

***A M E N D E D A G E N D A**

**REGULAR COUNCIL MEETING
TUESDAY
NOVEMBER 20, 2012**

**COUNCIL CHAMBERS
211 WEST ASPEN AVENUE
4:00 P.M. AND 6:00 P.M.**

4:00 P.M. MEETING

Individual Items on the 4:00 p.m. meeting agenda may be postponed to the 6:00 p.m. meeting.

1. CALL TO ORDER

NOTICE OF OPTION TO RECESS INTO EXECUTIVE SESSION

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that, at this regular meeting, the City Council may vote to go into executive session, which will not be open to the public, for legal advice and discussion with the City's attorneys for legal advice on any item listed on the following agenda, pursuant to A.R.S. §38-431.03(A)(3).

2. ROLL CALL

NOTE: One or more Councilmembers may be in attendance telephonically or by other technological means.

MAYOR NABOURS

VICE MAYOR EVANS

COUNCILMEMBER BAROTZ

COUNCILMEMBER BREWSTER

COUNCILMEMBER ORAVITS

COUNCILMEMBER OVERTON

COUNCILMEMBER WOODSON

3. PLEDGE OF ALLEGIANCE AND MISSION STATEMENT

MISSION STATEMENT

The mission of the City of Flagstaff is to protect and enhance the quality of life of its citizens.

4. APPROVAL OF MINUTES FROM PREVIOUS MEETINGS

- A. Consideration of Minutes: Minutes of the November 13, 2012, Special Meeting (Executive Session), and the November 13, 2012, Work Session.**

RECOMMENDED ACTION:

Approve the minutes of the November 13, 2012, Special Meeting (Executive Session), and the November 13, 2012, Work Session as presented/amended.

5. PUBLIC PARTICIPATION

Public Participation enables the public to address the Council about an item that is not on the agenda. Comments relating to items that are on the agenda will be taken at the time that the item is discussed. If you wish to address the Council at tonight's meeting, please complete a comment card and submit it to the recording clerk as soon as possible. Your name will be called when it is your turn to speak. You may address the Council up to three times throughout the meeting, including comments made during Public Participation. Please limit your remarks to three minutes per item to allow everyone an opportunity to speak. At the discretion of the Chair, ten or more persons present at the meeting and wishing to speak may appoint a representative who may have no more than fifteen minutes to speak.

6. PROCLAMATIONS AND RECOGNITIONS

None submitted

7. APPOINTMENTS

None submitted

8. LIQUOR LICENSE PUBLIC HEARINGS

None submitted

9. CONSENT ITEMS

ALL MATTERS UNDER 'CONSENT AGENDA' ARE CONSIDERED BY THE CITY COUNCIL TO BE ROUTINE AND WILL BE ENACTED BY ONE MOTION APPROVING THE RECOMMENDATIONS LISTED ON THE AGENDA. UNLESS OTHERWISE INDICATED, EXPENDITURES APPROVED BY COUNCIL ARE BUDGETED ITEMS.

- A. Consideration and Approval of Agreement:** Amendment Two to the Master Facility Use Agreement between Arizona Board of Regents and City of Flagstaff

RECOMMENDED ACTION:

1. Approve Amendment Two to the Master Facility Use Agreement between Arizona Board of Regents and City of Flagstaff
and
2. Authorize the City Manager or designee to execute the necessary documents.

- B. Consideration and Approval of Street Closure(s):** 2012 New Year's Eve event.

RECOMMENDED ACTION:

Approve the street closure of Aspen Avenue between San Francisco Street and Beaver Street on Monday, December 31, 2012 from 8:00PM through Tuesday, January 1, 2013 at 2:30AM.

- C. Consideration and Approval of:** Consent to Transfer of Control of Cable License Agreement; Amendment No. 1 to the Broadband Network Agreement.

RECOMMENDED ACTION:

Approve/Deny: 1) Consent to Transfer of Control of Cable License Agreement from Cequel Communications, LLC to Nespresso Acquisition Corporation; 2) Amendment No. 1 to Broadband Network Agreement; and 3) authorize the Mayor to execute the necessary documents.

- D. **Consideration and Approval of Claims Expenses/Litigation Costs:** Settlement Offer to close case between the City of Flagstaff, Roy Taylor and Jane Taylor, Ruth Mitchell, and Kenneth Christopher Mitchell, surviving wife and son of deceased Kenneth Mitchell, Sr.

RECOMMENDED ACTION:

Authorize settlement between the City of Flagstaff, Roy Taylor and Jane Taylor, Ruth Mitchell, and Kenneth Christopher Mitchell, surviving wife and son of deceased Kenneth Mitchell, Sr.

10. **ROUTINE ITEMS**

- A. **Consideration and Adoption of Resolution No. 2012-39:** A resolution of the Flagstaff City Council approving a public participation (P2) policy that shapes when and how citizen involvement occurs.

RECOMMENDED ACTION:

- 1) Read Resolution No. 2012-39 by title only.
- 2) Adopt Resolution No. 2012-39.

- B. **Consideration and Adoption of Resolution No. 2012-40:** A resolution of the Mayor and Council of the City of Flagstaff, Coconino County, Arizona, declaring official and adopting the results of the Special Election held on November 6, 2012.

RECOMMENDED ACTION:

- 1) Read Resolution No. 2012-40 by title only
- 2) Adopt Resolution No. 2012-40

RECESS

6:00 P.M. MEETING

RECONVENE

NOTICE OF OPTION TO RECESS INTO EXECUTIVE SESSION

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that, at this regular meeting, the City Council may vote to go into executive session, which will not be open to the public, for legal advice and discussion with the City's attorneys for legal advice on any item listed on the following agenda, pursuant to A.R.S. §38-431.03(A)(3).

11. **ROLL CALL**

NOTE: One or more Councilmembers may be in attendance telephonically or by other technological means.

MAYOR NABOURS

VICE MAYOR EVANS

COUNCILMEMBER BAROTZ

COUNCILMEMBER BREWSTER

COUNCILMEMBER ORAVITS

COUNCILMEMBER OVERTON

COUNCILMEMBER WOODSON

12. **CARRY OVER ITEMS FROM THE 4:00 P.M. AGENDA**

13. **PUBLIC HEARING ITEMS**

None submitted

14. REGULAR AGENDA

- A.**
- Draft 2013 City of Flagstaff Legislative Priorities Agenda.

RECOMMENDED ACTION:

Review and discuss projects and positions proposed as legislative priorities for the City in 2013 covering regional, state and federal issues that provide guidance to City staff and contracted lobbyists representing the City in regional meetings, in state forums involving the Governor, state agencies or before the State Legislature, Congress and federal agencies.

15. DISCUSSION ITEMS

- A.**
- Discussion Item:**
- Resolution of support for quick and efficient delivery of Veterans benefits.

RECOMMENDED ACTION:

Council direction

- B.**
- Discussion Item:**
- Resolution of support for Veterans Cemetery and Home in Bellemont, Arizona.

RECOMMENDED ACTION:

Council direction

- C.**
- Discussion Item:**
- Dark Skies Presentation

RECOMMENDED ACTION:

Council direction

- D.**
- Discussion Item:**
- City presence at Arizona Department of Liquor Licenses and Control Public Hearing on Maverik to be located on East Butler.

RECOMMENDED ACTION:

Council direction

- E.**
- Discussion/presentation regarding SB1598, Regulatory Bill of Rights, and the implications of its implementation to City permit and approval processes.***

16. PUBLIC PARTICIPATION**17. INFORMATIONAL ITEMS AND REPORTS FROM COUNCIL AND STAFF, REQUESTS FOR FUTURE AGENDA ITEMS****18. ADJOURNMENT****CERTIFICATE OF POSTING OF NOTICE**

The undersigned hereby certifies that a copy of the foregoing AMENDED notice was duly posted at Flagstaff City Hall on _____, at _____ a.m./p.m. in accordance with the statement filed by the City Council with the City Clerk.

Dated this ____ day of _____, 2012

Elizabeth A. Burke, MMC, City Clerk

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Elizabeth A. Burke, City Clerk
Date: 11/16/2012
Meeting Date: 11/20/2012



TITLE

Consideration of Minutes: Minutes of the November 13, 2012, Special Meeting (Executive Session), and the November 13, 2012, Work Session.

RECOMMENDED ACTION:

Approve the minutes of the November 13, 2012, Special Meeting (Executive Session), and the November 13, 2012, Work Session as presented/amended.

INFORMATION

The minutes of the November 13, 2012, Special Meeting (Executive Session), and the November 13, 2012, Work Session are attached for Council review, corrections/amendments and approval.

Attachments: [Minutes.11132012.SM](#)
[Minutes.11132012](#)

Form Review

Form Started By: Elizabeth A. Burke

Started On: 11/16/2012 11:49 AM

Final Approval Date: 11/16/2012

MINUTES OF THE SPECIAL MEETING (EXECUTIVE SESSION) OF THE FLAGSTAFF CITY COUNCIL HELD ON TUESDAY, NOVEMBER 13, 2012, IN THE STAFF CONFERENCE ROOM, SECOND FLOOR OF THE FLAGSTAFF CITY HALL, 211 WEST ASPEN, FLAGSTAFF, ARIZONA

I. Call to Order

Mayor Nabours called the meeting to order at 3:35 p.m.

II. Roll Call

Present:

MAYOR NABOURS

VICE MAYOR EVANS

COUNCILMEMBER BAROTZ

COUNCILMEMBER BREWSTER

COUNCILMEMBER ORAVITS

COUNCILMEMBER OVERTON

COUNCILMEMBER WOODSON

Others present: City Manager Kevin Burke; City Attorney Rosemary Rosales.

III. Recess into Executive Session

Vice Mayor Evans moved to recess into Executive Session; seconded by Councilmember Brewster; passed unanimously. The Flagstaff City Council recessed into Executive Session at 3:35 p.m.

A. Discussion or Consultation with the City's Attorney for legal advice; and discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property; pursuant to ARS §§38-431.03(A)(3) and (7), respectively.

1. Auto Park Lots 12 & 13.

B. Discussion or Consultation with the City's Attorney for legal advice; pursuant to ARS §38-431.03(A)(3).

1. Value Added Knowledge and Local Preference in Procurement Process
2. Reallocation of BBB Tax Revenues

C. Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation, pursuant to ARS §38-431.03(A)(4).

1. Mitchell v. City of Flagstaff – Case No. 3:11-CV-08140-FJM

The Flagstaff City Council reconvened into Open Session at 4:50 p.m. at which time the Special Meeting of November 13, 2012, adjourned.

MAYOR

ATTEST:

CITY CLERK

MINUTES

WORK SESSION
TUESDAY, NOVEMBER 13, 2012
COUNCIL CHAMBERS
211 WEST ASPEN AVENUE
6:00 P.M.

Mayor Nabours called the Flagstaff Work Session of November 13, 2012, to order at 6:03 p.m.

Notice of Option to Recess Into Executive Session

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that, at this regular meeting, the City Council may vote to go into executive session, which will not be open to the public, for legal advice and discussion with the City's attorneys for legal advice on any item listed on the following agenda, pursuant to A.R.S. §38-431.03(A)(3).

1. **ROLL CALL**

Councilmembers present:

MAYOR NABOURS
VICE MAYOR EVANS
COUNCILMEMBER BAROTZ
COUNCILMEMBER BREWSTER
COUNCILMEMBER ORAVITS
COUNCILMEMBER OVERTON
COUNCILMEMBER WOODSON

Councilmembers absent:

None

Others present: City Manager Kevin Burke; City Attorney Rosemary Rosales

2. **Public Participation (Non-Agenda Items Only):**

Public Participation enables the public to address the council about items that **are not** on the prepared agenda. Public Participation appears on the agenda twice, at the beginning and at the end of the work session. You may speak at one or the other, but not both. Anyone wishing to comment at the meeting is asked to fill out a speaker card and submit it to the recording clerk. When the item comes up on the agenda, your name will be called. You may address the Council up to three times throughout the meeting, including comments made during Public Participation. Please limit your remarks to three minutes per item to allow everyone to have an opportunity to speak. At the discretion of the Chair, ten or more persons present at the meeting and wishing to speak may appoint a representative who may have no more than fifteen minutes to speak.

Ann Marie Zeller – Last week Council discussed citizens petition on water. Ms. Zeller presented the Council with another citizens petition requesting information on the research of various bacteria in water.

Ron Hubert – Co-chair of joint SEDI/ECoNA action team. Mr. Hubert presented the Council with a report discussing the impacts of new business start ups on a community and how to bring those advantages to Flagstaff.

3. **Preliminary Review of Draft Agenda for the October 16, 2012, City Council Meeting.***

**Public comment on draft agenda items will be taken under “Review of Draft Agenda Items” (Item No. 9) later in the meeting. Citizens wishing to speak on agenda items not specifically called out by the City Council for discussion under the second Review section may submit a speaker card for their items of interest to the recording clerk. The item will be called out during the second “Review of Draft Agenda Items” to allow citizens the opportunity to comment. Citizens are also encouraged to submit written comments.*

Councilmember Brewster asked staff to clarify the wording on Item 10A – public participation policy to include citizen decision making comes when an item is placed on the ballot for a public vote.

Councilmember Barotz indicated that she had some concerns and clarifications that she would like included in the staff summary and she will work directly with staff to communicate those.

6. **Presentation by Homer Rodgers, Assistant Deputy Director of the Arizona Department of Veterans Services, regarding a potential Veterans Home and Cemetery in Bellmont, Arizona.**

Postponed.

7. **Northern Arizona University (NAU) High Country Conference Center Return on Investment Presentation.**

Heather Ainardi – CVB – introduced the following individuals from the High Country Conference Center and Sodexo: MJ McMahon, Larry Perle, Doddy Fisher, Jane Kuhn, Moses DeBord, Richard Bowen, Jeff Thais.

Rich Bowen provided a PowerPoint presentation.

- ▶ PROJECT BACKGROUND
 - History of project, leveraging partnerships
 - Financing/investment
 - Immediate economic impacts

Jane Kuhn, Associate Vice President continued the presentation

- ▶ OVERVIEW OF THE CONFERENCE CENTER
 - The High Country Conference Center serves many local and national organizations such as the American Cancer Society, NACOG, FMC, Marine League Charities, and many others.

Moses DeBord, General Manager continued the presentation

- ▶ MEETING & EVENT ACTIVITY
- ▶ MONTHLY FLOW OF ACTIVITY
- ▶ CURRENT MIX OF BUSINESS
- ▶ WHERE'S THE BUSINESS COMING FROM
- ▶ BUSINESS TRENDS
- ▶ TOP LINE GROWTH (Revenue Detail)
 - Consistently increased business and revenue
- ▶ RECOGNITION TO OUR COMMUNITY
 - IACC Certification
 - Gold Key Award by Meetings and Conventions Magazine
 - Pinnacle Award by Successful Meetings Magazine
 - Nationwide & International Exposure

Heather Ainardi, CVB Director concluded the presentation

- ▶ FLAGSTAFF CVB SUPPORT
 - Marketing & Public Relations Efforts
 - Sales Support
- ▶ SUCCESSES
 - Science Writers Conference
 - A few others in the works for 2014.

Before High Country Conference Center (HCCC) was opened, Little America and The Radisson were the locations that provided conference capability. The maximum holding at Little America is about 400 people, Radisson is just over 200, and HCCC is 800.

There was hope that the area surrounding the conference center would be motivated to update their facilities to be more accommodating and in line with the atmosphere that the conference center brought, a district of sorts. The question was asked as to what the City of Flagstaff could do to promote enhancing this area and make sure that guest expectations are fulfilled from the City perspective.

The local restaurants in the area are extremely happy. The redevelopment of some of the surrounding hotels/motels could definitely improve and add to the area.

MJ McMann from Northern Arizona University said that she would bring this topic up with the "It's Our Town Group" for input. As the community works together they could have a good discussion about ways to motivate and enhance the area.

The redevelopment of Southside is difficult due to its location in the floodplain. Many establishments are limited to what they can do as far as improvements and redevelopment because of this. Any modifications to more than 50% of the building hold significantly higher costs, regulations and standards. This makes it very difficult for those structures in that area.

Council was interested in the correlation of the conference center to airline service. There is a correlation and the airport has seen increased traffic that relates to some of the bigger conferences that are held.

10. Discussion of Civil Rights Ordinance.

Josh Copley – Deputy City Manager gave a PowerPoint presentation

- ▶ CURRENT CIVIL RIGHTS POLICIES
- ▶ POLICY QUESTIONS
 - Who is protected?
 - How will a new ordinance be enforced?
 - What will be covered in employment and public accommodation?
 - Will there be additional exclusions?
- ▶ CHART OF CURRENT FEDERAL/STATE/LOCAL PROTECTIONS & EXCLUSIONS
- ▶ COMPARISON OF THREE CITIES (Salt Lake City, Tucson, Phoenix)
- ▶ PROTECTED CLASSES
- ▶ ENFORCEMENT
- ▶ COVERED
- ▶ EXCLUSIONS

Mayor Nabours commented that he is reluctant to create a mini EEOC in Flagstaff. One of the things that he is uncomfortable with about having classes of protected persons is that it implies that there is an open door to discriminate against others outside of these classes.

Mayor Nabours suggested that Flagstaff could be a trendsetter and draft an ordinance that prohibits discrimination of everyone. Employers can look at what the job skills required to fill a particular job and hiring would be based on merit. Mayor Nabours would like to see enforcement that begins with mediation and is not oppressive.

Councilmember Barotz moved to adjourn into Executive Session; seconded by Councilmember Overton.

Councilmember Barotz would like to understand the legality of how the protection works if there is no class specified as protected.

Councilmember Evans also has legal questions pertaining to the item. There are protected classes in the United States for a reason and she would like to know if it is legal to remove these from the City's ordinance by broadening the protected class.

City Attorney Rosales does not feel that she can answer those questions here and now but would need to do some research.

There is concern about broadening a class so much that they lower the effectiveness of having those protections in the first place. It may make it very difficult to define and justify discrimination.

Council would like to request further research from legal on the proposal of broadening the protected class to include all.

Councilmember Barotz withdrew her prior motion to go into Executive Session; seconded withdrawn by Councilmember Overton.

A break was held from 7:35 p.m. to 7:48 p.m.

The following individuals spoke in support of creating a Civil Rights Ordinance:

Cynthia Pardo	Jamey Hasapies
Gordon Watkins	Breana Sutherlin
Derek Bloom	Kathryn Jim
James Kennedy	Ariana Sauer
Arianne Burford	Matthew de la Torre
Roz Clark	Hailey Sherwood
David Scopel	Alycia Lewis
Matthew Capalby	Randy Ackley
Ned Del Callejo	Robert "Daniel" Duke

The following individual spoke against the creation of a Civil Rights Ordinance:
David Scopel

Council agreed that they would like to have staff draft an ordinance that includes:

- Businesses with 15 or more local employees
- The complaint will be filed at City Hall with an initial screening and mediation. If that complaint remains unresolved or if the complainant disagrees with the initial screening they may appeal to an outside hearing officer.
- Sanction would be a civil penalty
 - Council requests more information and examples from other areas
- No private cause of action specifically stated in the ordinance
- A clause that addresses dress code and uniform requirements
 - Council requests more information and examples from other areas
- Exclusions would be the same as the Federal exclusions
- Protected classes are the same as Federal with the addition of gender identity, gender expression, and sexual orientation
 - Council requests more information on the Federal protected class of genetic information.

8. Integrated Solid Waste Management Plan & Results from the 2012 Solid Waste Audit

Pat Bourque, Public Works Section Head, introduced Matt Morales, Landfill Engineer. Mr. Morales provided Council with existing waste disposal trends within the City of Flagstaff and how they pertain to the Landfill.

PowerPoint Presentation

- ▶ INTEGRATED SOLID WASTE MANAGEMENT PLAN
- ▶ CITY SOLID WASTE COLLECTIONS
- ▶ DECISION MAKERS GUIDE TO SOLID WASTE MANAGEMENT
 - Data Gathering
 - Determine the triggers for future programs and infrastructure
 - Budget for future infrastructure.

- ▶ DATA GATHERING-IDENTIFY PUBLIC AND PRIVATE STAKEHOLDERS
 - Waste audit invaluable, this helps determine where programs for diversion are needed.
- ▶ WASTE AUDIT
 - 9 truckloads sampled
- ▶ 2011 CITY SOLID WASTE DISPOSAL TRENDS
- ▶ EPA STUDY VS. CITY WASTE AUDIT
- ▶ CITY SOLID WASTE DISPOSAL TRENDS
 - 28% uncaptured recyclables
- ▶ REVENUE FROM CITY-IGA RECYCLING
 - Price of recyclables is increasing over time
 - If we are able to collect all or some of the 28% there is greater return
- ▶ OBSERVATIONS
 - Public solid waste sections IGA's and Institutions
 - Private solid waste sectors
 - Solid waste volumes flat since 2009
 - City waste diversion has increased since 2009
 - Disposal compared to national averages
- ▶ SOLID WASTE SECTION NEXT STEPS
 - Composting
 - Landfill Gas Feasibility Study
 - Cell D Construction

It is difficult to house two trash dumpsters and pay two dumpster fees. If they could extrapolate and capture the money gained from the 28%, it was asked how much lower they could take the recycle bin cost. They need to make recycling as close to free as possible as an incentive to business owners.

9. **Discussion/presentation regarding SB1598, Regulatory Bill of Rights, and the implications of its implementation to City permit and approval processes.**

Mayor Nabours requested that this item be postponed to a later date for full and necessary attention.

Councilmember Evans moved to postpone agenda item 9 to a later date; seconded by Councilmember Barotz; passed unanimously.

