlement was $12 million, so the town had to pay a lot.
- 20-years ago, Bisbee had a death in their mine which they had leased out to a company to do a haunted Halloween. They didn't get a COI from the company, so then everyone gets sued. The excess insurance company then demanded the mine be taken off the policy or they were going to drop the coverage.
- A town had a book of the month club that came in to read and people brought in their chairs. One of the chairs collapsed and someone broke their spine for a cost of $400,000.

Director Mayerhofer stated that ACT and Gather Guard do meet the $1 million general liability and $2 million aggregate coverage and are able to add the town as additionally insured. Most companies have their own insurance, so they already have their coverage 365 days a year. These special programs are more for special events or facility rentals for someone who is just doing something for a couple of days per year. If an event is a town event and we have bounce houses, we will purchase extra coverage to cover that event. The issue that we have right now is an event that the town is not putting on, where they have vendors. We require the renter, vendor or contractor to have their own insurance to cover the liability for what they are doing. If it is not a town event, but it is a special event, then it is not covered by the town's insurance, so it will be covered fully by taxpayer dollars.

Councilmember Clark asked when waivers come into effect. Mr. Bantel stated that it is a tool for your defense but the court will decide if a waiver holds or is turned over. They are good to get as you are warning someone, so you are taking responsibility to tell someone about the risk. Director Mayerhofer stated that the town does have a contract with renters where there is a waiver, but we don't solely rely on that. Town Attorney Stuhan stated that the town has some standard contracts for events and rentals. There are waivers included, especially if it involves minors, you want to have the parents sign the waiver.

Councilmember Bedoian stated that the issue she has is the waiver of subrogation and the primary and non-contributory. The additional insured endorsement is easy, and she doesn't have a problem with that. There is an expense for the other two things. She would like to see the town reduce the requirements for low-risk businesses.

Pam Plummer, In-Town Resident, stated that she is involved with WAC and Friends of the Library (FOL). Both groups use their events as fundraisers and have low risk vendors. To have the waiver of subrogation and primary and non-contributory requirement is not standard. For the ACT insurance for 3 days the cost was $124 and for Gather Guard it is $200. She requested the town look at the insurance requirements.

Cindy Chamberlin, In-Town Resident, asked the town to reconsider their requirements and make it a tiered system. The artists don't make a large sum of money when they sell their art. They pay a lot to the organizations for their booths, so they don't make a lot.

Director Mayerhofer stated that the town has a tiered system as there are greater requirements for larger risked events. For the Holiday Music Walk, the town closes the streets and allows businesses to set up booths at the event to make it more engaging. The town is asking the businesses to cover their own risk. Many have generators, lighting, tents, and tent stakes. There could be a tent that flies away and hits someone or an electrical issue with the generator or food poisoning. We are asking the vendors to be liable for any negligence or injury that they would cause to someone. The town can't cover the vendors, so we are just asking them to provide insurance coverage for being part of the event in which they benefit. This is also to protect the guests at the events, because if something unfortunate happens, there is insurance coverage. There is a risk waiver matrix that is reviewed whenever there is a request to reduce or change the requirements of the insurance.

The town should only be liable for anything that we are negligent in, but if there is an incident on town property, the town will be named in any claim or lawsuit. There is a huge cost to defend and any litigation. The town does appreciate all that the non-profits do in town, but the amount that the FOL provides to the town is about $35,000, which will not even cover the initial attorney costs if there is an incident. The town's policy is standard for the industry and recommended by our risk pool and town attorney. The town requires a $1 million liability policy and $2 million general aggregate with the additionally insured, waiver of subrogation and primary & non-contributory. We work with the vendors to help them find insurance, but it is very hard to know what can happen until you have a claim.

Mr. Bantel stated that this protects everyone. If a vendor has a booth without insurance and there is a claim, they could lose their savings or their retirement trying to defend a claim without any insurance. In addition, the person who is injured has to show the town was somehow negligent, otherwise the risk is on the vendor.

Council stated that the town does want the vendors to have insurance. The town needs to protect the town and the taxpayers. The issue is affordability.

Town Attorney Stuhan stated that the town manager right now has the ability to waive requirements based on the risks. The town will usually check with the risk pool prior to changes, but there is the ability for a tiered system now.

Interim Town Manager Smith wanted to make sure that the Council understands that the town doesn't have coverage from certain events. That means that the town will have to use town funds to pay a claim or settlement. It is not going to just go to the insurance company to pay. It would come out of the town's General Fund for an event by a private entity. The Council's obligation is to protect the taxpayers' dollars. The policy that is in place today is very similar to and in alignment with other Arizona communities. The town is not asking for anything unusual, but what is considered best practice. The town is helping vendors by providing these insurance companies to help them purchase the insurance. The town must ask for insurance. For his discretion, he would look at the amounts of coverage and kinds of coverage, but he would not waive the requirements to have insurance. The probability of an accident happening might be low, but the possibility of something happening is always there as there is risk in everything that we do.

Karla Mortimer, representing the Chamber of Commerce, stated that the complaints that they receive are usually about the cost of the waiver of subrogation and endorsements with someone receiving and estimate of $470 for those. The new lower cost insurance should help now that they know about the plan.