11. **Review of Draft Agenda Items for the November 20, 2012, City Council Meeting.***

** Public comment on draft agenda items will be taken at this time.*

Mayor Nabours reminded Council that their input on prioritization is needed for item 14 A, Legislative Issues.

Councilmember Barotz clarified that she was looking for Council support to request a presentation on item 15C, Dark Skies Update.

12. **Public Participation**

Nick Nelson – raised concerns with how he was treated at October Fest. Mayor Nabours asked that staff look into Mr. Nelson's complaint.

13. Informational Items To/From Mayor, Council, and City Manager.

Council reported on current events.

- Memorial service for Jim White “Mr. Flagstaff” on November 14, 2012, from 12:00-3:00 p.m.
- Council requested an update on the calcium chloride used during snow removal.
- City Manager Burke requested an Executive Session related to the purchasing agreement for the Core Services Maintenance Facility. Mr. Burke is requesting to have the last two hours on Thursday’s budget retreat for this discussion.

14. Adjournment

The Flagstaff City Council Work Session of November 13, 2012, adjourned at 9:36 p.m.

MAYOR

ATTEST:

CITY CLERK

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Brian Grube, Recreation Services Director
Date: 10/26/2012
Meeting Date: 11/20/2012



TITLE:

Consideration and Approval of Agreement: Amendment Two to the Master Facility Use Agreement between Arizona Board of Regents and City of Flagstaff

RECOMMENDED ACTION:

1. Approve Amendment Two to the Master Facility Use Agreement between Arizona Board of Regents and City of Flagstaff
and
2. Authorize the City Manager or designee to execute the necessary documents.

Policy Decision or Reason for Action:

By approving this Amendment Two to the Master Facility Use Agreement, the City Council authorizes the City Manager or designee to sign on behalf of the City.

Subsidiary Decision Points: None

Financial Impact:

None

Connection to Council Goal:

Effective governance

Has There Been Previous Council Decision on This:

The original agreement was approved by the City Council in 2010.

Options and Alternatives

A. Approve Amendment Two to the Master Facility Use Agreement between the Arizona Board of Regents and the City of Flagstaff.

B. Not approve Amendment Two to the Master Facility Use Agreement between the Arizona Board of Regents and the City of Flagstaff.

Background/History:

In 2010, a Master Facility Use Agreement between the Arizona Board of Regents and the City of Flagstaff was approved by City Council. The Master Facility Use Agreement establishes a framework for Northern Arizona University to conduct special events on City-owned property/facilities. The Agreement sets forth requirements regarding scheduling, insurance, mutual indemnification, and other considerations.

Key Considerations:

Amendment Two of the Master Facility Use Agreement is recommended in order to clarify the Agreement's renewal provisions. Amendment Two authorizes the City Manager or designee to renew the Agreement. The original Agreement did not specify who shall be authorized to renew the Agreement on behalf of the City of Flagstaff.

Community Benefits and Considerations:

Approval of Amendment Two of the Master Facility Use Agreement will clarify the renewal provisions and continue the mutually beneficial relationship between the City and NAU with regard to the use of City-owned property and facilities.

Community Involvement:

Collaborate

Date of Council Approval:

Attachments: [Amendment one](#)
 [Amendment two](#)
 [Master Use Agreement](#)

Form Review

Inbox	Reviewed By	Date
Legal Assistant	Brian Grube	11/02/2012 02:05 PM
Recreation Services Director (Originator)	Brian Grube	11/02/2012 02:07 PM
Senior Assistant City Attorney DW	David Womochil	11/05/2012 10:02 AM
Legal Assistant	Vicki Baker	11/05/2012 10:33 AM
Senior Assistant City Attorney DW	David Womochil	11/05/2012 10:49 AM
Purchasing Director	Rick Compau	11/06/2012 09:54 AM
Legal Assistant	Vicki Baker	11/06/2012 10:28 AM
Senior Assistant City Attorney DW	David Womochil	11/06/2012 10:49 AM
Finance Director	Rick Tadder	11/06/2012 12:15 PM
Community Enrichment Director	Elizabeth Anderson	11/06/2012 04:05 PM
Legal Assistant	Vicki Baker	11/06/2012 04:05 PM
Senior Assistant City Attorney DW	David Womochil	11/07/2012 09:19 AM
DCM - Jerene Watson	Jerene Watson	11/07/2012 02:02 PM
Recreation Services Director (Originator)	Brian Grube	11/07/2012 02:16 PM
Legal Assistant	Brian Grube	11/07/2012 02:21 PM
Recreation Services Director (Originator)	Brian Grube	11/07/2012 04:38 PM
Legal Assistant	Elizabeth A. Burke	11/07/2012 04:42 PM
Senior Assistant City Attorney DW	Elizabeth A. Burke	11/07/2012 04:42 PM
Purchasing Director	Elizabeth A. Burke	11/07/2012 04:43 PM

Form Started By: Brian Grube

Started On: 10/26/2012 10:17 AM

Final Approval Date: 11/08/2012

A 2010-1025.1

AMENDMENT ONE
to
MASTER FACILITY USE AGREEMENT
between
Arizona Board of Regents
and
City of Flagstaff

This Amendment One ("Amendment") to the Master Facility Use Agreement, entered into on October 25, 2010, between the Arizona Board of Regents for and on behalf of Northern Arizona University ("University") and the City of Flagstaff ("City"), is made this 3rd day of October, 2011, by mutual agreement of the Parties as set forth below.

1. Section 1, Term, is amended as follows:

The term of this Agreement shall begin October 25, 2010 and end November 30, 2012, unless earlier terminated as provided herein. This Agreement may be renewed upon mutual written consent of both parties for three (3) additional one (1) year periods.

Except as modified by this Amendment One, the Master Facility Use Agreement remains in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their duly authorized representatives as of the date set forth above.

**The Arizona Board of Regents for and on
Behalf of Northern Arizona University**

City of Flagstaff

By: Becky McGaugh 10/6/11
Becky McGaugh, C.P.M.
Director of Procurement

By: Kevin Burke
Kevin Burke
City Manager

Attest:

Margie Brown
City Clerk

Approved as to form:

Ma H. Fellegon for
City Attorney

AMENDMENT TWO
to
MASTER FACILITY USE AGREEMENT
between
Arizona Board of Regents
and
City of Flagstaff

This Amendment Two to the Master Facility Use Agreement entered into on October 25, 2010, between the Arizona Board of Regents for and on behalf of Northern Arizona University (“University”) and the City of Flagstaff (“City”), is made this ___ day of _____, 2012, by mutual agreement of the Parties as set forth below.

1. Section 1, Term, is amended as follows:

The term of this Agreement shall begin October 25, 2010 and end November 30, 2013, unless earlier terminated as provided herein. This Agreement may be renewed upon mutual written consent of both parties for two (2) additional one (1) year periods, and the City Council hereby authorizes the City Manager or designee to sign on behalf of the City.

Except as modified by this Amendment Two, the Master Facility Use Agreement remains in full force and effect.

IN WITNESS WHEREOF, the Parties have caused this Amendment Two to be executed by their duly authorized representatives as of the date set forth above.

**The Arizona Board of Regents for and on
Behalf of Northern Arizona University**

City of Flagstaff

By: _____

By: _____
Kevin Burke, City Manager

Attest:

City Clerk

Approved as to form:

City Attorney

MASTER FACILITY USE AGREEMENT

between
Arizona Board of Regents
and
City of Flagstaff

This facility use agreement (“Agreement”) is entered into this ____ day of _____, 2010, between the Arizona Board of Regents for and on behalf of Northern Arizona University (“University”), and the City of Flagstaff (“City”). The University and the City may be referred to in this Agreement collectively as the “parties” and singularly as a “party.”

WHEREAS, City operates and maintains public ways, grounds and buildings (“Facilities”) which may be used for special events and desires to permit such use of Facilities under certain terms and upon application by the University; and

WHEREAS, the University desires to use Facilities from time to time for University events;

NOW THEREFORE, the parties agree as follows.

1. Term

The term of this Agreement shall begin October 25, 2010 and end November 30, 2011, unless earlier terminated as provided herein. This Agreement may be renewed upon mutual written consent of both parties for four (4) additional one (1) year periods.

2. Scheduling Facilities

2.1. Subject to the terms and conditions provided herein, University personnel may schedule the use of City facilities for events where alcohol is not served utilizing the Permit Application and Permit Agreement (collectively “City Agreements,” individually “City Agreement”), such City Agreements are attached as Exhibits A, Permit Application, and Exhibit B, Permit Agreement, and are incorporated herein by reference. In the event the terms of this Agreement and any City Agreement conflict, the terms of this Agreement shall govern.

2.2. Events where alcohol will be served are not authorized under this Agreement and shall be contracted through the Northern Arizona University Foundation.

2.3. Termination

Either party may terminate this Agreement by providing the other party thirty (30) days written notice of its intent to terminate. In the event this Agreement is terminated, subsequent permit agreements for use of City facilities may only be signed by University personnel authorized to sign contracts on behalf of the Arizona Board of Regents. A

current list of University representatives authorized by the Arizona Board of Regents to sign contracts can be found at <http://home.nau.edu/comptr/>.

3. Insurance

3.1. The University shall provide proof of Occurrence-type Comprehensive General Liability insurance coverage for Premises-Operations, Products/Completed Operations, Contractual, Broad Form Property Damage, and Personal Injury with a combined single limit of not less than \$1,000,000 per occurrence; proof of Automobile Liability with a combined single limit of not less than \$1,000,000 if applicable. Insurance shall cover the acts and omissions of University and its agents, employees, volunteers, and invitees. This Section 3.1 sets forth the entire insurance requirement for the University under this Agreement. The University shall not be required to waive subrogation or name City or any other party as additional insured.

3.2. City shall maintain adequate insurance (which may include a bona fide self-insurance program) to cover any liability arising from the acts and omissions of City employees or agents. City shall not be responsible for maintaining insurance coverage for liability arising from the acts and omissions of University employees, agents, volunteers, and invitees.

4. Each party (as "Indemnitor") agrees to indemnify, defend, and hold harmless the other party (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.

5. Non-discrimination

The parties agree to comply with all applicable state and federal laws, rules, regulations and executive orders governing equal employment opportunity, immigration, nondiscrimination, including the Americans with Disabilities Act, and affirmative action.

6. Cancellation for Conflict of Interest

The parties agree that this Agreement may be cancelled for conflict of interest in accordance with A.R.S. 38-511.

7. Dispute Resolution

In the event a dispute arises under this Agreement, the parties agree to exhaust all applicable administrative remedies provided for under Arizona Board of Regents Policy 3-809. Before resorting to the procedures specified in Policy 3-809, however, the parties agree first to try in

good faith to resolve the dispute by mediation. Mediation will be self-administered, will take place in Flagstaff, Arizona, and will be conducted under the CPR Mediation Procedures established by the CPR Institute for Dispute Resolution, 366 Madison Avenue, New York, NY 10017, (212) 949-6490, www.cpradr.org, with the exception of the mediator selection provisions, unless other procedures are agreed upon by the parties. Unless the parties agree otherwise, the mediator(s) shall be selected from panels of mediators trained under the auspices of the Alternative Dispute Resolution Program of the Coconino County Superior Court. Each party agrees to bear its own costs in mediation. The parties will not be obligated to mediate if an indispensable party is unwilling to join the mediation. This mediation provision is not intended to constitute a waiver of a party's right to initiate legal action if a dispute is not resolved through good faith negotiation or mediation, or if a party seeks provisional relief under the Arizona Rules of Civil Procedure.

8. Cancellation for Lack of Funding

If the University's performance under this Agreement depends upon the appropriation of funds by the Arizona Legislature, and if the Legislature fails to appropriate the funds necessary for performance, then the University may provide written notice of this to the City and cancel this Agreement without further obligation of the University. Appropriation is a legislative act and is beyond the control of the University.

9. Inspection and Audit

All books, accounts, reports, files and other records relating to this Agreement shall be subject at all reasonable times to inspection and audit by the Arizona Board of Regents, the University, the City of Flagstaff, or the Auditor General of the State of Arizona, or their agents for five (5) years after completion of this Agreement. Such records shall be produced at Northern Arizona University, or such other location as designated by the University, upon reasonable notice to the City, or at the City upon reasonable notice to the University.

10. Confidentiality Language

The parties acknowledges the University and the City are public entities subject to the provisions of the Arizona Public Records Laws, A.R.S. § 39-121. et seq. In the event that a public records request is received by the University or the City requesting records described as confidential, which the University or the City determines must be disclosed, the University or the City shall notify the other party prior to disclosure.

11. Sudan and Iran

Pursuant to A.R.S. §§35-391.06(A) and 35-393.06(B), City and the University each certifies that it does not have a "scrutinized business operation" in either Sudan or Iran, as that term is defined in ARS §§ 35-391(15) and 35-393(12), respectively.

The undersigned have read the foregoing Agreement and, as duly authorized signatories of their respective entities, hereby agree to be bound by its requirements, terms and conditions.

**The Arizona Board of Regents for and on
Behalf of Northern Arizona University**

City of Flagstaff

By: _____

By: _____

Becky McGaugh, C.P.M.
Director of Procurement

Kevin Burke
City Manager

Attest:

City Clerk

Approved as to form:

City Attorney

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Brian Grube, Recreation Services Director
Date: 10/26/2012
Meeting Date: 11/20/2012



TITLE:

Consideration and Approval of Street Closure(s): 2012 New Year's Eve event.

RECOMMENDED ACTION:

Approve the street closure of Aspen Avenue between San Francisco Street and Beaver Street on Monday, December 31, 2012 from 8:00PM through Tuesday, January 1, 2013 at 2:30AM.

Policy Decision or Reason for Action:

By allowing the New Year's Eve street closure as an exception to the Special Event Permit Regulations, the City is providing a safe area for the public to congregate for an annual New Year's Eve community event.

Financial Impact:

- Street closures change traffic patterns for local businesses and have the potential to impact business.
- Approximately \$5,000.00 is incurred in personnel overtime for the police department. They will be seeking reimbursement through various grants.
- Street barricades will cost \$500.00 and will taken from the Community Events account [001-3022-521-2804](tel:001-3022-521-2804).

Connection to Council Goal:

Livability through good neighborhoods, affordable housing and varied recreational activities.

Has There Been Previous Council Decision on This:

In 2009, 2010 and 2011 City Council granted this street closure to ensure safety during the 10:00PM and 12:00AM Pinecone Drop and fireworks display.

Options and Alternatives

Deny the request to close the proposed downtown streets.

Pro: No impact to the traffic flow of the North downtown area.

Con: This would restrict pedestrian traffic to the sidewalks and Heritage Square only. The main concern with this option is the overflow of pedestrians onto unrestricted streets and potential for reaching and/or exceeding weight limits on Heritage Square.

Background/History:

New Year’s Eve festivities have become increasingly popular, drawing thousands of people to the downtown area. Starting in 2009, the City initiated street closures to help ensure the safety of the public during the New Year's Eve events. The Pinecone Drop and the fireworks display occur at both 10:00PM and 12:00AM. The Flagstaff Police Department feels it is important to close the street for safety reasons at 8:00PM. Barricades will be provided and placed by the RoadSafe Barricade Company and the Flagstaff Police Department will begin to take them down at 2:30AM.

Key Considerations:

The current Special Event Permit Regulations do not allow for the full closure of one-way downtown streets. Deviations from the Special Event Permit Packet must be approved by Council on a case by case basis. The street closure is needed to ensure safety of the public for the 10:00 PM and 12:00 AM Pinecone Drop and fireworks display. Additionally, we will be also closing Leroux Street between Route 66 and Birch Avenue on Monday, December 31, 2012 from 8:00PM through Tuesday, January 1, 2013 at 2:30AM. The closure of a two-way street does not require City Council approval.

Community Benefits and Considerations:

This event continues to bring many people into the downtown area. It will provide a safe pedestrian area for families and individuals to enjoy the New Year.

Community Involvement:

- Inform
- Collaborate

Date of Council Approval:

Attachments: New Year's Eve street closure

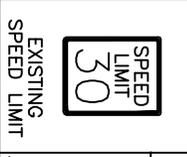
Form Review

Inbox	Reviewed By	Date
Senior Rec Coordinator - Pavey	Brian Grube	11/02/2012 10:04 AM
Recreation Services Director (Originator)	Brian Grube	11/02/2012 10:06 AM
Senior Rec Coordinator - Pavey	Glorice Pavey	11/02/2012 10:07 AM
Community Enrichment Director	Elizabeth Anderson	11/02/2012 12:53 PM
Traffic Engineer	Jeff Bauman	11/05/2012 08:55 AM
Police Chief	Kevin Treadway	11/06/2012 01:48 PM
Fire Chief	Michael Iacona	11/06/2012 01:54 PM
Public Information Officer	Kimberly Ott	11/06/2012 02:17 PM
DCM - Jerene Watson	Jerene Watson	11/06/2012 06:36 PM

Form Started By: Brian Grube

Started On: 10/26/2012 01:35 PM

Final Approval Date: 11/06/2012

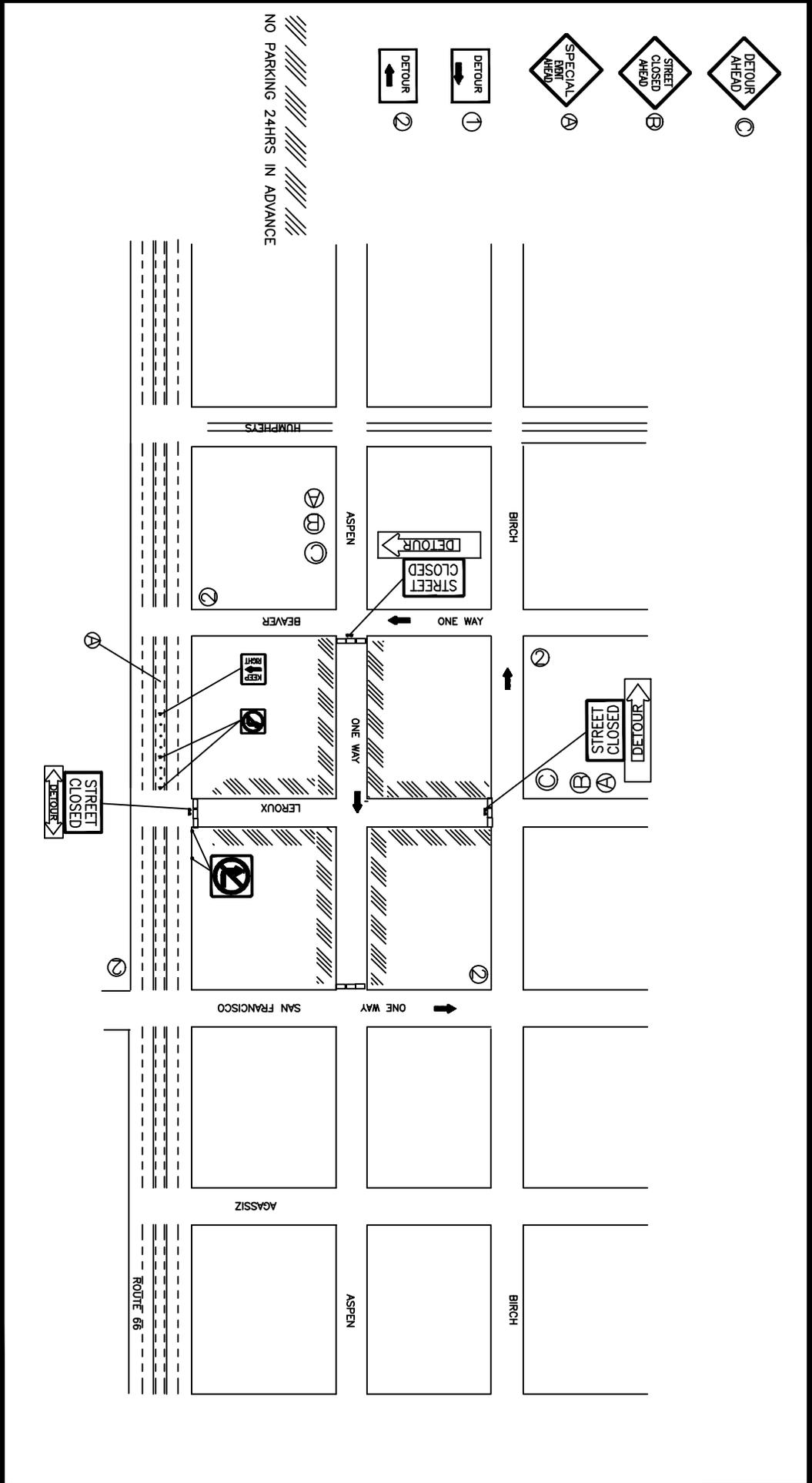


LEGEND

SIGN AND LIGHT TYPE (IF APPLICABLE)
 SIZE: 36" x 36" X 48" x 48"
 LIGHT: TYPE A X TYPE B
 CHANNELIZING DEVICE TANGENT 50' CENTERLINE N/A
 SPACING TAPER 40'
 HIGH LEVEL TYPE I / TYPE II TYPE III

TRAFFIC CONTROL PLAN # 1

CONTRACTOR	NEW YEARS EVE BASH PINE CONE DROP	DATE	10 nov 10
LOCATION	BEAVER-SAN FRANCISCO	START DATE	31 DEC 10
TIME USAGE	NIGHTTIME	DRAWN BY	GARY BARTILUCCI
AGENCY	FLAGSTAFF		



**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Kimberly Ott, Public Information Officer
Date: 11/06/2012
Meeting Date: 11/20/2012



TITLE:

Consideration and Approval of: Consent to Transfer of Control of Cable License Agreement; Amendment No. 1 to the Broadband Network Agreement.

RECOMMENDED ACTION:

Approve/Deny: 1) Consent to Transfer of Control of Cable License Agreement from Cequel Communications, LLC to Nespresso Acquisition Corporation; 2) Amendment No. 1 to Broadband Network Agreement; and 3) authorize the Mayor to execute the necessary documents.

Policy Decision or Reason for Action:

Flagstaff City Code and the Cable License Agreement between the City and NPG Cable, LLC doing business as Suddenlink requires the City to give prior consent for transfer of control from the parent company Cequel to the new equity investor Nespresso.

The Broadband Network Agreement between the City and NPG Cable, Inc. should be amended to reflect that NPG Cable, Inc. has changed to NPG Cable, LLC.

Financial Impact:

No costs to the City are associated with the proposed transfer and amendment. Staff has incurred administrative time associated reviewing the application for transfer.

Connection to Council Goal:

Effective governance.

Has There Been Previous Council Decision on This:

No.

Options and Alternatives

1. Application for Transfer of Control of the Cable Television License:

- a. Approve Consent to Transfer of Control of the Cable Television License from parent company Cequel to Nespresso, based upon representations that the Licensee Suddenlink will continue to meet the legal, financial and technical qualifications for operating the cable system in the City; or
- b. Take no action on the application, in which case the application shall be deemed approved; or
- c. Deny the application, if the City Council finds that transfer of control of the License will adversely affect the Licensee's abilities to perform.

2. Amendment No. 1 to the Broadband Network Agreement:

- a. Approve Amendment No. 1, to reflect that NPG Cable, Inc. changed to NPG Cable, LLC as of April 1, 2011; or
- b. Reject Amendment No. 1.

Background/History:

Cable Television License Agreement

On February 5, 2007 the City issued a Cable License Agreement to NPG Cable, Inc. The Cable License Agreement allows the licensee to use the city rights-of-way for maintenance and operation of a cable television system.

On February 15, 2011 the City approved transfer of the Cable License Agreement from NPG Cable, Inc to NPG Cable, LLC doing business as Suddenlink.

On or about July 26, 2012 the City received an application for transfer of control of the Cable Television License from Cequel Communications Holdings, LLC ("Cequel"), as parent company of Suddenlink, to Nespresso Acquisition Corporation ("Nespresso"). Suddenlink will remain the actual Licensee responsible for operating the cable system in the City of Flagstaff.

The application is in Form 394 as required by the Federal Communications Commission ("FCC"). A copy of Form 394 is on file with the City Clerk's Office.

City staff has reviewed the application. The transaction will result in a substitution of equity investors. Based on the representations contained therein, it appears that the Licensee's legal, financial, and technical operations will not be adversely affected. Licensee's performance to date is satisfactory.

The process for transfer is governed by City Code Section 3-09-002-0009. This section provides that the City shall not grant a transfer unless the applicant (Nespresso) accepts the License. The proposed Consent to Transfer of Control requires Nespresso and Licensee to affirm Licensee's performance under the License and Broadband Network Agreement shall not be adversely affected by the transfer.

Pursuant to federal regulations, if the City does not act within 120 days from receipt of an application, the application is deemed approved. Although the City Council may simply take no action on the application, formal approval of the transfer provides additional legal protections to the City.

The City Council may deny the application only if it finds that the transfer will adversely affect Licensee's legal, financial or technical abilities to perform under the License.

Broadband Network Agreement.

On February 5, 2007, the City entered into a separate Broadband Network Agreement with NPG Cable, Inc. for construction and operation of a communications infrastructure for the City. Any assignment requires the consent of the other party, and the agreement is binding on any person who operates the NPG cable system. See Agreement, Section 17(g).

In 2011 when NPG Cable, Inc. was changed to NPG Cable, LLC doing business as Suddenlink, the Broadband Network Agreement was not amended to reflect the change of parties. However, Suddenlink has assumed performance.

Amendment No. 1 to the Broadband Network Agreement serves to correctly identify the current parties and assists in records management.

Key Considerations:

The City’s primary consideration is to ensure the Licensee continues to operate and maintains its cable system in the public rights-of-way in accordance with the License and the City Code.

Community Benefits and Considerations:

The community benefits from the continued operation of a cable television business within the City.

Community Involvement:

Inform

Date of Council Approval:

-
- Attachments:** [Request Letter](#)
 [Consent to Transfer Agreement](#)
 [Broadband Amendment](#)
-

Form Review

Inbox	Reviewed By	Date
Purchasing Director	Elizabeth A. Burke	11/08/2012 08:21 AM
Legal Assistant	Vicki Baker	11/08/2012 09:00 AM
Senior Assistant City Attorney AW	Anja Wendel	11/08/2012 09:14 AM
Senior Assistant City Attorney AW	Anja Wendel	11/08/2012 09:14 AM
DCM - Jerene Watson	Jerene Watson	11/08/2012 01:40 PM
Finance Director	Rick Tadder	11/08/2012 02:37 PM
Legal Assistant	Vicki Baker	11/08/2012 03:26 PM
Senior Assistant City Attorney AW	Anja Wendel	11/08/2012 05:24 PM
DCM - Jerene Watson	Elizabeth A. Burke	11/08/2012 05:30 PM

Form Started By: Kimberly Ott

Started On: 11/06/2012 02:48 PM

Final Approval Date: 11/08/2012

July 26, 2012



BY OVERNIGHT MAIL

City of Flagstaff
Attn: Mayor Jerry Nabours
211 West Aspen Ave.
Flagstaff, AZ 86001

Dear Mayor Jerry Nabours:

We are writing to notify you that Cequel Communications Holdings, LLC (“Cequel”), the parent of NPG, LLC d/b/a Suddenlink Communications (“Suddenlink” or “Franchisee”), the holder of a cable franchise to serve your community (the “Franchise”), has entered into a Purchase and Sale Agreement (the “Agreement”) with Nespresso Acquisition Corporation (“Buyer”), pursuant to which Buyer will acquire all of the issued and outstanding equity interests of Cequel (the “Transaction”).

The purpose of this letter is to request your consent, should you conclude that your consent is required under the Franchise, to the change of control of the Franchise in connection with the Transaction, which we expect to close in the fourth quarter of 2012.

The Transaction will simply substitute Cequel’s existing equity investors with new equity investors. The proposed change at the investor level will be entirely seamless from the standpoint of consumers. Suddenlink will continue to provide high-quality communications services to customers without interruption, and it has no existing plans to discontinue any existing service or to implement any changes in rates, terms, or conditions in connection with the Transaction. Significantly, the Transaction will not change Suddenlink’s well established and successful senior and local management. Your community will continue to be served by the same committed local team. The Transaction will benefit the public interest by ensuring that Suddenlink has the resources available to continue delivering high-quality and innovative services to our consumers.

If you conclude that your consent to the change of control of the Franchise in connection with the Transaction is required by the terms of the Franchise, we would appreciate your consideration and prompt adoption of the enclosed resolution. To assist you, please find attached the Federal Communications Commission Form 394 “Application for Franchise Authority Consent to Assignment or Transfer of Control of Cable Television Franchise,” formally requesting approval of the pending change of control. The FCC Form 394 with supporting exhibits and documents provides you with the pertinent information about the Transaction and the parties involved. If you conclude your approval is necessary, we ask that you review and adopt the attached model resolution consenting to the foregoing matters at your earliest possible convenience and return a copy to the following address:

Mr. Michael Zarrilli
Suddenlink Communications
12444 Powerscourt Drive, Suite 140
St. Louis, MO 63131

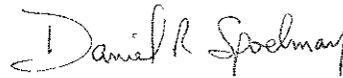
July 26, 2012

Page 2

Suddenlink will cooperate fully in responding promptly to any questions that you may have concerning the Transaction and the FCC Form 394. Please feel free to contact me at 928-266-0677, or by e-mail at Dan.Spoelman@Suddenlink.com or Michael Zarrilli, Vice President Government Relations & Senior Counsel at 314-315-9337, or by e-mail at michael.zarrilli@suddenlink.com with any questions or if you need additional information.

Thank you for your consideration. We greatly appreciate your prompt assistance in this matter, and we look forward to working with you.

Sincerely,

A handwritten signature in cursive script that reads "Daniel R. Spoelman".

Dan Spoelman
VP Operations

pr
**CONSENT TO TRANSFER OF CONTROL
OF CABLE LICENSE AGREEMENT**

The City of Flagstaff, Arizona, a political subdivision of the state of Arizona ("City") hereby consents to transfer of control of the Cable License Agreement dated February 5, 2007 ("the License") this 1, day of November, 2012 as set forth below.

RECITALS:

- A. On February 5, 2007 the City issued the License to NPG Cable, Inc., an Arizona corporation ("NPG");
- B. On February 15, 2011 the City by Resolution No. 2011-07 consented to transfer of control of the License to NPG Cable, LLC doing business as Suddenlink Communications ("Licensee");
- C. On July 18, 2012 the parent company of Licensee, Cequel Communications Holdings, LLC ("Cequel" or "Parent") entered into a Purchase and Sale Agreement pursuant to which all of the issued and outstanding equity interests of Cequel will be acquired by Nespresso Acquisition Corporation ("Nespresso"), a Delaware Corporation (the "Transaction");
- D. Cequel and Nespresso have requested that the City consent to the transfer of control of the License in connection with the Transaction and has filed with the City a Federal Communications Commission ("FCC") Form 394, that includes relevant information concerning the Transaction and Nespresso (the "Application");
- E. The City has reviewed the Application, examined the legal, financial, and technical qualifications of the relevant parties, and has followed all required procedures to consider and act upon the Application;
- F. The City has relied on Nespresso and Cequel's representations that following transfer of control Licensee will meet the legal, financial and technical qualifications as required under all federal, state, and local law to operate its cable system in the City, and the City finds that it is in the best interest of the City of Flagstaff community to approve the Application.

9. All notices to Licensee for purpose of the License shall be sent to:

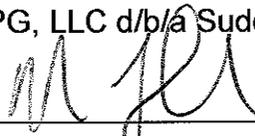
Licensee:

Mr. Michael Zarrilli
Vice President Government Relations & Senior Counsel
NPG, LLC d/b/a Suddenlink Communications
12444 Powerscourt Drive, Suite 140
St. Louis, Missouri 63131
(314) 315-9400

IN WITNESS WHEREOF, in consideration of their respective covenants hereunder the parties have executed this Consent to Transfer of Control on the dates appearing below.

LICENSEE:

NPG, LLC d/b/a Suddenlink Communications

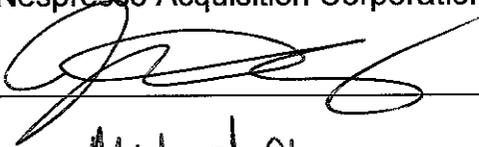


By: Michael Zarrilli

Date: 11/2/12

CONTROLLING INTEREST:

Nespresso Acquisition Corporation



By: Michael Chang

Date: 11/1/2012

LICENSOR:

By: Jerry Nabours, Mayor

Date: _____

AGREEMENT:

1. The City hereby approves the Application and consents to the transfer of control of the License in connection with the Transaction to Nespresso subject to the terms and conditions contained herein.
2. Nespresso has read, accepts, and agrees Licensee shall continue to be bound by License, and related amendments, regulations, ordinances, and resolutions in effect.
3. All liabilities, acts, and omissions known and unknown of Licensee related to the License whether occurring either before or after the transfer of control, are not affected by such transfer.
4. Licensee shall not be permitted to take any position or exercise any right with respect to the License which it could not have exercised prior to transfer of control.
5. Transfer of control shall not adversely affect the ability of Licensee to perform its obligations post-transfer.
6. The City's approval of the Application and consent to transfer of control in connection with the Transaction shall be effective immediately, and Licensee shall notify the City that the Transaction is complete within thirty (30) business days of the date the Transaction is consummated; provided, however, this Consent to Transfer of Control shall be null and void if the Transaction is not consummated.
7. The transfer of control does not affect any evaluation of Licensee's legal, financial, or technical qualifications that may occur under the License or applicable law after the transfer, and does not directly or indirectly authorize any additional transfers.
8. Transfer of control shall not adversely affect the ability of Licensee to perform its obligations under that separate Broadband Network Agreement dated February 5, 2007 entered into by and between the City and NPG Cable, Inc. post-transfer.

**Amendment No. 1 to
Broadband Network Agreement**

This Amendment No. 1 ("Amendment"), is entered into as of November 20, 2012, by and between the City of Flagstaff, Arizona, ("City") and NPG Cable, LLC d/b/a Suddenlink Communications ("Suddenlink") formerly NPG Cable, Inc. ("NPG Inc.") and hereby amends that Broadband Network Agreement dated February 5, 2007 and between City and NPG, Inc. (the "Agreement").

WHEREAS, City and NPG Inc. entered into the Agreement; and

WHEREAS, NPG Inc. changed its corporate form as of April 1, 2011 from a Corporation to a Limited Liability Company; and

WHEREAS, City and Suddenlink desire to amend the Agreement as hereinafter set forth,

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements set forth herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. Any reference to NPG Cable, Inc. shall be deleted in its entirety and replaced from and after April 1, 2011 with the following:

"NPG Cable, LLC".

2. Unless otherwise defined herein, all capitalized terms have the meaning ascribed to them in the Agreement. To the extent of any conflicts between the terms of this Amendment and the Agreement, this Amendment shall control but only with respect to its subject matter. Except as amended herein, all of the terms of the Agreement shall remain in full force and effect. This Amendment may be executed in counterparts, each of which is an original and together will constitute one and the same agreement. Any signature delivered by facsimile (e.g., fax, PDF, etc.) will be deemed an original signature for all purposes and will be binding on the signing Party (ies).

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the last date written below:

NPG Cable, LLC

CITY OF FLAGSTAFF

By: 

By: _____

Name: Michael Zarrilli

Name: _____

Title: Vice President

Title: _____

Date: 11-2-12

Date: _____

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Margaret Penado, Risk Management Specialist
Date: 11/15/2012
Meeting Date: 11/20/2012



TITLE:

Consideration and Approval of Claims Expenses/Litigation Costs: Settlement Offer to close case between the City of Flagstaff, Roy Taylor and Jane Taylor, Ruth Mitchell, and Kenneth Christopher Mitchell, surviving wife and son of deceased Kenneth Mitchell, Sr.

RECOMMENDED ACTION:

Authorize settlement between the City of Flagstaff, Roy Taylor and Jane Taylor, Ruth Mitchell, and Kenneth Christopher Mitchell, surviving wife and son of deceased Kenneth Mitchell, Sr.

Policy Decision or Reason for Action:

- Requesting approval of settlement agreement of \$225,000 for a full mutual release of all claims resolved by this settlement. Case # 3:11-cv-08140-FJM will be dismissed with prejudice, all parties to pay their own costs and attorney's fees.
- Requesting authorization of City Manager to execute necessary documents to effectuate settlement.

Financial Impact:

- The City's self insurance has paid \$50,000 in defense costs prior to reaching settlement. Travelers Insurance on behalf of the City has agreed to pay \$225,000 settlement as well as any residual defense and mediation costs.
- City's self insurance fund paid \$50,000 from account # 600-8901-590-2005 in defense costs.

Connection to Council Goal:

- The City settles claims to effectively govern and appropriate resources.

Has There Been Previous Council Decision on This:

- On March 8, 2011, Council authorized expenditure of City's \$50,000 self insured retention and to proceed with defense and/or settlement of claim.

Options and Alternatives

Background/History:

On August 25th 2010, Kenneth Mitchell, Sr. was fatally shot by City of Flagstaff police officer Roy Taylor who responded to a domestic violence argument between Mr. Mitchell, Sr. and his son Kenneth Christopher Mitchell who was armed with a loaded shotgun. An internal affairs investigation by the City of Flagstaff and an investigation by the Mohave County Attorney's office both found the police officer acted reasonably and legally. For financial reasons, the City's insurer made a settlement offer which was accepted by the plaintiffs.

- Settlement agreement will be provided to Flagstaff City Council prior to the 11/20/2012 Council meeting.

Date of Council Approval:

Attachments:

Form Review

Inbox	Reviewed By	Date
City Attorney	Rosemary Rosales	11/16/2012 02:07 PM
Risk Manager	Elizabeth A. Burke	11/16/2012 02:13 PM
DCM - Jerene Watson	Elizabeth A. Burke	11/16/2012 02:16 PM
Form Started By: Margaret Penado		Started On: 11/15/2012 02:33 PM
	Final Approval Date: 11/16/2012	

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Kimberly Ott, Public Information Officer
Date: 10/09/2012
Meeting Date: 11/20/2012



TITLE:

Consideration and Adoption of Resolution No. 2012-39: A resolution of the Flagstaff City Council approving a public participation (P2) policy that shapes when and how citizen involvement occurs.

RECOMMENDED ACTION:

- 1) Read Resolution No. 2012-39 by title only.
- 2) Adopt Resolution No. 2012-39.

Policy Decision or Reason for Action:

Two-way communication with Flagstaff's citizens and transparency of government are clearly some of the most important directives from the current Council. This policy will provide clear direction and structure for the variety of outreach and engagement opportunities that City staff have at their fingertips. Using these practices will give the public more certainty there are regular mechanisms that will be used by the organization to keep the public informed and involved. As the same time, it creates a more effective way to advise Council on how the City staff has involved citizens and reached out to the public relating to events, projects and issues of interest to the community.

Subsidiary Decisions Points: None.

Financial Impact:

The financial impact of this policy will depend on the extent or amount of public engagement and involvement directed or desired. They range from no cost options like public service announcements in the media to direct mail notifications and multiple community meetings at off-site locations.

Connection to Council Goal:

Effective governance.

Has There Been Previous Council Decision on This:

While there has been no previous Council decision, the public participation model was presented at the June 12, 2012 City Council work session.

Options and Alternatives

- Adopt the Public Participation Policy.
- Schedule adoption of a Public Participation Policy for a later date.
- Not adopt a Public Participation Policy.

Background/History:

At the request of Vice-Mayor Coral Evans, staff began to research existing models of public participation policies for the Flagstaff community. Staff settled on the International Association of Public Participation (IAP2) model as one of the best examples. Vice-Mayor Evans and several staff members have training in and extensive experience in public participation and certification with this model.

An initial scan of what was already being done by staff found significant involvement in citizen outreach and engagement at all levels of the proposed model. Successful examples include the rewrite of the Flagstaff Zoning Code, Water Conservation policy and the NAU Homecoming Parade reroute. Staff also recognized that a model/policy would help in identifying and using the proper outreach and engagement tools and to reinforce how important citizen participation is to our community.

Key Considerations:

As our community has grown, technology has evolved, and our local news media coverage has changed. In some respects, this has made public participation more challenging. But it also means that it is more important than ever to inform and involve citizens in what is going on in their city government. Citizens have the right and the responsibility to influence public decisions, utilize various mechanisms to get their voice heard and be involved to make a difference. Using a P2 policy to guide when and how to best engage residents is by design a format that generates greater public trust, strengthening our community by actively including citizen ideas and opinions in our decision making.

At the direction of Council, staff has included a narrative in the attachments that provides important information on the use and intent of the Public Participation Policy and the P2 Chart.

Community Benefits and Considerations:

The City is much more effective in what we do when we strengthen our communication, promote participation and partnering with our residents. The benefit of these efforts will be better decisions and greater understanding and trust by our citizens about how their government works for them.

Community Involvement:

Shortly after the Council Work Session on a Public Participation Policy, these community involvement headings were added to the staff summary report. This allows staff to suggest the proper outreach and engagement column as well as the tools to be used or that have been used for that particular issue, event or project. The model will be part of a large display in the City Council Chambers for citizen, Council and staff to reference at all times.

Inform
Consult
Involve
Collaborate
Empower

Expanded Options and Alternatives:

Adopt the Public Participation Policy. Adoption will allow Council and staff to begin using the policy to guide community and citizen participation/notification. Not adopting the policy could delay use of some elements of the policy, although staff is currently using many of the tools referenced in the model.

Schedule adoption of a Public Participation Policy for a later date. This would allow additional discussion of the policy/model and possible suggestions for amendments or changes to the proposed policy/model. Postponing the adoption could limit the use of tools for outreach and engagement on current issues or projects.

Not adopt a Public Participation Policy. Staff could choose to use or not use engagement and outreach tools from the model without policy direction. Uniform guidance would not be available for staff reference.

Date of Council Approval:

Attachments: Resolution 2012-39
 Narrative of P2 & Chart use
 Chart

Form Review

Inbox	Reviewed By	Date
Legal Assistant	Elizabeth A. Burke	11/08/2012 05:32 PM
DCM - Jerene Watson	Jerene Watson	11/09/2012 09:51 AM
Form Started By: Kimberly Ott		Started On: 11/08/2012 07:45 AM
	Final Approval Date: 11/09/2012	

RESOLUTION NO. 2012-39

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
FLAGSTAFF, ARIZONA APPROVING A PUBLIC PARTICIPATION POLICY**

RECITALS:

WHEREAS, two-way communication with Flagstaff's citizens and transparency of government are important goals of the Flagstaff City Council; and

WHEREAS, the City Council has discussed the adoption of a public participation model that will provide clear direction and structure regarding public communications; and

WHEREAS, it is the intent of the Council to adopt a Public Participation Policy that will guide citizen participation and notification; and

WHEREAS, essential components of an effective public participation policy include the following: Inform, Consult, Involve, Collaborate, and Empower; and

WHEREAS, the City Council wishes to adopt a public participation policy to guide citizen participation and notification.

ENACTMENTS:

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, COCONINO COUNTY, ARIZONA, AS FOLLOWS:

Section 1: That the Flagstaff City Council hereby affirms its commitment to encouraging citizen participation and notification.

Section 2: That the City of Flagstaff hereby adopts a Public Participation Policy, attached hereto as "Exhibit A."

Section 3: That this Public Participation Policy is intended to be a guiding policy rather than a mandatory requirement.