Town Attorney Stuhan suggested the Council go into executive session for legal advice. Interim Town Manager Smith stated that the town needs to follow the recommendation from the insurance company or that can lead to legal issues.

MOVED BY Councilmember Rebecca Rovey to adjourn into executive session at 7:25 PM
SECONDED BY Mayor BG Bratcher
VOTE: 4 – 2 (Yes – Mayor Bratcher, Vice Mayor Jones, Councilmembers Nyberg, and Rovey) (No – Councilmembers Bedoian and Clark)

Council reconvened the meeting at 7:44 PM.

Councilmember Clark stated that this is a difficult issue as the Council doesn't want to expose the town to more liability that the taxpayers would have to pay. He thanked staff for giving all the education on the subject and thanked Director Mayerhofer for the help with the vendors. He was not in favor of changing the insurance requirements to add more risk to the town.

Councilmember Nyberg stated that the Council is open to ideas, but the town must be covered. So many people now a days are looking for deep pockets, so the town will be sued if there is any issue.

Councilmember Bedoian stated that the Town Manager can waive the requirements, so she suggested people contact the manager if they want anything changed on the insurance requirements.

Consensus of Council was to keep the insurance requirements the same.

3. Consideration and Action Approving a Contract with GHD Inc. for Engineering Services for Water and Wastewater Infrastructure Projects

   Herschel Workman, Public Works Director, reported in his Council routing form that the Town Council previously approved an engineering contract with GHD Inc. on January 22, 2019, to provide engineering services for various water and wastewater infrastructure projects. The original agreement was for a three-year term, which was subsequently extended for an additional three-year term, set to expire on January 21, 2025.

   GHD Inc. is currently overseeing multiple ongoing water and wastewater infrastructure projects that are essential for the town's utilities operations and service improvements. These projects have seen significant progress, but due to their complexity and scale, they require additional time for completion.

   To ensure that these projects are finished without disruption and that the quality of service remains high, we are requesting a new one-year contract for engineering services. This contract will allow GHD Inc. to continue managing these critical projects and ensure their successful completion. With this new contract, GHD Inc. is appointing a new representative, and there is a new increased fee schedule.

   Councilmember Bedoian asked for the total spent for this since there wasn't fiscal impact listed in the agenda item. Director Workman stated that last year it was approximately $55,000, but some years it can be $200,000-300,000.

   Mayor Bratcher would like to see a complete exhibit C. Town Attorney Stuhan stated that exhibit C is the key personnel and subcontractors list, that can change, so it can be removed if the Council wishes.

   MOVED BY Councilmember Rebecca Rovey to approve an engineering contract with GHD Inc. for one-year, effective January 21, 2025, to allow for the completion of the ongoing water and wastewater infrastructure projects
   SECONDED BY Council Member Margaret Nyberg
   VOTE: 6 – 0 (Yes – Mayor Bratcher, Vice Mayor Jones, Councilmembers Bedoian, Clark, Nyberg, and Rovey)

4. Presentation, Discussion, and Possible Action Regarding Easements and Maintenance in the Lewis Addition Area

   Trish Stuhan, Town Attorney, stated that usually when a street is established it is built to a standard. There is no legal obligation to establish a street, but once it is established, the owner is obligated to maintain it free from hazards to make it safe for the public. The town is responsible for maintaining its public roadways, while private roadways are maintained by private owners or a Homeowners'

Association (HOA). The Town must have the right to enter private property before maintaining it.

For the town to have the right to access property, the town will acquire the property for the road through dedication, purchase or condemnation. There are some important terms to understand:

- Street: A street typically consists of a traveled portion of blacktop or gravel and a larger area of land surrounding the street known as the street right-of-way, or ROW. The term street is often used synonymously with the term roadway or road.
- Right-of-Way (ROW): A ROW is usually defined by an easement, deed, plat, or a combination of these documents. The ROW area generally includes the street and the area on either side of the street used to support the street. It also includes the area below and above the roadway.
- Dedication: The owner conveys the property to the Town without cost.
- Purchase: The Town buys the property from the owner pursuant to a purchase contract.
- Condemnation: The Town uses its government power to force the conveyance from the owner upon payment of fair market value. This may involve a trial in which the town must show that it has considered alternatives available to it, has balanced the public good and the private injury resulting from the acquisition of the property, and has determined that locating the public improvements on the property results in the greatest public good and the least private injury.
- Fee: Owner has unrestricted rights to the real property.
- Easement: Owner has the right to use real property for specific purposes, such as utility, roadway, access, construction. May be perpetual or for a term (such as temporary construction easements). The owner of the easement does not own the underlying property.

Standard practice is that no maintenance or construction activities happen until all property and easements are acquired. ROW acquisition is for fee interest, not roadway easement (although an easement can be approved on a case-by-case basis). Title insurance is obtained for acquisition of fee interests and is usually obtained for acquisition of easements. Usually, the dedication will happen during the zoning designation as a condition of development if they are going to be public roadways.