Section 4: That this Public Participation Policy shall in no way override existing requirements or legal processes that address public engagement in specific situations.

Section 5: That the City Clerk is authorized and directed to edit and correct typographical and grammatical errors of wording and punctuation in the resolution described herein.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this _____ day of _____, 2012.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Narrative to explain the P2 Policy, Chart and its use

Using a Public Participation (P2) Policy which is depicted through a Chart similar to what has been presented to Council has become a national benchmark for progressive communities seeking regular, meaningful communication and input from the public. This tool is being used by cities across the country and has been found to promote more consistent, precision communication to the public and facilitates participation goals and outreach efforts of municipalities.

Since it is a guiding policy, its use is not intended to be a requirement. Rather, it does two things: (1) it is a way to let Council know what public involvement has occurred when carrying out the City's business and (2) is a valuable resource to promote better communication with our citizens in a regular and systematic manner. It does not, in any way, override existing language or legal process that addresses public engagement or a specific public participation process.

Using these simple categories describes for the City Council and public what efforts were made in engaging the public on projects and events. Examples are provided for each category but should not be considered a comprehensive list of tools that must be used. It is simply a guide to define expectations for successful communications and feedback.

An additional benefit of having a more structured P2 Policy is that it assists staff in documenting public participation as a reporting requirement when seeking grants and funding from Federal and State governments.

Inform	Consult	Involve	Collaborate	Empower
<p><u>Public Participation Goal:</u> To provide the public with balanced and objective information to assist them in understanding the problems, alternatives and/or solutions</p>	<p><u>Public Participation Goal:</u> To obtain public feedback on analysis, alternatives and/or decisions</p>	<p><u>Public Participation Goal:</u> To work directly with the public throughout the process to ensure that public issues and concerns are consistently understood and considered.</p>	<p><u>Public Participation Goal:</u> To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.</p>	<p><u>Public Participation Goal:</u> To place final decision-making in the hands of the public.</p>
<p><u>Promise to the Public:</u> We will keep you informed</p>	<p><u>Promise to the Public:</u> We will keep you informed, listen to and acknowledge concerns and provide feedback on how public input influenced the decision.</p>	<p><u>Promise to the Public:</u> We will work with you to address your concerns through alternatives and provide feedback on how public input influenced that decision.</p>	<p><u>Promise to the Public:</u> We will seek your feedback in formulating solutions, and use your advice to assist in decisions to the maximum extent possible.</p>	<p><u>Promise to the Public:</u> We will implement what you decide.</p>
<p><u>Expectation from the Public:</u> Seek to be informed and involved and use the tools offered by the City to provide open and honest feedback.</p>				
Example Tools	Example Tools	Example Tools	Example Tools	Example Tools
<ul style="list-style-type: none"> • Regular e-mail updates E-mail feedback • E-Newsletters • Project Specific Websites Neighborhood • Website Feedback • Educational Forums • Stakeholder Meetings • Community announcement Booths • One-on-one meetings • Open Houses • Block Watches • Community Information Meetings • Emergency Notification • Public Hearing Notice • Notices to Newspaper • Post on the Property • <i>Cityscape</i> • Council Reports • Financial Reports • Door Hangers 	<ul style="list-style-type: none"> • Online Surveys • Mail out surveys and share results • Stakeholder Meetings • Focus Group • Public Hearings • Public notices and media releases • Educational Forums • Interviews with community members at the inception of a project • Quarterly Manager’s reports • City Council Reports • Oversight responsibilities for capital program elements by Council appointed Boards and Commissions at public meetings • Public boards and commission presentations • Community Meetings with residents 	<ul style="list-style-type: none"> • Public Meetings/Work Sessions • Participation in Public Hearings • Citizen Advisory committees (i.e., <i>ad hoc</i> confined life span committees that are charged to review specific issue or topic and then dissolved) • Meet / discuss with Neighborhood Associations regarding projects • Individual, one-on one, property owner/resident meetings to mitigate conflicts • Coordination with partners (Flagstaff Unified School District, Northern Arizona University, Coconino County, Coconino Community College, Chamber, non-profits, etc.). • Committee Recommendations 	<ul style="list-style-type: none"> • Focus Group meetings • Community Advisory Committee • Public open houses • Form a Task Force with neighborhood/community representatives to work with staff • Council appointed citizen committees (i.e., established boards, commissions and committees of the City) 	<ul style="list-style-type: none"> • Ballot items (i.e., bonds or initiatives subject to voter approval) • Neighborhood/Community issue where majority opinion is required by law (e.g., improvement districts requiring majority of property owner signatures) • Boards of Adjustment¹ decisions (appeals go to the courts, not Council)

¹ **Not every tool will be used from each category- In order to move forward in the chart, each previous category must be used up to the appropriate category.

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Elizabeth A. Burke, City Clerk
Date: 11/08/2012
Meeting Date: 11/20/2012



TITLE:

Consideration and Adoption of Resolution No. 2012-40: A resolution of the Mayor and Council of the City of Flagstaff, Coconino County, Arizona, declaring official and adopting the results of the Special Election held on November 6, 2012.

RECOMMENDED ACTION:

- 1) Read Resolution No. 2012-40 by title only
- 2) Adopt Resolution No. 2012-40

Policy Decision or Reason for Action:

Arizona Revised Statutes §16-542A requires *"the governing body holding an election...meet and canvass the election not less than six days nor more than twenty days following the election."*

Financial Impact:

There is no financial cost associated with this specific action which has been folded into the overall cost of the election.

Connection to Council Goal:

Effective governance.

Has There Been Previous Council Decision on This:

The City Council did consider and adopt Resolution No. 2012-30 on July 17, 2012, calling for the Special Election to be held on November 6, 2012, and approving the ballot language.

Options and Alternatives

Because this action is legally prescribed, there are no other options.

Background/History:

On July 17, 2012, the City Council adopted Resolution No. 2012-30 which authorized the Special Election to be held on November 6, 2012, and approved the ballot language. The City contracted with Coconino County Elections to conduct this election in conjunction with the statewide elections on the same date.

The final numbers are not yet available from Coconino County, and staff does not anticipate receiving them until right before the meeting of November 20, 2012. However, the unofficial, preliminary numbers are as follows:

QUESTION NO. 405 - Forest Health and Water Supply Project		
Project		
YES	11,976	72.59%
NO	4,522	27.41%
TOTAL	16,498	
QUESTION NO. 406 - Core Services Maintenance Facility		
YES	8,402	52.85%
NO	7,497	47.15%
TOTAL	15,899	

The resolution will be completed with the final numbers and attached to the final staff summary prior to adoption at the November 20, 2012, Council meeting.

Key Considerations:

Required by state law to proceed with issuance of bonds for these projects.

Community Benefits and Considerations:

Advances the democratic process

Community Involvement:

Empower

Date of Council Approval:

Attachments: Resolution No. 2012-40

Form Review

Inbox	Reviewed By	Date
DCM - Jerene Watson	Jerene Watson	11/09/2012 08:56 AM
Legal Assistant	Vicki Baker	11/09/2012 09:07 AM
Deputy City Attorney	Michelle D'Andrea	11/09/2012 11:18 AM
DCM - Jerene Watson	Elizabeth A. Burke	11/09/2012 11:52 AM
Form Started By: Elizabeth A. Burke		Started On: 11/08/2012 05:36 PM
	Final Approval Date: 11/09/2012	

RESOLUTION NO. 2012-40

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF FLAGSTAFF, COCONINO COUNTY, ARIZONA, DECLARING OFFICIAL AND ADOPTING THE RESULTS OF THE SPECIAL ELECTION HELD ON NOVEMBER 6, 2012

RECITALS:

WHEREAS, ARS §16-642 requires that the City Council canvass the returns of a Special Election no earlier than six (6) nor later than twenty (20) days following the election; and

WHEREAS, the Special Election returns have been presented to and have been canvassed by the Flagstaff City Council.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. That the total number of ballots cast at said Special Election, as shown by the Election Summary Report attached to the staff summary in support of this resolution, was _____.

SECTION 2. That the following results of the November 6, 2012, Special Election are hereby declared official:

BALLOT QUESTION NO. 405 – Forest Health and Water Supply Protection Project

YES
NO

BALLOT QUESTION NO. 406 – Core Services Maintenance Facility

YES
NO

TOTAL REGISTERED VOTERS:
TOTAL BALLOTS CAST:
VOTER TURNOUT %:

PASSED AND ADOPTED by the Council and approved by the Mayor of the City of Flagstaff, this 20th day of November, 2012.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM

CITY ATTORNEY

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Jerene Watson, Deputy City Manager
Co-Submitter: Kevin Burke, City Manager
Date: 11/07/2012
Meeting Date: 11/20/2012



TITLE

Draft 2013 City of Flagstaff Legislative Priorities Agenda.

RECOMMENDED ACTION:

Review and discuss projects and positions proposed as legislative priorities for the City in 2013 covering regional, state and federal issues that provide guidance to City staff and contracted lobbyists representing the City in regional meetings, in state forums involving the Governor, state agencies or before the State Legislature, Congress and federal agencies.

INFORMATION

The attached Legislative Priorities agenda provides the platform that establishes City of Flagstaff legislative positions on issues, policies and projects of interest that may impact the Council's vision and mission in fulfilling City goals and objectives, promoting community values and quality of life. A final Legislative Priorities agenda will be drafted based upon Council comments and direction of the attached draft and brought back for adoption following tonight's discussion.

Attachments: [2013 Draft Legislative Priorities Agenda](#)
[Resolutions](#)
[Calendar](#)
[Protocols](#)

Form Review

Inbox
City Manager

Reviewed By
Kevin Burke

Date
11/08/2012 01:00 PM
Started On: 11/07/2012 08:21 PM

Form Started By: Jerene Watson

Final Approval Date: 11/08/2012



City of Flagstaff Intergovernmental Affairs Program

2013 LEGISLATIVE AGENDA PRIORITIES *DRAFT #6*

The City of Flagstaff Intergovernmental Affairs program addresses legislative initiatives at the county, state, and federal levels. The program mission is to develop and advocate for the Flagstaff community by fostering and maintaining relationships with individuals and entities that affect the City's interests. As a member of the League of Arizona Cities and Towns, the City of Flagstaff has signed onto the League resolutions in support of common legislative efforts of Arizona cities and authorizes staff or City representatives to take positions generally consistent with our legislative priorities.

The following objectives strengthen local government, promote City goals and defend the City against legislative actions by the County, State or Federal governments that would weaken our authority or take away traditional revenue sources and is presented as the 2013 Legislative Agenda for the City of Flagstaff.

Guiding Principles

- **Local Control:** Protect local revenues and local authority, which reflect core principles for local government. Flagstaff believes local government best represents local communities in the areas of regulatory, finance, and administrative decision-making. This representation requires opposing any unfunded mandates at the Federal and State levels
- **Regional Communication:** the County has a direct impact upon the quality of life in Flagstaff and it is essential that the City maintain positive relations and direct communications with our County partner to promote mutual legislative actions.
- **Council Goals:** Advancing or defending City Council adopted goals in effect during the 2013 legislative session does not require additional Council action.

State

- Protect state shared revenue to municipalities as a revenue percentage and a revenue source.
- Work to protect forest health by seeking state partnership funding at a level of \$870,000, leveraging local and federal funding resources to treat forest and range lands (thinning, debris, disposal, prescribed fire) to reduce wildfire threat, enhance watersheds, improve ecological health and protect communities (see end of memo for details).
- Obtain legislative authorities to hold serial inebriates in a detox facility for up to five (5) days to provide initial counseling and treatment opportunities.
- Retain and enhance economic development tools that enable cities to compete on a national and international level for business retention and attraction that further the economic viability of Flagstaff and greater Northern Arizona.

- Obtain permission to place a water pipeline in the I-40 right-of-way from Red Gap Ranch to Flagstaff (or USFS land)
- Support the Arizona Water Supply Revolving Fund, and the Legislators' Water Resources Development Commission. These entities legally and financially could support the acquisition of rural water supplies and the development of water infrastructure.
- Support Energy Districts through flexible financing district authority that can provide finance mechanisms for residents and commercial entities for upfront investment capital in energy efficiency and renewable energy improvements to their properties.
- Amend Arizona Revised Statutes to clarify the definition of electric bikes.
- Seek self administration of Transportation Enhancement and Safe to School grants, as well as Highway Safety Improvements Program funds, which is necessary due to Federal law eliminating local delivery of grants (self administration) so that now any grants received must be delivered by ADOT staff anywhere where the grant applies within the City.
- Support any state multimedia incentive bills introduced in an effort to increase the attraction possibilities of filming and the motion picture industry using Flagstaff and the greater Northern Arizona region to film motion pictures
- Support a Property Reclassification bill that provides certain tax benefits to companies in export or base industries in rural Arizona that make significant investments in these regions and provide high-paying jobs with adequate healthcare coverage which asks local jurisdictions to provide a consenting resolution agreeing to the property tax reclassification.
- Propose amendment to State Statute 32-144, allowing a non-registrant to design non-bearing walls in tenant improvement projects and decks or roof additions for townhomes.
-

Federal

- Rio de Flag Flood Control – Complete the Limited Re-evaluation Report and obtain approval by the Assistant Secretary of the Army. Secure additional funding while increasing the Water Resource Development Act (WRDA) authority to \$92 million. Pursue City of Flagstaff self-administration through the Army Corp of Engineers (ACOE)
- Water Settlement –Secure easement rights for required water transmission lines located within Interstate 40 right-of-way.
- Forest Health – Leverage voter approved bond dollars for forest restoration with federal dollars to maximize acreage to be treated and minimize municipal costs.
- Transportation - Secure authorization and fiscal resources for the Lone Tree Interchange and the 4th Street Bridge.
- I-11 Corridor Study - State a position on options being considered in the I-11 Corridor Study between Nevada and Arizona, investigating possible negative impacts to the Northern Arizona region and strategically prepare opposition to any proposed congressional funding as necessary.

Further Collaboration

Support regional, state and federal partnerships that may advance applicable legislation in support of the City of Flagstaff.

Regional	State	National
Coconino County	Northern Arizona University	National League of Cities and Towns
Northern Arizona Municipal Water Users Association (NAMWUA)	Coconino Community College	Conference of Mayors
Northern Arizona Council of Governments (NACOG)	League of Arizona Cities and Towns	Federal Agencies
Northern Arizona Intergovernmental Public Transportation Authority (NAIPTA)	State Agencies	
Chamber of Commerce	Tribal Nations	
Flagstaff Unified School District	Greater Arizona Mayors' Association (GAMA)	
Coconino Plateau Water Advisory Council		

Identified Forest Health / State Forest Wildfire Readiness State Partnership Needs

<u>PROGRAM</u>	<u>FUNCTIONAL AREA</u>	<u>ANNUAL COSTS</u>	<u>RATIONALE</u>
<i>Preparedness</i>	<i>Wildland Fire Qualifications System</i>	\$100,000	<u>Management & Administration:</u> Every Fire Department in the State is dependent upon ASF to maintain the Wildland Fire Incident Qualification System (IQS), to review and approve updates for every individual listed in a timely manner, and issue, on a recurring basis, current Fire Qualification Cards for those in the system.
	<i>Wildland Fire/Incident Management Training</i>	\$ 55,000	<u>Support:</u> Fire Departments, the State's response force, are challenged by funding shortages to provide necessary training. Funding will be used to support Dept training needs to support local and inter-agency response efforts. <i>Challenge approach with local fire districts and communities?</i>

<i>Prevention</i>	<i>Firewise</i>	\$ 80,000	<u>Outreach, Training and Certification:</u> Every dollar spent on this program saves upwards of \$10 on suppression. Fire Adapted neighborhoods and communities can successfully withstand wildfire, thus reducing public risk, damage, and both suppression and recovery costs.
	<i>State Forest Health Council</i>	\$ 20,000	<u>Administrative and Operational Support:</u> A coordinated, multi-agency, State-led effort provides a platform for discussion, resolution, and joint action to address the issues faced in AZ. Cost to include targeted projects or efforts that support the Council's goals.
<i>Hazard Mitigation</i>	<i>State Lands</i>	\$450,000	<u>Treatments:</u> State-owned range and forest lands require attention to reduce fire threat, protect watersheds, and ensure safe communities. Providing funds to accomplish this work puts the State in a leadership role, demonstrates a commitment to the environment, builds credibility with partners, and allows federally-provided funds to be leveraged to achieve greater impact. <i>Challenge approach with local fire districts, neighborhoods, communities?</i>
<i>Response</i>	<i>AZ Type II Incident Management Team (IMT)</i>	\$ 15,000	<u>Support:</u> The State sponsors an IMT. Funds will be to encourage and support annual meetings, training, equipment, and supply needs.
	<i>Dispatch Center</i>	\$150,000	<u>Support:</u> Staff and admin support to fully manage all aspects (Resource status, tracking, assignments, agreements, communication, etc) of the State's Interagency Incident Management Dispatch Center in Phoenix, responsible to provide dispatch services to all Fire Departments engaged in wildland fire throughout the State and beyond.

TOTAL ANNUAL COST \$870,000



2013 FINAL RESOLUTIONS

**As adopted
By the Resolutions Committee
For the 2013 Municipal Policy Statement
On August 28, 2012**

Resolution #1

The cities and towns of Arizona request that the Arizona Legislature demonstrate its commitment for fiscal accountability and economic development by enacting a budget that does not interfere with existing statutory formulas for the distribution of funds to local governments as well as restores funding to programs that aid local government with infrastructure and job creation. The Legislature is especially urged to discontinue diversions of Highway User Revenue Fund monies to fund the operations of state agencies.

Submitted by: Bullhead City, City of Kingman, Lake Havasu City, Yuma, Apache Junction, Sierra Vista

A. Purpose and Effect of Resolution

The purpose of the resolution is to assert that the League and its members believe in fiscal accountability; money collected and designated for a specific purpose should be used for that purpose. The effect of the resolution will be to restore proper funding streams, resulting in increased funding for an array of projects. Specifically, the Highway User Revenue Fund (HURF), State Lake Improvement Fund (SLIF), Statewide Transportation Acceleration Needs (STAN) account, the Heritage Fund, and Local Transportation Assistance Fund (LTAF) are all areas where funds have been swept, diverted or eliminated. This resolution seeks to return those programs to a fully funded status.

With respect to HURF, funding sources include fuel taxes, motor carrier fees, vehicle license taxes and motor vehicle registration fees. Statutes provide a method of distributing these funds among the state, counties, and cities for the purpose of construction, improvements and maintenance of streets and roadways within their jurisdictions. The State has swept portions of these revenues for several years, mainly to support DPS. These sweeps affect every municipality and county in the state. Delayed maintenance on streets has caused many streets to now need total replacement, at a much greater cost. Arizona is no longer a place for new commerce and industry to locate because of the poor condition of transportation infrastructure.

In addition to the direct impact on cities' streets and roadways, this slowdown and halt of street construction and maintenance has cost jobs. The Arizona chapter of the Associated General Contractors estimated in 2011 that an estimated 42,000 jobs have been lost due to the lack of highway construction. This loss has had a negative impact on the economic viability of the State.

B. Relevance to Municipal Policy

Municipalities rely on items like HURF, LTAF, SLIF and Heritage funds to help bear the costs of local projects that provide both local and statewide benefits. Every municipality will benefit if funds like HURF, LTAF, SLIF and Heritage funds are allowed to distribute monies as specified in state law.

With regard to HURF, the longer the attention to street maintenance is neglected, the more costly it becomes to bring streets up to even average condition. Many Arizona counties, cities, and towns experience a significant rise in population during the winter months. The declining street infrastructure negatively affects the state's tourism industry and makes other warm states more attractive to these visitors.

C. Fiscal Impact to Cities and Towns

The current diversion of HURF annually costs cities and towns \$36.5 million. A restoration of LTAF would provide millions in funding to municipalities outside of "Area A."

D. Fiscal Impact to the State

Generally there will be a negative impact to the state only to the extent that funds are not currently being distributed according to statutory formulas and are instead being diverted to the state general fund.

E. Contact Information

<u>Name: Toby Cotter</u>	<u>Title: City Manager</u>
<u>Phone: 928-763-0122</u>	<u>Email: tcotter@bullheadcity.com</u>
<u>Name: Connie Scoggins</u>	<u>Title: Assistant City Attorney</u>
<u>Phone: 928-373-5055</u>	<u>Email: Connie.scoggins@yumaaz.gov</u>

Resolution #2

Urges the Legislature to support economic development of cities and counties, and to increase access to new tools, such as the formation of Revenue Allocation Districts, which allow cities and towns to invest future revenue in economic development projects.

Submitted by: City of Yuma, Lake Havasu City, City of Sierra Vista, City of Kingman, City of Bullhead City

A. Purpose and Effect of Resolution

The purpose of this resolution is to encourage greater economic development through collaborative partnerships between cities, counties and the state. By working together, a synergy can be formed that will increase the effectiveness beyond the sum of each working individually. It is important that economic development continue to be a goal for the League and partnerships will help achieve that goal.

Large-scale economic development projects are a tremendous catalyst for job creation and economic growth in Arizona cities and towns. However, in today’s financial environment, financing the upfront costs of large projects, which often include substantial public components, can often be difficult, if not daunting. Creating a Revenue Allocation District may help solve this dilemma by allowing anticipated revenues from a completed project to be used to finance key components of the project itself.

For example, if Lake Havasu City wanted to encourage redevelopment of the English Village area around the London Bridge, the city could form a Revenue Allocation District around the area. The dollar amount of TPT and property tax collected from within the English Village district would be established as the base on the date that district was formed. In future years, any increase in either of these revenue streams above the established base could be used by the district to fund public improvements within the district. Most importantly, the district would have the authority to issue bonds to help finance the project and those bonds would be repaid by new revenue generated within that district.

B. Relevance to Municipal Policy

Cities and towns drive the economy. Joint economic development efforts will strengthen the ability of all to accomplish the common goal of improving our economy. Revenue Allocation Districts would give cities another option for supporting economic development projects.

C. Fiscal Impact to Cities and Towns

By partnering, a greater economic effect is possible for all entities involved. Partnering for economic development will bring jobs, reduce unemployment, and provide new revenues for cities, counties and the state. Supporting local governments’ efforts to bring business to Arizona

would allow both the state and local governments to experience increased employment and tax revenues.

Revenue Allocation Districts capture only the city portion of new revenue that is generated as a result of a project being built. Other taxing jurisdictions such as schools and community colleges would not be affected. Municipal taxpayers located outside the district would also be held harmless.

D. Fiscal Impact to the State

State programs are critical in the effort to attract new business to Arizona and to assist local businesses considering expansion in Arizona versus another state. By creating and funding economic development programs to support local governmental efforts' to bring business to Arizona, both the state and local governments would experience increased employment and tax revenues. Encouraging and supporting economic development partnerships between cities and counties to bring business into the state can increase revenues to the State.

No state funds would be involved in the funding of Revenue Allocation Districts because the district pertains only to the city portion of the TPT and property tax. However, the state would receive increased income tax collections from the new employees that work within the district as well as increased corporate income tax receipts from the companies that move into the district.

E. Contact Information

<u>Name: Connie Scoggins</u>	<u>Title: Assistant City Attorney</u>
<u>Phone: 928-373-5055</u>	<u>Email: connie.scoggins@yumaaz.gov</u>
<u>Name: Charlie Cassens</u>	<u>Title: City Manager, Lake Havasu City</u>
<u>Phone: 928-453-4141</u>	<u>Email: cassensc@lhcaz.gov</u>

Resolution #3

Allow municipalities to receive credit for excess solar generation beyond that needed at publicly owned sites where the solar generation may occur, and apply that credit to power consumption at other city, town, or county sites/facilities.

Submitted by: City of Sedona, City of Flagstaff, Town of Clarkdale, City of Kingman

A. Purpose and Effect of Resolution

This will clearly provide a basis for use of solar generated power to generate power more nearly commensurate with an agency’s total power consumption where the area to do so exists. This is consistent with increasing the use of alternative energy sources within the State in a sustainable way.

B. Relevance to Municipal Policy

The reduction of municipal costs can often be secured through allowing development of alternative energy facilities on municipal properties. Currently the amount of energy that can be developed for municipal use at beneficial pricing is limited to that which can be used at the facility where the energy is being generated. This means that development of more energy is discouraged, even though the municipality has energy demands at locations where it may not be possible to place an energy generation facility. This resolution, by allowing the power generated at one location to be credited for other municipal locations, encourages efficient development of alternative energy sources on a municipal scale, which is likely to be more economic for the benefit received.

C. Fiscal Impact to Cities and Towns

Cities may be able to more economically develop alternative energy sources.

D. Fiscal Impact to the State

None is anticipated.

E. Contact Information

<u>Name: Charles Mosley</u>	<u>Title: Public Works Director/City Engineer</u>
<u>Phone: 928-204-7132</u>	<u>Email: cmosley@SedonaAZ.gov</u>

Resolution #4

Request that A.R.S. 34-603 C1e, concerning the use of the procurement or final list for qualification based selection processes; allow the use of such final list until a contract for construction is entered into. The Agent may pursue negotiations for pre-construction services with other persons on the list provided that the agent shall not in that procurement recommence negotiations or enter into a contract for the construction or professional services covered by the final list with any person or firm on the final list with whom the agent has terminated negotiations.

Submitted by: City of Sedona, Town of Camp Verde, Town of Clarkdale

A. Purpose and Effect of Resolution

In 2010 section 34-603 C1e was added to A.R.S regarding procurement of construction services using non-bid methods (alternative procurement). The impact of this addition was to require agents to restart the alternative procurement process or bid construction projects in the event that a construction price could not be negotiated. The impact of the proposed change is to allow the agent to utilize another person or firm on the list in the event that a construction price could not be negotiated with the initially selected party. The resolution prohibits reopening negotiations with a party if they have been terminated. Only one party may be negotiated with at a time.

The current law prohibits an option that had been previously allowed, due to silence of prior legislation. The restriction imposed by the current legislation places the agent at the mercy of a contractor late into the project development process when the construction price is being negotiated. The contractor may insist on unreasonably high negotiated price. In this case the agent is forced to bid the project, or restart the procurement process, or accept the high price. Bidding the project may not be desirable when project familiarity is important to an agent in pursuing construction of a project (for instance business area improvement projects), and may result in loss of the ability to contain construction claims. Restarting the procurement procedure may unreasonably delay the project. Accepting the high price is a disservice to the public.

The City of Sedona was able in 2009 to construct a project by using the second low proposer when it could not obtain a satisfactory price from the first ranked proposer. This allowed the project to successfully continue to construction, using the benefits of the Construction-Manager-at-Risk approach. The first ranked proposer's price was well above the engineer's estimated price, while the second was much more in line. The project was successfully completed, with return of some unneeded funds.

B. Relevance to Municipal Policy

Alternative Delivery Methods have benefits beyond costs, however, when the process allows a contractor to attempt to push an agent to reject excessive costs, at the risk of losing these benefits for the project, the public is placed at an unfair disadvantage. Modifying the process to give the

agent the option to continue with the Alternative Delivery Method without excessive loss of time due to starting the procurement over again, or other disadvantages seems to be in keeping with allowing the use of Alternative Delivery Methods in the first place. As a matter of public policy it does not seem that qualification based selection processes should reduce incentives for unfair pricing. The public policy concern regarding bid-shopping is dealt with by the allowing negotiations with only one proposer at a time, and prohibiting reopening closed negotiations.

C. Fiscal Impact to Cities and Towns

Cities would be more assured of being able to secure realistic pricing using Alternative Delivery Methods, from the initially selected proposer, while maintaining the benefits on appropriate projects of using these delivery methods.

D. Fiscal Impact to the State

None anticipated

E. Contact Information

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Resolution #5

Amend the Arizona State Statutes to require the Alternative Contribution Rate (ACR) paid by employers to the Arizona State Retirement System (ASRS) for employees who retire from an employer participating in ASRS and later return to work for an employer participating in ASRS to be applicable only to employees hired after July 1, 2011. This essentially holds employers harmless for hiring decisions made prior to the passage of pension reform legislation in 2011. For hires made after July 2011, employers knew that they would be responsible for paying the ACR for employees who met the criteria.

Submitted by: Town of Queen Creek, City of Apache Junction, City of Kingman

A. Purpose and Effect of Resolution

In 2011 the Arizona State Legislature passed a comprehensive pension reform package that included the establishment of an Alternative Contribution Rate (ACR). The ACR is to be paid by employees who retire from an employer participating in the Arizona State Retirement System (ASRS) and later return to work for an employer participating in ASRS. The employer is responsible for paying the ACR. As the law was passed the ACR is to be paid for employees hired both before and after the passage of the legislation. This resolution would amend Arizona State Statutes to require the ACR paid to ASRS be applicable only to employees hired after July 1, 2011. This essentially holds employers harmless for hiring decisions made prior to the passage of pension reform legislation in 2011. For hires made after July 2011, employers knew that they would be responsible for paying the ACR for employees who met the criteria.

B. Relevance to Municipal Policy

This is relevant to municipal policy because it impacts local hiring decisions as well as municipal budgets. Many smaller cities and towns have difficulty attracting experienced applicants to fill senior positions within their organizations. Often times budget limitations prevent small cities from being able to offer competitive salary packages. The solution for many cities and towns is to hire individuals who have retired from other communities. This allows the municipality to hire an experienced individual at a salary the municipality can afford. The pension reform package passed by the Arizona State Legislature in 2011 now requires municipalities to pay an ACR to ASRS for these types of employees. This is not an expense that municipalities anticipated for employees hired before 2011. The proposed resolution does not oppose the concept of the ACR, but does make it applicable only to employees hired after July 2011. This insures that municipalities have the opportunity to be informed about the costs associated with hiring individual before making that hiring decision and holding cities and towns harmless for hiring decisions made prior to 2011.

C. Fiscal Impact to Cities and Towns

The anticipated positive fiscal impact to cities and towns is \$250,000. The total amount of ACR paid by cities and towns statewide for employees hired before July 1, 2011 is unknown. For the Town of Queen Creek if this legislation is signed into law, it will translate to an annual savings of \$20,000.

D. Fiscal Impact to the State

The estimated positive impact to the State of Arizona budget is \$2 million dollars because the State and other ASRS employers will not have to pay the ACR for applicable employees. There is a potential negative actuarial impact to ASRS, but the impact is unknown without further fiscal analysis from the system. This legislation would not impact ASRS's ability to collect the ACR for all hires made after July 2011.

E. Contact Information

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Resolution #6

Urges the Legislature to amend A.R.S. § 39-121.01 to place reasonable limitations on requests for public records that are overbroad or abusive. Such limitations may include the scope of requests, the time period covered in a request, and the number of requests from a single individual during a specified time period and allowing charges for requests that exceed statutorily established limitations.

Submitted by: City of Yuma, Town of Oro Valley, City of Apache Junction, City of Bullhead City

A. Purpose and Effect of Resolution

This Resolution seeks amendments to public records laws to discourage overbroad and abusive requests for public records.

Municipalities receive and process thousands of requests for public records each year. Most of these requests are reasonable, coming from persons who may or may not make other requests but whom seek specific and limited information or specific requests from the media. Other requests require preparation of voluminous amounts of documents or materials and substantial amounts of staff time in multiple departments to locate, review, and prepare the documents for review and/or copying.

But other requests are overbroad, such as requests for “All documents, e-mail, memoranda, etc. pertaining to the city action” These documents can cover many years, require production of hundreds or thousands of documents, and involve research and review by several City departments.

Municipalities also receive and process numerous requests for public records from only a few individuals. For example, in Yuma, one individual is responsible for the following statistics:

<u>Year</u>	<u>Number of requests</u>
2008	114
2009	120
2010	85
2011	155

These requests, some of which require locating massive amounts of documents from across city departments in different locations, have a significant impact on city resources. Such requests from one or two individuals require a disproportionate amount of city-wide staff time to locate, review, and prepare the records for examination. Oftentimes, a requestor may never review the documents after being notified they are ready for inspection. As an example, Yuma has received 46 requests in 44 business days from a single individual, including nine filed in one day, while 25 filled requests waited to be reviewed. These overbroad and abusive requests by a few individuals abuse the rights and privileges these laws were enacted to protect.

Amending Title 39 to give municipalities authorization in certain instances to restrict the number or frequency of requests made by a single individual and to limit certain requests such as those with a broad scope or that cover an extensive time period will allow cities to both comply with spirit and intent of public records laws while discouraging overbroad and abusive requests.

B. Relevance to Municipal Policy

Transparency is an essential component of a responsive representative government. Cities endeavor at all times to be open, accessible and responsive to their citizens. Making records available for inspection by the public and the media is important to maintaining transparency and trust in government. Most citizens and the media are conscientious and purposeful in their requests. However, requests by a few individuals which are overbroad or abusive and require disproportionate amounts of city-wide staff time do not further the goal of transparency.

C. Fiscal Impact to Cities and Towns

Cities will still respond to public records requests in the spirit of transparency and openness in government. Allowing cities some relief from abusive public records requests or to identify potentially abusive practices will free staff to perform other governmental functions.

D. Fiscal Impact to the State

There will be no fiscal impact to the State. However an amendment could include public records requests of the State, which will result in savings.

E. Contact Information

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Resolution #7

This resolution requests that ARS 9-441.01 be repealed, thereby exempting cities and towns of the requirement that the local governing body adopt a resolution declaring specific portions of the jurisdiction a “housing development area,” for the purpose of assisting with the acquisition, construction or rehabilitation of housing.

Submitted by: City of Sedona, Town of Clarkdale

A. Purpose and Effect of Resolution

Per ARS 9-441.01 it is a valid public purpose of municipalities to assist in providing for the acquisition, construction or rehabilitation of housing and other facilities necessary or incidental to the housing and primarily for the use of those residing in the housing, in areas that are declared by the municipality to be housing development areas.

ARS 9-441.01 also requires that before exercising any of the powers conferred on municipalities by this article, and before any public moneys can be spent, the local governing body must adopt a resolution finding that a shortage of housing, or a certain type of housing, exists in a certain area of the municipality. These areas must be declared to be “housing development areas,” thereby designating those areas as areas where assisting in the development of housing is in the interests of the public health, safety, morals or welfare of the residents. The resolution must also establish specific boundaries depicting what constitutes the housing development area.

This resolution requests a repeal of ARS 9-441.01 to exempt cities and towns from having to designate certain areas as housing development areas. In many cities and towns, such a designation of an entire area of the city for housing development is impractical. Often, municipalities merely want to develop or improve individual parcels or lots throughout the city in order to provide better overall housing.

B. Relevance to Municipal Policy

While it is critical to engage the citizens of the community in any planning around housing development or redevelopment, the requirement to adopt a map depicting an entire area as a “housing development area” could create an inaccurate impression that the city or town intends to undergo large-scale housing development projects throughout such an area. Given the concerns and stigmatization that arise as a result of following the public process to adopt such areas, this requirement may mislead residents and/or derail a process which is intended to assist the city or town with limited housing needs that are dispersed throughout the entirety of a small community. The locality should be allowed to determine what methods of citizen participation and engagement would be appropriate for that community and for those areas in which housing development was deemed necessary.

C. Fiscal Impact to Cities and Towns

N/A.

D. Fiscal Impact to the State

N/A

E. Contact Information

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Resolution #8

Urges the Governor and the State Legislature to develop and pass legislation that allows greater flexibility in annexing county islands.

Submitted by: Marana, Sierra Vista, Oro Valley, Tucson

A. Purpose and Effect of Resolution

Over the past 30 years, the State Legislature has made changes in annexation law in response to actions by local governments that have unintended, and often negative, consequences. In 1980, the Legislature disallowed “strip” annexation by communities wanting to annex only highly lucrative commercial properties. That same legislation also changed the law further to disallow the creation of county islands, recognizing that having such islands completely surrounded by an incorporated city or town is not good public policy. Other steps have been taken within state law to improve the process, but more are needed.

Although new county islands can no longer be created, unfortunately a number of cities and towns in Arizona still have such areas within their incorporated limits. The islands are governed by the laws of their respective county, which is a branch of local government largely designed to provide rural services and a one size fits all approach to planning and growth management. Depending on the individual county/city, disparities between county and city regulations may exist, and in many cases, these services and/or enforcement differences are taking place literally across the street from areas with the same density and neighborhood type.

It is time to allow a city or town more flexibility to extend urban services to these islands. This could include: allowing a city to shrink an island annexation area once the process has started if there is not enough interest to proceed with the entire area; removing the tie to assessed valuation in the process; allowing property owners with multiple properties within an annexation area to have a vote for each property; requiring property owners to sign a petition to opt out of a county island annexation rather than opt in, to address those areas with high out-of-town owners; or any combination of these methods. The ideas would be discussed with legislators to determine the most viable.

B. Relevance to Municipal Policy

Consistent service delivery to a community’s residents insures that all areas of a city or town are appropriately managed. Counties, by design, are funded to provide a rural level of service. But such a service level within the middle of an urban area can, and has, led to problems that bleed over into incorporated cities.

C. Fiscal Impact to Cities and Towns

If legislation moves forward that allows greater flexibility in annexing county islands, it would be up to cities and towns themselves to determine timing on annexing these areas if they choose. Those communities that choose to move forward will need to extend their services to newly annexed areas. Those costs would be different for each community. But nothing in the legislation should require a city or town to annex county islands if they feel they cannot provide services. It should be noted that counties currently providing services to these islands, if annexed, would save money not doing so in the future.

D. Fiscal Impact to the State

There is no fiscal impact to the state when it comes to which local government provides local services. Minor adjustments in state-shared revenues would be made based on population changes, but it would be a reshuffling of the total allocation, not an increase in state revenues to local government. Eliminating barriers to annexation would also encourage economic development that would ultimately result in increased revenue to the state.

E. Contact Information

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Resolution #9

Urges the Legislature to fully fund state parks and, where practical, to work in partnership with cities and towns for the operation and maintenance of Arizona State Parks (ASP) under long term leases, for a nominal amount, and to participate financially by providing for a dedicated funding mechanism to share a portion of the costs.

Submitted by: City of Yuma, Town of Oro Valley, Town of Camp Verde, City of Kingman, City of Bullhead City

A. Purpose and Effect of Resolution

When the State became unable to continue full support of its parks, local governments and non-profit groups in Arizona stepped up to the plate and entered into short term agreements to operate and maintain the parks in or near their jurisdictions (Alamo Lake, Boyce Thompson Arboretum, Fort Verde, Homolovi, Jerome, Lost Dutchman, Lyman Lake, McFarland, Picacho Peak, Red Rock, Riordan Mansion, Roper Lake, Tombstone Courthouse, Tonto Natural Bridge, Tubac Presidio, Yuma Prison, Yuma Quartermaster Depot) so Arizona residents and visitors alike could continue to enjoy the rich recreational experiences that state parks provide. This arrangement has proven to be successful. This resolution asks the State to continue and to expand this partnership with local jurisdictions on a long term basis.

Making the current partnerships sustainable in the long-term and increasing the number of partnerships will make the entire park system more viable over time. Further utilization of partnerships (non-profit, public and private) will necessitate financial support from local governments, non-profits, and the State.

This resolution will assure that State Parks remain open to the public as a recreational, environmental, and cultural benefit that supports and generates tourism, and provides important revenue to not only local, but also to the regional and statewide economies. In addition, the availability of the State Parks System will continue to provide a high quality of life for Arizona residents and serve as an attraction to new residents.

B. Relevance to Municipal Policy

State Parks are essential to the rural economies and people of Arizona, and the continued threat to their operation leaves a continued threat to the still weak local economies in rural Arizona. In addition, Arizona's natural environment, including access to the environment through availability of State Parks across the state draws millions of tourists to Arizona, benefiting every entity that relies on tourism as part of its economy.

Increasingly, ASP is reliant on partnerships with local governments to make its state parks viable. This comes at a time when local resources are shrinking.

C. Fiscal Impact to Cities and Towns

Visitors' expenditures combined with their direct and induced impacts resulted in \$21,171,627 in Federal Government taxes and \$22,762,326 in state and local government taxes. The total tax impact of Arizona State Park visitors in 2007 was \$43,933,953.

D. Fiscal Impact to the State

The economic benefit of the State Park System is statewide. Calculated at the state level for FY07, the total economic impact of Arizona State Parks (direct, indirect and induced) on the state was \$266,436,582. This total state income resulted in 2,397 direct jobs and 950 indirect jobs for a total of 3,347 jobs statewide. The jobs provided were generated directly, through State Parks employment, but also indirectly, for the tourism industry that is supported and enhanced by the existence of State Parks.

Visitors' expenditures combined with their direct and induced impacts resulted in \$21,171,627 in Federal Government taxes and \$22,762,326 in state and local government taxes. The total tax impact of Arizona State Park visitors in 2007 was \$43,933,953.

(Economic figures cited are from "The Economic Impact of Arizona State Parks 2007" study prepared by The Arizona Hospitality Research & Resource Center, Center for Business Outreach and The W. A. Franke College of Business, Northern Arizona University in February 2009.)

E. Contact Information

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Resolution #10

Requests that A.R.S. 36-1606, concerning consumer fireworks regulation; state preemption; further regulation of fireworks by local jurisdiction, be amended to allow an incorporated city or town and a county within the unincorporated areas of the county to regulate the sale and use of permissible consumer fireworks.

Submitted by: City of Prescott, Town of Prescott Valley, Town of Chino Valley, Town of Camp Verde, Town of Clarkdale, City of Sedona.

A. Purpose and Effect of Resolution

In 2010 the Arizona State Legislature lifted the statewide ban of the sale of consumer fireworks. The Legislature allowed municipalities to ban the use of consumer fireworks within incorporated limits but not the sale. This resolution seeks to enable the elected governing body of each municipality and county in Arizona to decide for their constituents whether or not to allow the sale in addition to use of consumer fireworks within their geographic boundaries (unincorporated areas in the case of counties).

On May 2, 2011, a fire was started in the backyard of a home in Prescott Valley, Arizona, as a result of an unattended 11 year old child playing with a consumer firework (sparkler). Central Yavapai Fire District personnel were called to respond to the scene. Upon their arrival the fire had been extinguished by the residents after burning about a tenth of an acre. This incident occurred even though the Prescott Valley Town Council enacted an ordinance that banned the use of all consumer fireworks within Town limits.

B. Relevance to Municipal Policy

In addition to the potential cost and damage of fires, HB2246 which allowed fireworks to be sold in Arizona, intruded into local control. The evaluation of risk and the decision to allow consumer fireworks to be sold and used in a community is best left to the governing body of that community. This resolution does not place any restrictions or mandates on any community, rather it allows each to decide what is best.

C. Fiscal Impact to Cities and Towns

There will a minimal loss in sales tax collection if a municipality chooses to ban the sale of consumer fireworks. The local control aspect of this resolution would allow each city and town to weigh the potential costs of damage to property and public safety response with the benefit of allowing the sale of consumer fireworks.

D. Fiscal Impact to the State

The State could experience a minimal negative reduction in revenue dependent upon the number of municipalities that choose not to allow the sale of consumer fireworks.

E. Contact Information

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Resolution #11

To seek legislative actions that assist local, collaborative groups with resources and funding for planning and proactive actions to improve forest health and reduce wildfire threats, promote the economic engine of tourism dollars coming to the state, driving down the costs and human toll wildfires take as well as the cost of watershed sustainability.