Acquiring ROW and easements can be more complicated than acquiring an entire parcel because, with ROWs and easements, only a portion of an owner's property is being acquired. The ROW acquisition flow chart describes the process of acquiring ROWs and easements: preparation of a parcel list, title reports, legal descriptions, appraisals, authorizing resolution and escrow.

The timeline and key developments for the Lewis Addition include the following:

Lewis Addition plat recorded but roads never dedicated

- 2003 – Roadway safety and drainage assessment conducted
- 2004 – Annexations occur – pre-annexation agreements contemplate that the Town will own and maintain the roads within the Lewis Addition
- 2007 – 2012 – The Town considers process to obtain title to the roadway and maintain. However, the roads are never dedicated to the Town.

Access Agreements for temporary use

- 2014 – The Town obtains temporary agreements for limited, emergency repairs to portions of the roadway
- 2017 – Access agreements expired

Long-term solution sought

- 2015 – Staff present Council with options to take over roadway and maintain. No dedications have occurred.

One year ago, the Council direction was to proceed with obtaining the legal rights to the roadway, but it required 100% participation. Legal descriptions were obtained by a surveyor. Easements were collected, but title confirmation was not completed, and some easements are not in the correct legal form.

- Some specific issues include:
  - ✓ **Incomplete Grantor Information**: Some grantors lack details, such as how they hold title (e.g., as individuals or through a trust) and the names of the trusts.
  - ✓ **Unclear Parties and Missing Notary Blocks**: The parties involved are not clearly identified, and notary acknowledgments are sometimes missing.
  - ✓ **Missing or Excessive Signatures**: Some easements lack required signatures, while others have unnecessary signatures.
  - ✓ **Failure to Disclose Trust Beneficiaries**: State law requires the beneficiaries of a trust to be disclosed, but this information is missing.
  - ✓ **Unexplained Included Documents**: Several additional documents are attached to the easements, but their relevance or purpose is unknown.

Bob Bandera, In-Town Resident, requested the town honor their promise as this has been going on for twenty years. They used the forms the town provided. There are only two homes that didn’t sign the easements on Pueblo Vista.

Patsy Wemesfelder, In-Town Resident, stated that the only time the town has acted is when the property owners have asked. The town needs to honor their agreement. The residents have been collecting the signatures on the easements. In May 2023, the town agreed to accept if they got 100% of the easements. The residents assumed that it was road by road that they had to have 100% of the easements. The title search and title insurance are new requirements.

MOVED BY Councilmember Kristy Bedoian to adjourn into executive session at 8:20 PM
SECONDED BY Councilmember Brian Jones
VOTE: 6 – 0 (Yes – Mayor Bratcher, Vice Mayor Jones, Councilmembers Bedoian, Clark, Nyberg, and Rovey)

Council reconvened the meeting at 9:03 PM.

Councilmember Jones stated that the Council wants to move this process along as quickly as possible and apologizes for how long this has taken. It needs to be done legally and correctly.

MOVED BY Councilmember Brian Jones to authorize the Town Manager to prepare title reports and obtain title insurance on the Lewis Addition roads and authorize up to $50,000 in contingency funds with the goal to be back with the report by the March 3rd meeting

Patsy Wemesfelder, In-Town Resident, stated that many of the properties have been sold since the easements were obtained. It took them a year and a half to get the signatures. Town Attorney Stuhan stated that the easements were prepared in 2016 and not accepted by the town, and the property has now changed ownership. The town will make contact with the new owners and request those easements so there is no possibility of a challenge. This would allow the town to maintain the roadway without any breaks.

Councilmember Bedoian asked if the easements are valid what will happen. Town Attorney Stuhan stated that the title report will look at if there are any valid easements. To have a valid easement, the Town Council has to accept the easement. If the county shows valid easements, then the Council will have to accept the roadway. Any with a missing signature or notary will have to be fixed.

SECONDED BY Councilmember Margaret Nyberg
VOTE: 6 – 0 (Yes – Mayor Bratcher, Vice Mayor Jones, Councilmembers Bedoian, Clark, Nyberg, and Rovey)

J. **EXECUTIVE SESSION -** (Council May Vote to Go Into Executive Session Pursuant to A.R.S §38-431.03(A)(3) to Receive Legal Advice from the Town Attorney on Any of the Above Agenda Items.)

K. **SCHEDULING OF FUTURE COUNCIL AGENDA ITEMS**

- Councilmember Nyberg requested an update on the zoning code and to have a discussion. Seconded by Councilmember Bedoian.

L. ADJOURNMENT

MOVED BY Councilmember Rebecca Rovey to adjourn at approximately 9:11 PM
SECONDED BY Councilmember Margaret Nyberg
VOTE: 6 – 0 (Yes – Mayor Bratcher, Vice Mayor Jones, Councilmembers Bedoian, Clark, Nyberg, and Rovey)

BG Bratcher, Mayor

ATTEST:

Amy Brown, Town Clerk

CERTIFICATION

I, Amy Brown, the duly appointed and qualified Town Clerk of the Town of Wickenburg, do hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the Town Council of Wickenburg, Arizona held on February 3, 2025. I further certify the meeting was duly called and held and that a quorum was present.

Amy Brown, MMC
Town Clerk