Submitted by: City of Flagstaff, City of Sedona, City of Scottsdale, City of Sierra Vista

A. Purpose and Effect of Resolution

Statewide awareness and attention to the value of collaborative planning, implementation, and monitoring of our forests to improve forest health, reduce the human and economic costs from catastrophic disasters resulting in the loss of property, life and recreational destinations for our residents and tourists who generate revenues. As we have learned from the many fires of the past decade, particularly the Rodeo-Chedeki Fire of 2002, the Schultz Fire of 2010 and the Wallow and Monument fires of 2011, there are things we must do to greatly reduce catastrophic losses from occurring wherever they strike. Proactive, coordinated efforts have been studied and proven to reduce impacts from and costs of such events.

B. Relevance to Municipal Policy

Communities across the state face increasing economic and life threats as the result of degrading, unsustainable, forest-and-range conditions. The threat is not only catastrophic wildfire that destroys the natural environment our residents enjoy for recreation, but also includes post-fire effects. Loss of property, sales tax and tourism, livelihood, displacement of residents, erosion, flooding, loss of wildlife habitat, etc. exists for all jurisdictions and ownerships because of the statewide impact on economic factors such as reduced State Shared Revenues. Joint-action by all parties (local, county, state, and federal) is required to adequately and satisfactorily address the issue which starts with planning at the local and regional levels.

Community-based stakeholder groups working on landscape scale areas and focused upon appropriately-scaled treatments, using a science-based model, are critical to our success. Adequate environmental analysis, transparent decision making, application of Firewise practices, and sufficiently sized and appropriate forest treatments must be planned for. Selective thinning, debris disposal, prescribed fire, and biomass utilization, are crucial to the future of our State's forests and rangelands, communities, and our corporate well-being.

C. Fiscal Impact to Cities and Towns

The negative economic impact of such events is beyond the capacity of any single community to bear. The costs of the past catastrophic fires to each area of the state rose to the millions of dollars levels.

D. Fiscal Impact to the State

The economic impact of such events that have already occurred is in the millions of dollars and it would be economically sound for the state to appropriate planning funds for forest health. The Federal government has identified four of northern Arizona's forests to be part of the 4FRI Initiative with federal funds appropriated to that effort as a pilot program for the nation.

E. Contact Information

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Resolution #12

Urges the Governor and the State Legislature to develop and pass legislation that supports efforts to reduce the shortage of physicians, physician assistants and nurse practitioners in the State of Arizona. The League encourages the Legislature to consider: expanding the level of Graduate Medical Education (GME) funding; expanding medical school capacity within the state universities; addressing issues affecting the attraction and retention of physicians, physician assistants and nurse practitioners from out-of-state; reducing obstacles to medical practice in Arizona; and addressing any other major issues that affect a health care-provider's decision to locate or remain in Arizona to practice.

Submitted by: City of Sierra Vista, City of Bisbee, City of Yuma, Town of Marana, City of Douglas, City of Flagstaff, Town of Clarkdale.

A. Purpose and Effect of Resolution

Part II of the 2005 Arizona Physician Workforce Study, conducted by specialists from the University of Arizona and Arizona State University, identified that since 1992 to 2004, Arizona's physician supply is not keeping up with its population growth. The situation has not gotten any better. Arizona has 219 physicians per 100,000 population, well below the national average of 293 per 100,000. Rural communities in the state are affected by the shortage even more, with one county at under 60 physicians per 100,000. Specialty physicians are particularly difficult to recruit and retain. By way of example, the City of Sierra Vista's regional hospital is now the only location in all of Cochise County in which a woman can deliver a baby outside of a setting in which emergency services are available. In addition, as the Baby Boomer population ages, more of the older doctors in rural communities will retire, potentially exacerbating the situation.

Since approximately 60% of physicians who complete their training in Arizona teaching hospitals remain to practice within the state, enhancing the Graduate Medical Education (GME) program is a critical component to addressing this shortfall, and has been identified by previous gubernatorial task forces. Also recommended were efforts to reduce obstacles to medical practice in Arizona. Recruitment and retention of health care providers is hampered throughout the state by higher professional liability premiums as compared to other states, and this is certainly an obstacle needing attention. Recent actions to reduce funding to the State's Medicaid program will only exacerbate the issue statewide. Now, more than ever, action is needed to retain existing health care providers, and insure Arizona is a desirable place to practice for others.

B. Relevance to Municipal Policy

Health care is a key component of the overall quality of life for any community. It is an attraction and retention component for both business and military activities, both of which are the backbone of the state's economy. An adequate supply of health care providers is the foundation of quality healthcare, and although most barriers to recruitment and retention are

beyond the direct control of local government, the health of our citizens should be a strong consideration for local legislative input and advocacy. The National League of Cities has incorporated citizen health in its overall federal legislative platform by developing and advocating for health programs for children and youth.

C. Fiscal Impact to Cities and Towns

There should be no negative fiscal impact on Cities and Towns. To the contrary, not only will there be an intrinsic gain to Cities and Towns in overall quality of life of their residents if accessibility to health care is improved, but all communities in the state can use improved health care as an economic development tool in the future.

D. Fiscal Impact to the State

There are some solutions, such as investing in the graduate medical program, which will require additional investment by the state in medical education. However, some recommendations can be implemented with little to no effect on state finances. But like the cities and towns, improvement in access to health care results in an improvement in the ability of the State to attract corporations who value health care access as a major factor in relocation to Arizona. In addition, more health care providers in the rural areas of the state will reduce the number of trips on already overcrowded roadways those residents from those areas make to the Phoenix or Tucson metropolitan areas to seek treatment.

E. Contact Information

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Resolution #13

Urges the Governor and the State Legislature to develop and pass legislation or engage in other activities that supports and advocates for resources to improve Arizona’s ports of entry with Mexico and related infrastructure, and will enhance international trade and improve the global competitiveness for Arizona with Mexico.

Submitted by: City of Sierra Vista, City of Douglas, City of Bisbee

A. Purpose and Effect of Resolution

Mexico is Arizona’s top trading partner. Our shared border is the gateway for \$26 billion worth of imports and exports and 44 million people (crossings) each year. Mexican visitors spend approximately \$7.3 million each day in Arizona, providing an annual impact of \$2.3 billion. Trade with Mexico supports six million jobs in the U.S. and tens of thousands jobs in Arizona. In addition, Mexico is now the third-ranked commercial partner of the U.S. and the second largest market for U.S. exports.

Despite this wealth of opportunity, recent studies show that competing border states such as Texas are far outpacing Arizona when it comes to developing trade relations with Mexico. While Arizona exports to Mexico totaled about \$5.7 billion in 2011, in Texas the total was \$87 billion. Mexico is the 13th largest economy in the world, and in 2010, Mexico invested an unprecedented five percent of its Gross Domestic Product (GDP) in infrastructure.

Arizona’s ports of entry face significant challenges, including aging infrastructure and an often inadequate number of customs and border protection agents needed to staff them. A heavy focus on security has impacted the tourism industry by diverting investments from needed improvements and leaving a multibillion dollar deficit in border infrastructure. For example, while investments of \$200 million into the expansion to the Nogales port of entry are progressing, no funding is allocated at this time (pending completion of appropriate studies and reviews) toward improving Arizona State Route 189, which connects the Mariposa Land Port of Entry to I-19. The U.S. General Services Administration (GSA) describes the Mariposa Land Port of Entry as “...one of the United States’ busiest land ports...serving as the main entry point for fresh produce entering from Mexico...”

With 23 million northbound visitor border crossings and 373,000 northbound truck crossings, long waits at the border and congestion north of our ports of entry suppress economic development. In addition, greater emphasis is needed to upgrading southbound passenger vehicle and pedestrian crossings. And with significant public safety concerns arising from the 602 train crossings annually, there is clearly a need to develop an alternative to Arizona’s sole rail port of entry in Nogales in order to respond to increasing manufacturing and sea port expansions in Mexico. According to the Arizona State University North American Center for Transborder Studies, needed enhancements include staffing, technology, infrastructure and communications.

Through the League of Arizona Cities and Towns, Arizona's cities and towns should unite in support of legislation or other policies that will enhance international trade and improve the global competitiveness for Arizona with Mexico, which is the 13th largest economy in the world and the State's number one trading partner.

B. Relevance to Municipal Policy

The vast majority of the economic benefit generated by trade passing through Arizona's ports of entry is realized within the State's cities and towns. For example, nearly half (43%) of all of the Winter produce consumed in the United States comes through the Nogales port of entry. Along with produce, which makes up 28 percent of Arizona imports from Mexico, other major commodities include electrical machinery and equipment (18%); machinery and mechanisms (12%); edible fruits and nuts (11%); vehicles (6%); and optical, photographic and cinemagraphic equipment (4%).

The logistics centers, warehousing and distribution facilities, and value-added manufacturing facilities for these commodities are located primarily within the State's cities and towns, along with the associated sustainable wage jobs that are created as a result of this economic activity. The economic multiplier effect that these jobs create adds to the prosperity in these communities and enhances tax revenue at a time when every dollar of local revenue is even more precious to cities and towns. Enhancing trade opportunities with Mexico will only further stimulate the economies in Arizona's cities and towns.

C. Fiscal Impact to Cities and Towns

As described above, enhancing international trade and improving the global competitiveness for Arizona with Mexico will have a positive fiscal impact to cities and towns.

D. Fiscal Impact to the State

Similarly, supporting the requested legislation and policies will have a positive fiscal impact to the State and will further diversify our economic base. Failure to do so will sustain the advantage that other border states currently enjoy over Arizona.

E. Contact Information

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Resolution #14

Urges the Governor and the State Legislature to develop and pass legislation that supports the long-term retention of Arizona's military installations, and provides opportunities to use the synergies connected to the military operations in the attraction of new or expanded governmental and non-governmental missions or businesses.

Submitted by: City of Sierra Vista, City of Bisbee, City of Peoria, City of Yuma, Town of Marana, City of Flagstaff, Town of Clarkdale.

A. Purpose and Effect of Resolution

Arizona's military sector is an essential component of the state economy, and most local economies within the state. There are five major military installations in Arizona, plus four principal National Guard operations. According to a 2008 report by The Maguire Group, commissioned by the Arizona Department of Commerce at the time, it is conservatively estimated that this sector produces over 96,000 direct, indirect and induced jobs in the state, with over \$9.1 billion in economic impact.

The Maguire report further quantified the amount of revenue Arizona's military installations contribute directly to state and local governments at just over \$400 million annually, split nearly evenly between the two. In general, jobs connected to the military are especially valuable to the Arizona economy because they are largely unaffected by routine economic cycles, which means revenues associated with their presence are more stable.

The Maguire report noted "Arizona would do well to guard this economic asset and preserve its viability." It further stated "Maintaining these operations and the jobs and economic output they support should be a priority of state and local government."

Support from Arizona's local governments, through the League of Arizona Cities and Towns, for legislation that could enhance military effectiveness or protect against efforts to erode military missions is critical in the state's long term success retaining Luke AFB, Davis-Monthan AFB, Fort Huachuca, Marine Corp Air Station Yuma and the Yuma Army Proving Ground.

Arizona's cities and towns must be unified in our support for the military, working together to identify opportunities to demonstrate that support through such things as: encouraging officials from state and local government to elevate needs identified by military installations for legislative action; supporting the continued activity and existence of the Governor's Military Affairs Commission; supporting funding for economic development efforts at the state level to attract new/expanded military and military-connected missions and businesses; encouraging the use and continued funding of the Military Installation Funds (MIF) to help mitigate encroachment; and supporting legislative proposals regarding state land transfers to reduce potential encroachment around military installations.

B. Relevance to Municipal Policy

At a time in which every dollar of local revenue is even more precious to cities and towns, we must guard against inadvertent or blatant measures that could jeopardize existing military installations and the over \$200 million it directly contributes to local government. Encroachment is a major issue across the state, and is not only associated with new subdivisions. Water use, electromagnetic interference, lighting, airspace and other issues can ultimately affect military missions, or could result in the state's five major bases not being considered for realigned missions in the future.

The Maguire study excluded military-related businesses such as Raytheon, Boeing and those associated with the redeveloped Williams Center in Gilbert, which take advantage of synergies with the state's military community but separately add hundreds of millions more in economic impact to the state and local economies. But if the military missions are not retained, then opportunities to grow or expand these types of businesses, and the resulting impact on the state and local economy, could be missed.

C. Fiscal Impact to Cities and Towns

Failure to protect such a valuable asset to the state will have a direct and potentially devastating effect on local government. The military industry directly contributes approximately \$200 million in tax revenues annually to local government alone.

D. Fiscal Impact to the State

Similarly, Arizona's military installations contribute about \$200 million in revenue annually to the state government. Any loss of missions could erode that revenue, as well as impact future expansion opportunities for both military and non-military missions.

E. Contact Information

Name: Mary Jacobs

Title: Assistant City Manager

Phone: 520-458-3315

Email: mary.jacobs@sierravistaaz.gov

Resolution #15

Urges the State Legislature to support implementing a pilot program to restrict trucks to the two right-most lanes when traveling on Arizona highways in urban areas with three or more lanes in each direction.

Submitted by: City of Apache Junction and City of Douglas

A. Purpose and Effect of Resolution

The purpose of this resolution is to improve traffic mobility, improve safety and facilitate the flow of goods on freeways in Arizona's busy urban areas. An initial step is to implement a pilot program to determine and compare the feasibility, impacts, and effectiveness of restricting trucks to operating only in certain lanes on highways in urban areas that have three or more lanes in each direction, which have a moderate or high level of truck traffic, and do not have left hand exits. The lane restrictions would apply to "trucks" as defined by Arizona State law. Trucks would be restricted to the two right-most lanes, leaving one lane for truck-free operation; assuring that trucks will always have access to at least two lanes.

Demand for trucking services continues to increase. According to statistics available from the Bureau of Transportation Statistics (BTS) trucking accounts for an estimated 70% of the total value, 60% of the weight, and 34% of the ton-miles of freight moved in the U.S (Bureau of Transportation Statistics, 2006). In addition, between 1980 and 2020, truck travel is predicted to increase by over 90% while lane-miles of public roads will increase by only 5% (FHWA, 2006). This increase will have significant negative influences on traffic congestion and safety. A truck lane restriction strategy is used in many states nationwide as a way to address some of these impacts.

With regard to improving safety and mobility, here are several safety benefits of truck lane restriction:

- Prevents "No-Zone" Wrap, Tractor trailer's on two (2) sides of passenger cars at same time
- Positions largest vehicles out of the highest speed lanes
- Reduces the frequency of passenger vehicles being "boxed-in" by large trucks
- Reduces evasive truck maneuvers to the right, or into the trucker's "blind" side
- Provides additional spacing from life-saving median barrier systems.
- Provides additional truck clearance from opposing direction traffic.
- Improves visibility and clearance for disabled vehicles in or along median shoulders.

By improving traffic mobility, the flow of transporting goods through the State positively impacts economic development. The Freight Industry has welcomed lane restrictions in other

states because passenger vehicles are able to stay in the fast lanes, which gives more mobility for the trucks in the slower lanes. Trucks then reach their destinations in a timelier manner.

B. Relevance to Municipal Policy

Arizona residents directly benefit from improved traffic operations and improved safety on freeways in Arizona’s busy urban areas. In addition, by improving the flow of transporting goods and services in Arizona, economic development of the State, cities and towns could also increase.

C. Fiscal Impact to Cities and Towns

As the State of Arizona is able to reap the positive economic effects of improved traffic flow which in turn improves the efficient movement of goods thru the State; this will positively impact cities and towns as well.

D. Fiscal Impact to the State

Positive fiscal impact to the State:

Whereas large metropolitan areas (e.g. North Texas) that are in direct competition with the Sun Corridor have successfully implemented ‘Goods Movement’ oriented traffic restrictions to facilitate enhanced traffic flow have experienced positive economic development effects, the City of Apache Junction and the City of Douglas urge implementation within Arizona so that we also experience positive economic effects.

Negative fiscal impact to the State include:

Costs associated with developing and implementing a pilot program, which would include conducting a study before and after restrictions are implemented. If the new restrictions were put in place permanently there are costs associated with selecting, designing, implementation administration, advertising, enforcing, and monitoring of the truck lane restrictions.

E. Contact Information

<u>Name: George Hoffman</u>	<u>Title: City Manager</u>
<u>Phone: 480-474-5066</u>	<u>E-mail: ghoffman@ajcity.net</u>

Resolution #16

Amend Arizona Revised Statutes Title 13 (Criminal Code) and amend Title 8 (Children) to include criminal damage by graffiti to ensure that crimes of graffiti are treated more seriously.

Submitted by: City of Yuma, City of Sierra Vista

* * * * *

A. Purpose and Effect of Resolution

Graffiti is a continuing and fast growing problem for cities and towns. The level of punishment for individuals committing illegal acts of graffiti is a difficult and complex issue. Abatement of graffiti and apprehension and prosecution of the perpetrator is costly to cities and these costs are seldom if ever recovered. Arizona statutes allow prosecution of graffiti under the criminal code as criminal damage. Because graffiti is such an immediate and growing problem on both public and private property, it needs to be addressed in statutes setting forth stricter penalties and full restitution of all economic loss to the victim. Economic loss includes all reasonable costs of repair by municipalities, including but not limited to, materials, labor and equipment. As it stands now, some courts have been reluctant to severely punish offenders, or order restitution for economic loss, especially where juveniles are involved. A community service component should also be added to the penalty where available.

B. Relevance to Municipal Policy

The physical appearance of communities is a source of pride for Arizona cities. It is one of the factors that attract people to visit or relocate into an area. While graffiti was once limited to older and deteriorating communities or facilities, it has become prevalent in all areas of cities, regardless of age, appearance, or use. Despite the penalties for selling instruments of graffiti to minors enacted in the last few years, the numbers of incidents and the extent of damages have continued to increase. Stiffer penalties are needed to deter the rising tide of this vandalism.

C. Fiscal Impact to Cities and Towns

Graffiti abatement in this fiscal year has so far cost the City of Yuma \$117,645.00, despite a policy to aggressively pursue restitution from the courts. The costs to Yuma are high; therefore, it would follow that statewide costs may be in the millions of dollars. Increasing the penalties for criminal damage may deter graffiti vandals, and reduce the number of incidents and the extent of damages, thereby reducing costs of abatement. Any additional revenue generated from the stronger penalties could be directed to reduce the costs to cities for abatement. Also, if violators are required to perform community service, they would be able to witness the consequences their actions have on the community.

D. Fiscal Impact to the State

Because graffiti may also occur on state owned properties, abatement costs to the state could be reduced.

E. Contact Information

Name: Connie Scoggins

Title: Assistant City Attorney

Phone: (928) 373-5055

Email: Connie.Scoggins@YumaAz.gov

Resolution #17

Urges the Legislature to amend A.R.S §42-5010, as enacted in SB1442 last session, so that state shared revenues to cities and towns are distributed prior to the recapture of construction sales tax to be used for funding infrastructure projects. Further, urges the Legislature to find additional mechanisms for funding infrastructure that is necessary for economic development projects that are beneficial to the entire state.

Submitted by: City of Chandler, City of Peoria

A. Purpose and Effect of Resolution

When manufacturing facilities locate in a municipality, there are often infrastructure improvements needed to support the project. If these are incremental improvements, the host municipality is able to fund them through its regular capital improvement program without over burdening their ratepayers.

However, large manufacturing projects, such as the construction of the \$5 billion Intel Fab 42, require significant industrial infrastructure. That project alone will require in excess of \$200 million in water and wastewater improvements. The magnitude of costs such as these makes it impossible for the host city to fund the infrastructure by itself and requiring the company to do so places this state at a competitive disadvantage.

Last session, SB1442 was introduced in an effort to provide a mechanism for the state to help fund these infrastructure needs. It was intended to allow the construction sales tax to be recaptured and used to pay for any water, wastewater or transportation projects needed to support a manufacturing facility that met certain capital investment requirements.

Unfortunately, the bill was amended on the last day of the session and the result was a negative impact on state shared revenues. The intent of this resolution is to change the statute so that the funds used to pay for infrastructure come from the state's portion of sales tax.

Additionally, SB1442, as originally drafted, would have been only a partial solution to the problem of infrastructure funding. Other mechanisms should also be explored in order to address this problem more comprehensively.

B. Relevance to Municipal Policy

Cities are already responsible for the majority of the costs of infrastructure related to economic development and should not have to also contribute through a loss of shared revenues. The intent of SB1442 was to create a mechanism for the State to participate in funding the infrastructure that is necessary to attract and retain these manufacturing facilities and the jobs they create.

C. Fiscal Impact to Cities and Towns

The total loss of cities' shared revenue attributed to SB1442 is approximately \$2.5 million. However, if an equitable solution cannot be developed, our inability to continue to attract these businesses will also have a long term negative impact on economic development and the increase in shared revenues attributable to these projects.

D. Fiscal Impact to the State

If the distribution formula of cities' state shared sales tax is restored, the state will lose the approximately \$2.5 million in construction sales tax monies that would be recaptured to fund the cost of infrastructure under the provisions of SB1442. Again, if a solution cannot be agreed upon and cities are not able to fund the infrastructure necessary for these businesses, the state risks losing the future economic activity created by new or expanded manufacturing facilities.

E. Contact Information

Name: Patrice Kraus

Title: Intergovernmental Affairs Coordinator

Phone: 480-782-2215

Email: patrice.kraus@chandleraz.gov

League Staff Resolution #1

The League of Arizona Cities and Towns urges the Legislature to repeal HB 2826, (consolidated election dates, political subdivisions).

Submitted by: League Staff

A. Purpose and Effect of Resolution

HB 2826 (Laws 2012, Chapter 353) requires that cities and towns hold all candidate elections in the fall election cycle of even-numbered years. In addition to the usurpation of local election authority, there are multiple technical issues associated with implementation of this law - the length of terms for incumbent councilmembers, alternative expenditure limitation renewal elections and municipal incorporation elections. Additionally, there is no universal empirical evidence that this change will reduce the cost of elections or increase voter turnout. Although this resolution would empower League staff to pursue needed changes to address significant shortcomings of the new statute, the most efficient route would be to simply repeal the statute.

B. Relevance to Municipal Policy

This issue is fundamentally relevant as elections are a foundational part of our system of government.

C. Fiscal Impact to Cities and Towns

Although many of the fiscal impacts of this bill cannot be calculated at this time, there could be significant problems for local budgets if election law related to the home rule option isn't changed.

D. Fiscal Impact to the State

Not applicable

E. Contact Information

Name: Tom Belshe

Title: Deputy Director

Phone: 602-258-5786

Email: tbelshe@azleague.org

League Staff Resolution #2

The League and its members support meaningful and effective regulatory reform efforts. The League will oppose any proposal that does not promote greater efficiency, effect significant cost savings, or improve existing regulatory frameworks for the mutual benefit of stakeholders. Furthermore, the League shall work to enact changes to SB 1598 (Laws 2011, Chapter 312) that enable the law to serve its intended function of improving the licensing and permitting process.

Submitted by: League Staff

A. Purpose and Effect of Resolution

The purpose of the resolution is to express the League’s commitment to working with the Legislature to: 1) enact legislation that respects municipal autonomy; and 2) partner with cities and towns to create an attractive business climate for new and existing businesses. The effect of the resolution would be to empower the legislative staff of the League to work with interested parties on mutually beneficial changes to existing laws while exploring new opportunities for improvement of regulatory frameworks. Specific goals include: preservation of local authority; opposition to state mandates; encouragement of municipal flexibility and timeliness; and avoidance of additional bureaucracy and paperwork.

B. Relevance to Municipal Policy

This issue is fundamentally relevant as licensing and permitting is the primary way in which municipalities interact with the businesses in their community. Regulatory design represents a core function of municipal governance, to the extent it operates to promote the safety and welfare of city residents.

C. Fiscal Impact to Cities and Towns

Enacting changes to SB 1598 will likely lead to a positive fiscal impact, resulting from the increased clarity and paperwork reduction those changes will bring. Additionally, there is the potential for a positive fiscal impact from increased business activity as a result of reforms.

D. Fiscal Impact to the State

Increased business activity would benefit the state because of increased sales and income tax collections.

E. Contact Information

Name: René Guillen

Title: Legislative Associate

Phone: 602-258-5786

Email: rguillen@azleague.org

League Staff Resolution #3

A RESOLUTION OF THE LEAGUE OF ARIZONA CITIES AND TOWNS CALLING UPON THE ARIZONA LEGISLATURE TO RESPECT THE AUTHORITY OF CITIES AND TOWNS TO GOVERN THEIR COMMUNITIES FREE FROM LEGISLATIVE INTERFERENCE AND TO REJECT LEGISLATION THAT CONFLICTS WITH CHARTER PROVISIONS OF ARIZONA'S CHARTER CITIES

WHEREAS, the League of Arizona Cities and Towns is concerned about the extent to which Arizona's 50th Legislature considered legislation to micromanage local government, enact decisions best made at the local level and impose one-size-fits all mandates on municipalities; and

WHEREAS, the League further shares the conservative belief that the most effective, responsible and responsive government is government closest to the people; and

WHEREAS, the Arizona Constitution specifically provides that any city, "may frame a charter for its own government" [emphasis added]; and

WHEREAS, once a city has successfully completed the city charter process, the charter becomes the organic law of the city; and

WHEREAS, charter cities draw their power from their citizens, are governed by their charters, and do not require legislative authority from the State to exercise power; and

WHEREAS, the provisions of the charter, as the organic law of the city, supersede all laws of the State in conflict with the charter provisions, insofar as such laws relate to purely municipal affairs; and

WHEREAS, the Arizona Constitution thus establishes a home rule mechanism to render charter cities independent of the Legislature with respect to matters of local concern; and

WHEREAS, the Arizona Supreme Court recently affirmed, in Tucson v. Arizona, that provisions of a city's charter supersede conflicting statutes with respect to matters of local concern; and

WHEREAS, all municipalities are no less affected by the imposition of burdensome mandates by the State than is the State by the imposition of similar mandates by the Federal government;

NOW, THEREFORE, BE IT RESOLVED, that the League of Arizona Cities and Towns calls upon the Arizona's 51st Legislature to affirmatively reject, oppose and renounce legislative proposals that diminish local authority, address matters of purely local concern, and conflict with the organic law of Arizona's charter cities.

League of Arizona Cities & Towns

Revised Summary of Resolution Subcommittee Meeting Recommendations

No.	Summary	Sponsor	Co-Sponsor	Subcommittee Recommendation
1	Keep local funding formulas intact. (A merger of original Resolutions 1 and 11.)	Bullhead City	Kingman, Lake Havasu City	Recommend with Amendments
2	Support economic development tools. (A merger of original Resolutions 2 and 3.)	Yuma	Bullhead City, Sierra Vista	Recommend with Amendments
3	Credit for excess solar generation.	Sedona	Flagstaff, Clarkdale, Kingman	Significant Municipal Issue
4	Alternative Delivery Methods.	Sedona	Camp Verde, Clarkdale	Recommend for Adoption
5	Alternative Contribution Rate (ACR)/Arizona State Retirement System (ASRS).	Queen Creek	Apache Junction, Kingman	Recommend for Adoption
6	Public record requests.	Yuma	Oro Valley, Apache Junction, Bullhead City	Significant Municipal Issue
7	Repeal ARS 9-441.01	Sedona	Clarkdale	Recommend with Amendments
8	Greater flexibility in annexing county islands.	Marana	Sierra Vista, Oro Valley, Tucson	Recommend for Adoption
9	Urges the Legislature to fund state parks and work with cities and towns in partnership for the operation and maintenance of Arizona State Parks.	Yuma	Oro Valley, Camp Verde, Kingman, Bullhead City	Recommend with Amendments
10	Allow an incorporated city or town and a county within the unincorporated areas of the county to regulate the sale and use of permissible consumer fireworks.	Prescott	Prescott Valley, Chino Valley, Camp Verde, Clarkdale, Sedona.	Recommend for Adoption
11	Improve forest health and reduce wildfire threats.	Flagstaff	Sedona, Scottsdale, Sierra Vista	Recommend for Adoption
12	Reduce the shortage of physicians, physician assistants and nurse practitioners.	Sierra Vista	Bisbee, Yuma, Marana, Douglas, Flagstaff, Clarkdale	Significant Municipal Issue with Amendments

League of Arizona Cities & Towns

Revised Summary of Resolution Subcommittee Meeting Recommendations

13	Resources to improve Arizona's ports of entry with Mexico and related infrastructure.	Sierra Vista	Douglas, Bisbee	Recommend for Adoption
14	Support the long-term retention of Arizona's military installations.	Sierra Vista	Bisbee, Peoria, Yuma, Marana, Flagstaff, Clarkdale	Recommend for Adoption
15	Restrict trucks to the two right-most lanes.	Apache Junction	Douglas	Significant Municipal Issue
16	Criminal damage by graffiti/restitution.	Yuma	Sierra Vista	Recommend with Amendments
17	Amend §42-5010, as enacted in SB1442 last session, so that the recapture of construction sales tax to be used for funding infrastructure projects is made after the distribution of state shared revenues.	Chandler	Peoria	Recommend for Adoption

League Staff Recommendations

No.	Summary	Subcommittee Recommendation
1	Repeal HB2826, consolidated elections dates; political subdivisions.	Recommend with Amendments
2	Support regulatory reform.	Recommend for Adoption
3	Oppose unfunded mandates and preserve local authority.	Recommend for Adoption

Key to Subcommittee Recommendations

Recommend for Adoption – Becomes a part of the Municipal Policy Statement, and will help guide legislative activity in the coming session.

Recommend with Amendments - Becomes a part of the Municipal Policy Statement, and will help guide legislative activity in the coming session, but needed amending for either content or technical reasons.

Significant Municipal Issue – Although an important concept to cities and towns, does not quite rise to the level of legislative activity. League staff may address the issue with state agencies and/or other stakeholders.

Not Recommended for Passage – The resolution may be too confined to one community, be on its face contrary to core principles, or not in line with current agreements with other stakeholders.

Staff Recommendations – Resolutions submitted by League staff.

ANNUAL LEGISLATIVE CALENDAR

City of Flagstaff, AZ

January

- **State Legislative Session begins**

It is always set to begin the Monday after the first Tuesday with a 100-day legislature target timeline, hopefully ending in April. In recent past, the Session has extended into June.

- **City's State/Federal Legislative Agendas presented to Council** (if not in November-December)

February

- **President's Budget goes to Congress**

- **Congressional Offices** review of requests from constituent cities and towns begins for inclusion in their requests during the federal budget cycle to be ready for the primary federal appropriations process which begins in March.

March

- **Federal Appropriations Processes officially begins in Congress** – committee

hearings and legislation “mark-ups” occur from March into May. Then the legislation typically moves into the Appropriations Conference Committees of the two respective Chambers of Congress to move towards final bill language to be presented for congressional votes.

- **National League of Cities, Congress of Cities – Washington, D.C.**

This typically begins the second week of March and is designed for municipal officials to convene in Washington annually to learn about cities' legislative agendas, both collectively and individually by municipality. Elected officials have two days of General Sessions where they hear from national leaders from Congress or the Administration and well-known national media individuals. Small break-out sessions on issues of importance to local governments are offered with opportunities to informally network with other counterparts from around the country. The final “event” for Arizona, scheduled by the AZ League of Cities staff, is a continental breakfast meeting with our two US Senators and Arizona local officials held in a briefing room on Capitol Hill.

This trip can be ideal to schedule appointments with our congressional delegation to lobby for specific needs either before, during and/or after the conference. It is typically more effective to go just ahead of the conference and meet on a Thursday when the Members of Congress are still on the Hill – often they fly to their home districts on Friday and don't return until Tuesday.

May/July

- **Congressional Appropriations/Earmarks released in public documents**

May – August

- **AZ League of Cities resolutions process begins**

- During the spring & summer, a call goes out to cities via their Mayors & Managers, and Intergovernmental Programs directors in those cities who have them, asking for potential resolutions that cities would like to see supported in the legislative process. Often these resolutions are precursors to actual legislation that gets drafted.
- A process is used to facilitate the various interests, and it culminates at the annual League of Arizona Cities & Towns conference
- Resolutions now require at least two cities to participate; currently the deadline for submission of resolutions falls between mid-June and mid-July, but this can change from year to year.

August/September

- **Congressional Appropriation Conference Committees meet to negotiate final dollar amounts of federal appropriations**
- **AZ League of Cities Annual Conference**
This occurs between the last week of August and early October. Resolutions are voted upon by the full membership, and these are what guide the lobbying by League staff for the next Legislative Session. If an issue is not included and approved by the League, it is not something which the League can actively lobby upon.
- Contract lobbyist for Federal issues may begin conferring with **City Manager** and **Departmental Staff** to brainstorm and strategize for next round of Appropriations
- RFP out for federal and/or state lobbying assistance when renewal periods have ended in current contract.

October/November

- **Federal Fiscal Year Begins** – this used to signal when Appropriations (funding) had to be completed but patterns in Congress have changed over the past decade and sometimes these bills do not get completed until close to the end of the year, or even into the following January/February.
- **AZ League of Cities – Executive Committee meets** - Final approval of issues to be lobbied is given by the League's Executive Committee (25 Mayors from around the state make up the Executive Committee)
- Move towards finalizing issues that need to be monitored or put forward at the **State Legislature or for Federal appropriations. Federal legislative agenda** – presentation to Council either through contracted firm or City staff.

December

- **Legislative Reception** – a communications tool held for newly elected state and/or federal officials to get acquainted ahead of the rush of January work in their respective legislative bodies and to spend time educating them on the needs of the City and where our focus lies.
- **Federal Lobbyist** - Use contracted Washington, DC-based federal relations firm to advocate and pursue legislation, earmarks for specific projects, typically infrastructure, or other federal assistance by a professional services contractor.
- **City's State/Federal Legislative Agendas presented to Council**

Legislative/Intergovernmental Protocols City of Flagstaff - 2012

1. A City legislative priorities agenda should be approved annually by the City Council so that staff has authority to weigh in on issues without going to Council every time a issue changes or arises which is not practical and at times not feasible due to swift moving actions of the legislature.
2. The Council establishes guidelines or rules of engagement as a formalized protocol on how the City's positions and messaging is to be conveyed, typically done in public discussion with agreement in principle on carrying the City's message. This should be revisited with each new Council so that missteps are avoided as best as possible. Items to be determined should include:
 - a. Understanding that notification is to be made when any elected officials are meeting with elected officials of other bodies at any level of government.
 - b. It is customary and expected that appropriate staff in the other entity is notified of meetings between elected officials (a duty of the city-designated Intergov).
 - c. Annual legislative priority agendas should be adopted so there is agreement of majority opinion on what messaging City officials are to lobby for, carry into meetings or formal settings. Activities should be coordinated through the City Manager's office and with contracted government affairs or City staff assigned intergovernmental responsibilities.
 - d. Personal opinions are to be stated as such and not representing the City if they are not in alignment with the City's adopted position.
3. Staff's role is always to provide the opportunity for the elected official to be out front but to ensure they have been briefed on key points to speak with knowledge to an issue.
4. The AZ League of Cities & Towns sends Intergovernmental (IG) communications to the City intergov staff, and at times to the Mayor, who may serve on the League Executive Committee, to City/Town Managers, and at times to the City Clerk, City Attorney and/or Finance Director. Staff monitors legislation of interest routinely.
5. Public lobbyists must be registered with the Secretary of State's Office and the City's Manager's Office makes sure the City Manager, Deputy City Managers and all Division (department) Directors are on the list. Elected officials do not have to be registered.
6. The laws governing gifts or favors to elected officials applies to municipalities, and any meals, gifts with monetary value, etc. should be reported (to Clerk or City Manager's staff) so that a report can be prepared as required by law.
7. Guidelines specifically for staff:
 - a. Information sent from a City computer on a legislative issue is considered representative of the City so it should not be done without blessing from the City Manager, or designee, or City Attorney.
 - b. If you are part of a professional association that lobbies, it is generally acceptable to work on their behalf on your own time, always ensuring that you are known to be representing them, not the City.

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Elizabeth A. Burke, City Clerk
Date: 11/08/2012
Meeting Date: 11/20/2012



TITLE

Discussion Item: Resolution of support for quick and efficient delivery of Veterans benefits.

RECOMMENDED ACTION:

Council direction

INFORMATION

Vice Mayor Evans previously requested that this item be placed on Section 15 of the agenda to determine if there is a majority of the Council interested in placing this item on a future agenda for discussion and possible action.

Attachments:

Form Review

Inbox
City Manager

Reviewed By
Kevin Burke

Date
11/09/2012 07:54 AM
Started On: 11/08/2012 04:22 PM

Form Started By: Elizabeth A. Burke

Final Approval Date: 11/09/2012

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Elizabeth A. Burke, City Clerk
Date: 11/08/2012
Meeting Date: 11/20/2012



TITLE

Discussion Item: Resolution of support for Veterans Cemetery and Home in Bellemont, Arizona.

RECOMMENDED ACTION:

Council direction

INFORMATION

Councilmember Oravits previously requested that this item be placed on Section 15 of the agenda to determine if there is a majority of the Council interested in placing this item on a future agenda for discussion and possible action.

Attachments:

Form Review

Inbox
City Manager

Reviewed By
Kevin Burke

Date
11/09/2012 07:54 AM
Started On: 11/08/2012 04:24 PM

Form Started By: Elizabeth A. Burke

Final Approval Date: 11/09/2012

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Elizabeth A. Burke, City Clerk
Date: 11/08/2012
Meeting Date: 11/20/2012



TITLE

Discussion Item: Dark Skies Presentation

RECOMMENDED ACTION:

Council direction

INFORMATION

Councilmember Barotz previously requested that this item be placed on Section 15 of the agenda to determine if there is a majority of the Council interested in placing this item on a future work session or regular meeting for discussion and possible action.

Attachments:

Form Review

Inbox
City Manager

Reviewed By
Kevin Burke

Date
11/09/2012 07:52 AM
Started On: 11/08/2012 04:27 PM

Form Started By: Elizabeth A. Burke

Final Approval Date: 11/09/2012

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Elizabeth A. Burke, City Clerk
Date: 11/08/2012
Meeting Date: 11/20/2012



TITLE

Discussion Item: City presence at Arizona Department of Liquor Licenses and Control Public Hearing on Maverik to be located on East Butler.

RECOMMENDED ACTION:

Council direction

INFORMATION

At the November 6, 2012 City Council meeting, the Council voted to forward the application to the State with a recommendation for denial. At a minimum, this takes the form of a letter expressing the Council's recommendation and reason for the recommendation. There is also an ability for the City to provide public testimony, in person, to the State. The purpose of this agenda item is to seek direction from Council on the desire to provide public testimony and if any member of Council wants to deliver this testimony or defer to staff.

Attachments:

Form Review

Inbox	Reviewed By	Date
City Manager	Kevin Burke	11/09/2012 07:51 AM
Form Started By: Elizabeth A. Burke		Started On: 11/08/2012 04:29 PM
	Final Approval Date: 11/09/2012	

Memorandum

15. E.

CITY OF FLAGSTAFF

To: The Honorable Mayor and Council
FROM: Roger Eastman, Zoning Code Administrator
Date: 11/05/2012
Meeting Date: 11/20/2012



TITLE

Discussion/presentation regarding SB1598, Regulatory Bill of Rights, and the implications of its implementation to City permit and approval processes.*

RECOMMENDED ACTION

Presentation to Council for information only. No specific direction from the Council is sought.

INFORMATION

In this work session with the City Council, staff will provide a brief overview of SB1598 - the Regulatory Bill of Rights - that was approved by the Arizona Legislature in the 2011 legislative session. A description of how the Bill will be implemented will be provided with specific reference to permits and approval processes administered within the Community Development Division.

SB1598 was introduced to the Arizona legislature by the Arizona sand and gravel industry who were displeased with what it felt were unreasonable enforcement and permitting delays and irregularities on the part of a Valley city. The Bill's intent is to ensure fair and open regulation by all Arizona municipalities (i.e. cities and counties). The Bill essentially includes two principal parts, one that establishes standards and rules for inspections with an effective date of June 30, 2012, and the second being the Regulatory Bill of Rights which establishes rules for licensing time frames and compliance with an effective date of **December 31, 2012**. Also included in the bill is a requirement specific to a municipal General Plan (Regional Plan) regarding the need to map aggregates within a city or county.

A detailed overview of SB1598 is provided in the attachment, "Overview of SB1598 - Regulatory Bill of Rights", and only a brief summary of key provisions is reproduced in this report. The overview includes the following information:

- The advantages/benefits of SB1598
- The requirements for licensing time frames - administrative and substantive review
- License application process
- Directory of documents
- Complaints and clarification of interpretations
- Exemptions
- Implementation ideas and notes
- Summary of implications of SB1598.

As noted in the attached summary, some aspects of SB1598 are sensible and will ensure fair and open regulation by Arizona cities and counties. For example, within the inspections portion of the bill, rules are established to ensure that a person is entitled to receive information and notice regarding inspections, and that all inspectors must have proper photo identification. Within the Regulatory Bill of Rights portion of the bill, there are also common sense provisions, including requirements that:

- Municipalities must only base an approval decision (a license and licensing - see the definition below) on an established rule, ordinance, or code.
- Municipalities must avoid duplication of codes that do not enhance regulatory clarity, and shall avoid dual permitting as much as possible.
- Licenses may be approved or denied within a predetermined period of time.
- A person is entitled to written notice of denial of a license application including a reference to the applicable code section on which the denial is based.
- A person is entitled to receive information on the license application process when making an application.
- A directory of all municipal codes must be provided on the municipal website, and all municipal codes must be available for inspection.

Note that for the purposes of the bill, a "license" is defined very broadly, and it includes *"the whole or part of any municipal permit, certificate, approval, registration, charter, or similar form of permission required by law."*

The attachment clearly describes the bill's requirements for all municipalities to establish licensing time frames, including an "Administrative Review" time frame in which an application for a license (i.e. a permit or approval) must be reviewed for completeness, and a "Substantive Review" time frame in which the license must be reviewed for compliance with applicable codes. Both of these time frames, which together are the "Overall" time frame must be provided to an applicant and adhered to by the municipality.

As explained in the attachment, all City Divisions that are responsible for the approval of a license are required to comply with the requirements of SB1598. This includes, for example, Business Licenses issued by the Tax and Licensing Section, Special Event Permits issued by the Recreation Section, and the many permits and approvals granted within the Community Development Division, including Sign Permits, Temporary Use Permits, Site Plan Review Approvals, Right-of-Way Permits, etc.

To assist the City Council understanding of how SB1598 would apply to a typical review process, attached is a diagram that illustrates the existing and proposed review process for a major project for which impact analyses are required through the IDS (Inter Divisional Staff) review process. This would apply, for example, to the review of a new Walmart or large big-box store, or a large apartment complex. These are typically reviewed in about seven weeks (i.e. 35 working days), but depending on the calendar and the number of days in a month, these can be slightly shorter or slightly longer, 33 or 37 days respectively. The illustrations represent typical worst case scenarios. A brief explanation of these illustrations is provided below.

1. At the top of the first page is a simple illustration under the heading "Typical Overall Process - Major Project w/ Impact Analyses (IDS 7-Week Review)" that shows the steps required in the review of a major project from the optional pre-application meeting, through concept review, site plan review, and finally review and approval of grading and building permits so that construction can commence. Note that SB1598 does not apply to the pre-application and concept review stages of a project review because no approvals are granted in these meetings.
2. Under the heading "Pre-Entitlement Site Plan Review - Major Project with Impact Analysis" is an illustration showing the existing review time frame before the requirements of SB1598 are implemented for a major project based on the approximately seven week (35 day) time frame for staff review and approval.
3. Option 1 shows the implications of implementing SB1598's requirements for Administrative Review and Substantive Review if existing staff through IDS are used to complete these reviews. Assuming only one set of corrections (as required by the bill), the overall review time frame is significantly longer than the existing IDS process for a project of this scale. However, if an applicant heeds all of staff comments provided in the concept plan review stage, and there are no major issues with the site plan review submittal, then it is conceivable that the project could be approved (perhaps with conditions) in a shorter time frame that is equivalent to the existing IDS review time frame without the need for a second submittal step.
4. Option 2 on the next page expands this concept further (i.e. assumes the applicant heeds staff's

comments provided at concept review), and is based on the assumption that there would be one staff person dedicated to administrative completeness review for all licenses reviewed and approved within CD. As a result, the overall time frame for a major project could be reduced even further.

5. Finally, a separate Typical Overall Process for a Zone Change Request (i.e. a Zoning Map amendment) for a major project is illustrated showing how the Concept Plan/Zone Change Review and public hearings portions of the overall time frame are excepted from the requirements of SB1598.

Over the past few months staff has worked closely with planners from other Arizona cities to understand the implications of SB1598, to determine how best to implement the bill, and to understand the possible impacts to customer service that could result from the bill's implementation. There is general consensus that the intent of the legislation is sound and will ensure fairness, openness, and transparency. However, there is also universal concern that implementing the bill as it is written will have unavoidable negative impacts, and that unfortunately, it does include provisions that are contrary to the current culture of supporting and encouraging development by the Community Development Division and other City Divisions. Some examples of perceived negative impacts include:

- Removes the ability to be flexible and accommodate special needs
- Reduces the quality of customer service due to increased submittal and tracking complexity
- Complicates the process with more stringent bureaucracy.

However, as stated previously the bill is intended to ensure fair and open regulation by Arizona municipalities, and thus some possible positive impacts include:

- Improved project tracking, especially with the pending implementation of the Innoprise Permit Tracking software
- Clarity of project requirements
- Efficient use of staff time
- Improved communication
- Greater value placed on customer's rights
- Required updates to the City's, and possibly Division's, web pages.

Conclusion:

This new law will require all City departments to review its procedures related to how permits, licenses, and other approvals are processed, reviewed, and approved or denied. The procedures need to include clear direction regarding what must be submitted to obtain an approval, how long the review process will take, and an applicant's rights to appeal any unfavorable decision. The new law also imposes new restrictions on how inspections are conducted and exposes the City to the filing of special proceedings in court which can include the award of damages and court costs for improper processing or decisions.

The Central Arizona Home Builders Association (CAHBA) will most likely be proposing amendments to SB1598 in the upcoming legislative session. This may be through a stand alone bill, or with the amendments attached to another bill. It is staff's understanding that they support the intent of the bill, but that it has reached too far, and they are most likely to be requesting " *amendments to remove its application from the entitlement process*" [Jackson Moll, Municipal Liaison, CAHBA]

Attachments: [SB1598 Attachment](#)
 [SB1598 FlowCharts](#)

Form Review

Inbox	Reviewed By	Date
Community Development Director	Mark Landsiedel	11/06/2012 07:25 PM
DCM - Jerene Watson	Jerene Watson	11/06/2012 09:15 PM
Community Development Director	Elizabeth A. Burke	11/08/2012 05:33 PM

DCM - Jerene Watson

Elizabeth A. Burke

11/08/2012 05:34 PM

Form Started By: Roger Eastman

Started On: 11/05/2012 02:22 PM

Final Approval Date: 11/19/2012

Overview of SBI 598 – Regulatory Bill of Rights – and a Framework for Implementation

October 16, 2012
Updated: November 3, 2012

Introduction:

- Introduced by Arizona sand and gravel industry – displeasure at what they felt were unreasonable enforcement and permitting delays and irregularities with a Valley city
- Passed by the Arizona Legislature in the 2011 session – its intent is to ensure fair and open regulation by municipalities (i.e. cities and counties).
- Principally two parts:
 - Inspections (**Effective date June 30, 2012**)
 - Regulatory Bill of Rights – Licensing time frames and compliance (**Effective December 31, 2012**).
- Also, one element specific to a municipal General Plan (Regional Plan) regarding the need to map aggregates within a city or county.

Some aspects of SBI 598 are sensible:

Inspections:

- Person is entitled to receive information and notice regarding inspections
- Inspectors must have photo identification.
- Applies only to inspections necessary for the issuance of a license (i.e. not to a code compliance/enforcement visit to a property).
- New language regarding inspections has already been added to all CD permits for which inspections are required.

Regulatory Bill of Rights:

- Municipalities must only base an approval decision (license and licensing) on an existing rule, ordinance, or code.
- Municipalities must avoid duplication of codes that do not enhance regulatory clarity, and shall avoid dual permitting as much as possible.
- Licenses may be approved or denied within a predetermined period of time.
- A person is entitled to written notice of denial of a license application including a reference to the applicable code section on which the denial is based.
- A person is entitled to receive information on the license application process when making an application.
- A directory of all municipal codes must be provided on the municipal website, and all municipal codes must be available for inspection.

Summary of SBI 598 (Regulatory Bill of Rights):

Important Definitions:

- **License** – “Includes the whole or part of any municipal permit, certificate, approval, registration, charter or similar form of permission required by law”.
- **Licensing** – “Includes the municipal process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal or amendment of a license”.

Note:

This therefore applies to all permits, approvals, certificates, etc. issued by the City in all Divisions – building permits, certificate of occupancy, zone change approvals, final plats, sign permits, solid waste permits, right-of-way permits, etc. It EXCLUDES liquor licenses and off-track betting licenses because these are not “municipal permits” – the city is only a recommending body to the state. It also **does not apply to** licenses issued within 7 working days (e.g. currently a Temporary Business Sign Permit) or that expire within 21 working days after issuance.

9-834 Prohibited Acts by Municipalities:

- A city shall base a licensing decision in whole or in part on a requirement or condition that is specifically authorized by statute, rule, ordinance or code. A general grant of authority does not constitute a basis for imposing a licensing requirement or condition unless the authority specifically authorizes it.
- The city shall avoid duplication of other laws that do not enhance regulatory clarity and shall avoid dual permitting to the maximum extent possible.

9-835 Licensing Time Frames, etc.:

- Requirement for an overall time frame for all licenses issued by the city to include:
 - Administrative completeness review
 - Substantive review time frame.
- Deadline for compliance – **December 31, 2012**
- Guidelines are provided on how to establish time frames – a city must consider, for example, available resources, complexity of the license, impact on health and safety, etc.

Administrative Completeness Review:

- The **city** shall issue a written notice of administrative completeness or deficiency within the defined administrative review time frame. Multiple departments in a city (e.g. those in the IDS process) may each provide coordinated notice of completeness or deficiency.

Notes:

(1) This requirement implies a coordinated notice of completeness in the event multiple city divisions/sections/programs are involved in the review. Either way, whether it's one program responding or a Single Point of Contact (SPOC) responding on behalf of other reviewers, a response must be submitted to the applicant within the time frame. For all development projects that are reviewed at an IDS (Inter Divisional Staff) meeting, the response to the applicant will be funneled through the project SPOC. *The longest administrative review time frame from a program may therefore, determine the final administrative time frame for a license or permit.* Each Division as needed may, therefore, need to establish a SPOC.

(2) Also be aware that when determining the length of time for administrative/ completeness review – each program reviewer should determine how long this is and what is involved – consideration needs to be given to the need for more than one resubmittal of the application in response to completeness comments.

- If an application is incomplete or deficient:
 - A comprehensive list of deficiencies must be provided to the applicant within the established administrative review time frame
 - The time clock is stopped until the missing/corrected information is resubmitted to the city.
 - A city may issue additional notice of administrative completeness or deficiency, within the total time dedicated to administrative review.
 - Multiple departments in a city (e.g. those in the IDS process) may each provide notice of completeness or deficiency – coordinated through the SPOC.
 - **Important** – if the notice of administrative deficiency is not issued within the established time frame the application is considered complete.
 - If timely notice of deficiencies is issued, the application is not deemed complete until all requested information has been submitted.

Notes:

- (1) Acceptance of completeness of a submittal is no guarantee of its approval.
- (2) An application may be denied within the time frame if it is not complete.
- (3) Issue – we will need to develop comprehensive check lists for each license (permit or process) against which the application is reviewed to determine completeness.

Substantive Review:

- During the substantive review the **city** may only make one (1) comprehensive written request for additional information.
- Multiple departments in a city (e.g. those in the IDS process) may each provide a coordinated notice of a request for additional information.

Note: Again, as referred to above, because the “city” as well as each division/section/program must respond to the applicant within the established time frame, at least for all IDS projects, these will be provided to the applicant through the project SPOC. Other city divisions may have to establish their own SPOC if multiple reviewers are involved.

- The city and the applicant may mutually agree in writing to allow the city to submit supplemental requests for information. This provision may be added to each permit/process application form.
- The time clock is stopped until the request for supplemental information is resubmitted to the city.
- By mutual agreement the city and the applicant may extend the substantive review time frame (and also therefore the overall time frame). Extension of the substantive review time frame may not exceed 25% of the overall time frame. (See below.)

Administrative Review	Substantive Review	Overall Time Frame	25% of Overall Time Frame	Extended Overall Time Frame
0 – 10 days	0 - 90 days	100 days	25 days	90 + 25 days = 115 days

- City shall issue a written notice to the applicant granting or denying the license within the overall time frame (unless an extension has been mutually agreed upon). A denied application must include:
 - Justification for the denial with references to applicable codes, regulations or standards
 - Explanation of applicant’s right to appeal (includes deadline to file, city contact person, etc.).
- **Important** – if the notice granting or denying the license is not issued within the overall time frame or the agreed time frame extension, the city shall refund all fees, and shall excuse the payment of as yet unpaid fees. The refund shall be made within 30 working days after expiration of the overall time frame or the agreed time frame extension without the applicant having to ask for a refund. Refund must come from the fund in which the application fees were originally deposited. **Note** - the city shall continue to process the application, and there is no longer any time frame within which it must be completed.

Notes: If an application is denied, a citation to the relevant City Code section must be provided that was the cause of the denial. May be difficult if an application is denied because staff has run out of time to complete it!

- Administrative review and substantive review time frame requirements **do not apply to** licenses issued within 7 working days (e.g. currently a Temporary Business Sign Permit, Minor Improvement Permit, or Parking Lot Maintenance Permit) or that expire within 21 working days after issuance.

Note: For applications that require final approval by the Planning and Zoning Commission (e.g. a CUP) or the City Council (e.g. a zone change, plan amendment), the substantive review time frame will be put on hold from the time the hearing is noticed (on site and in newspaper) until 30 days after final Council action, at which time the substantive review time frame will continue. Refer to the model used by the City of Phoenix on Page 9. [Note – we can and should refine the specifics of this idea to best suit our practice and needs.]

9-836 License Application Process:

- The following information must be provided with the application for all licenses:
 - List of steps for that license (flow diagram or narrative)
 - Licensing time frames – administrative, substantive, and overall
 - Contact information for city staff person (presumably SPOC?)
 - Website and e-mail information
 - Notice that an applicant may receive clarification from the city of how it is interpreting a code, regulation, or standard

9-837 Directory of Documents:

- City shall publish or place on website a directory summarizing the subject matter of all codes, standards, and substantive policy statements (e.g. the Regional Plan or Water Policy)
- All of these shall be open to public inspection at the city offices or city website.

Note:

For all City Code Titles a short summary of each title will need to be created and placed on the City website with the City Code.

9-838 Complaints; Governing Body Review:

- The City Council may receive complaints on, review, hold hearings, and may recommend changes to City codes, regulations, and substantive policy statements.

9-839 Clarification of Interpretation:

- A person may in writing request clarification from the city of its interpretation or application of a code, regulation, etc.
- City may meet with the person making this request for clarification, and shall respond in writing within 30 days of receipt of the request.
- City may change the interpretation in writing if there is a change in the law (e.g. changes in legislation) that was applicable at the time the interpretation or clarification was made.

9-840 Exemptions:

- Does not apply to a city code, regulation, or substantive policy statement that relates only to:
 - the internal management of the city with no affect on procedural or substantive rights or duties of the public;
 - the physical servicing, maintenance, or care of the city's owned or operated facilities or property;
 - inmates or committed youth, correctional or detention facility under the jurisdiction of the city; or
 - a city contract.

Implementation Ideas and Notes:

1. Regional Plan – be aware of the requirements for aggregates that must be included in the Regional Plan as well as the need to map the locations where aggregates are found.
2. Within the IDS framework, the SPOC has a critical role relative to the administrative and substantive review process – all comments and corrections must be funneled to and from the applicant through the SPOC.
3. Each program or sub-program/reviewing group must establish their own rules and requirements for administrative review and substantive review as they will vary from one license (permit/process type) to another, e.g. time frames and administrative requirements for a sign permit will be very different from a major site plan review.
4. Once each program or sub-program/reviewing group has established these time frames, they will be coordinated within the framework of an overall time frame for each license type.
5. Each Division will need to develop a comprehensive list of all permits and processes, who manages/is responsible for them, the proposed administrative review and substantive review time frames, and check lists to help with administrative review.
6. Each Division must check that for all license (permit/process) application forms that the requirements of Section 9-836 are included – includes list of steps, time frames, contact information, etc.
7. Each Division must create a “directory of documents” to be placed on the City’s website in the City Code section - coordinate with Liz Burke and/or Kim Ott.
8. It has been determined that SB1598 applies to each level of an approval in a complex case, i.e. if a project requires site plan review and a building permit the requirements for administrative review and substantive review will apply to each of these processes and permits.
9. Applications that require a legislative decision to be made by the Planning and Zoning Commission (such as approval of a Conditional Use Permit) and the City Council (e.g. a Zoning Map amendment (zone change) or Regional Plan amendment), compliance with the requirements of SB1598 is not required as the final decision to approve or deny is not made by staff, but by the legislative body. However, consistent with the Bill, staff will post administrative and substantive review time frames for the time that an application is under review by staff for completeness, and within which a recommendation is formulated and presented in a report to either the Planning and Zoning Commission or the City Council.
10. For major projects for which site plan review approval is needed, for example Juniper Point, the City is able to ask an applicant to waive their rights under SB1598, similar to a Prop 207 waiver, as this would be in the best interest of the applicant to do so.

Summary of Implications:

1. Compliance with SB 1598 is not optional! December 31, 2012 is the deadline for “licenses”.
2. It applies to all “licenses” – “any permit, certificate, approval, registration, charter or similar form of permission required by law”.
3. A person is entitled to receive information on the license application process when making an application.
4. If an application is not reviewed for completeness within the administrative time frame it is deemed complete.
5. If an application is not reviewed within the substantive time frame (or extended time frame), all fees are returned to the applicant, and the review continues.
6. A denial is required to be based on a specific code citation from the City Code.
7. No duplication of codes and minimize dual permitting.
8. Directory of documents on the City webpage.

Typical Overall Process - Major Project w/ Impact Analyses (IDS 7-Week Review)

Pre-Application Meeting

1 week
Preparation time by the applicant for concept review submittal

Concept Plan Review
2-3 weeks

Est. 2 - 3 months for pre-planning and preparation of impact analyses

Site Plan Review

7 weeks

Limit of SB1598 Application

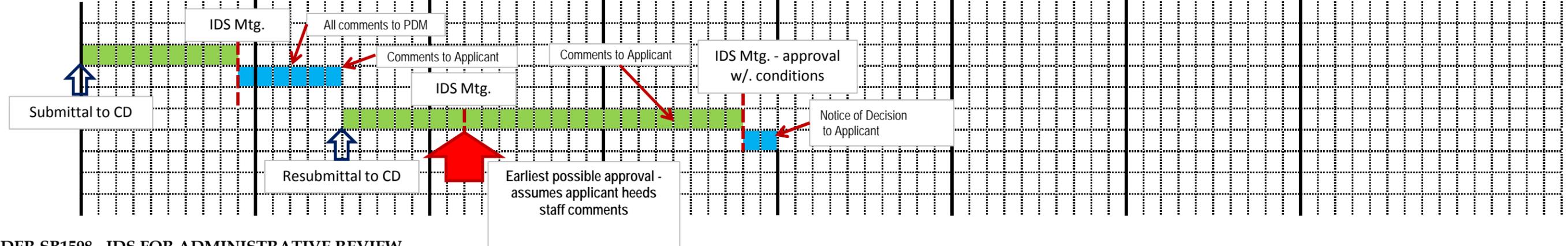
Grading Plan & Building Permit Review

12 weeks

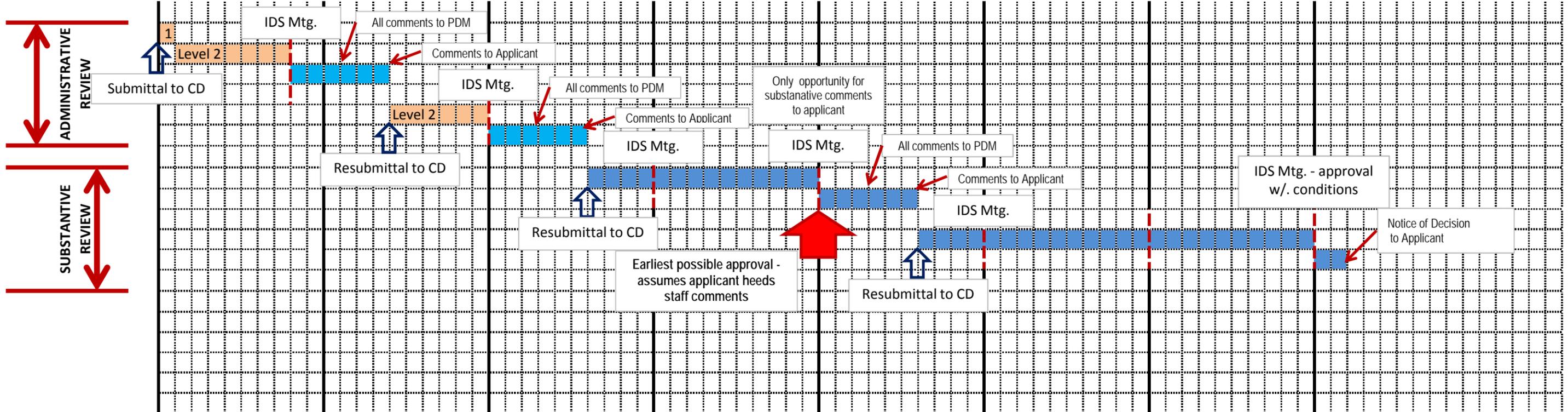
Pre-Entitlement Site Plan Review - Major Project w/ Impact Analyses (IDS 7-Week Review)

WORKING DAYS 0 10 20 30 40 50 60 70

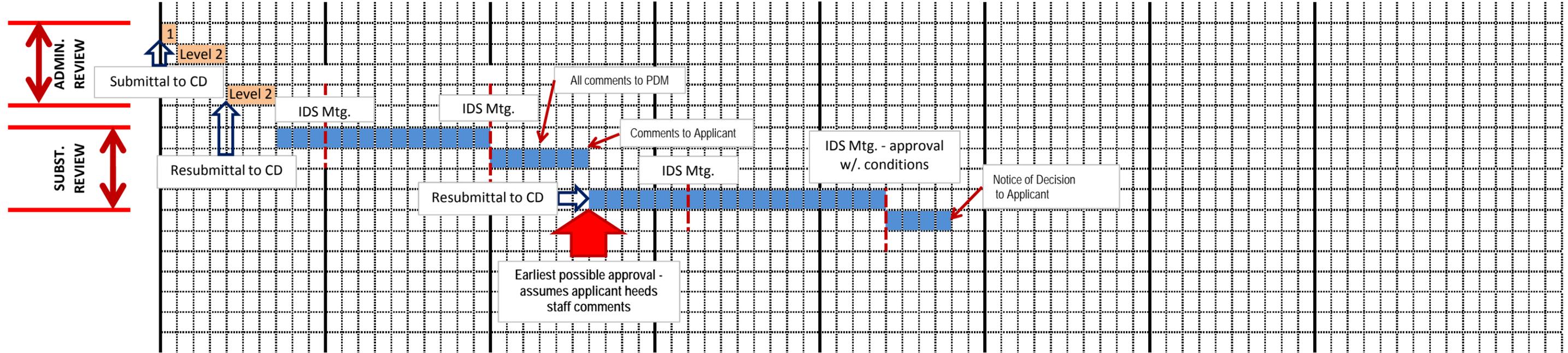
CURRENT IDS PROCESS: PRE-SB1598



OPTION 1 UNDER SB1598 - IDS FOR ADMINISTRATIVE REVIEW



OPTION 2 UNDER SB1598 - DEDICATED STAFFING FOR ADMINISTRATIVE REVIEW



Typical Overall Process - Zone Change Request for a Major Project w/ Impact Analyses (IDS 7-Week Review)

Pre-Application Meeting

1 week

Concept Plan/Zone Change Review w/ Staff

7 weeks

Public Hearings with P&Z and City Council

3 months

Site Plan Review

7 weeks

Grading Plan & Building Permit Review

12 weeks

Limit of SB 1598 Application

