

## **MINUTES**

REGULAR COUNCIL MEETING  
TUESDAY, SEPTEMBER 17, 2013  
COUNCIL CHAMBERS  
211 WEST ASPEN AVENUE  
4:00 P.M. AND 6:00 P.M.

### **1. CALL TO ORDER**

Mayor Nabours called the meeting to order at 4:03 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).*

### **2. ROLL CALL**

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

Present:

Absent:

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

Others present: City Manager Kevin Burke; City Attorney Michelle D'Andrea.

### **3. PLEDGE OF ALLEGIANCE AND MISSION STATEMENT**

The City Council and audience recited the Pledge of Allegiance and Mayor Nabours read the City's 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 and Approval of Minutes:** City Council Regular Meeting of September 3, 2013; the Joint Work Session with Coconino County Board of Supervisors of September 9, 2013; and the Special Meeting (Executive Session) of September 10, 2013.

Mayor Nabours noted one correction that he had previously given to the City Clerk, on page 12 of the September 3, 2013, minutes, to remove "from interest" regarding the Community Banking Program.

**Councilmember Overton moved to approve the minutes [City Council Regular Meeting of September 3, 2013; the Joint Work Session with Coconino County Board of Supervisors of September 9, 2013; and the Special Meeting (Executive Session) of September 10, 2013] as amended; seconded; passed unanimously.**

5. **PUBLIC PARTICIPATION**

*Public Participation enables the public to address the Council about an item that is not on the agenda (or is listed under Possible Future Agenda Items). 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.*

None

6. **PROCLAMATIONS AND RECOGNITIONS**

None

7. **APPOINTMENTS**

*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 the City Council may vote to go into executive session, which will not be open to the public, for the purpose of discussing or considering employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee, or employee of any public body..., pursuant to A.R.S. §38-431.03(A)(1).*

None

8. **LIQUOR LICENSE PUBLIC HEARINGS**

None

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. **Emergency Purchase of a 700 HP Variable Frequency Drive(VFD) Motor Control for the Shop Well**

**Councilmember Overton moved to approve [the purchase from Applied Ingenuity, LLC in the amount of \$94,797.00; seconded; passed unanimously]; seconded; passed unanimously.**

10. **ROUTINE ITEMS**

A. **Consideration of Amendment No. Two regarding the Intergovernmental Agreement (IGA)/Joint Project Agreement (JPA): #11-096I between the City of Flagstaff (City) and the Arizona Department of Transportation (ADOT) for the FY 2013 Highway Safety Improvement Program (HSIP), Transverse Pavement Marking Improvement Program.**

Randy Whitaker, Project Manager for Traffic, reviewed the project, noting that the Arizona Department of Transportation (ADOT) was actually administering the grant program, while the City reviews and consents to the scope of work.

Mayor Nabours said that it was 100% federally funded, but in the middle of Page 2 of the agreement there was wording that the City was responsible for any costs in excess of the contract. Mr. Whitaker said that at this time there was very little risk since the contract has been bid. If there was a cost overrun the City could always request for additional federal funding, or reduce the scope of work.

**Councilmember Overton moved to approve Amendment No. Two [regarding the IGA/JPA between the City of Flagstaff and Arizona Department of Transportation]; seconded; passed unanimously.**

B. **Consideration and Adoption of Ordinance No. 2013-06:** An Ordinance amending Flagstaff City Code Title 2, Boards and Commissions, Chapter 2-12, Transportation Commission, for the purpose of changing the membership of the Transportation Commission, and removing the Commission's appellate authority.

**Councilmember Overton moved to read Ordinance No. 2013-06 by title only for the final time; seconded; passed unanimously.**

*AN ORDINANCE AMENDING FLAGSTAFF CITY CODE TITLE 2, BOARDS AND COMMISSIONS, CHAPTER 2-12, TRANSPORTATION COMMISSION, FOR THE PURPOSE OF CHANGING THE MEMBERSHIP OF THE FLAGSTAFF TRANSPORTATION COMMISSION, AND REMOVING THE COMMISSION'S APPELLATE AUTHORITY*

**Councilmember Oravits moved to adopt Ordinance No. 2013-06; seconded; passed unanimously.**

- C. **Consideration and Approval of Miscellaneous Receivable Account Write-offs:** Delinquent and uncollectable accounts for Fiscal Year 2013.

Mayor Nabours said that they would discuss all three of the next items together.

Revenue Director Andy Wagemaker reviewed the steps their department works through on the various types of late accounts before getting to the stage of writing them off. He said that are able to collect on these when a piece of property is paid off, and if a customer comes in later for service they are required to pay it off before new service is provided.

Mayor Nabours noted that although the numbers are high, they are made up of many small accounts, with only a handful over \$500. Additionally, he said that with sales tax gross receives at \$15 million, writing off \$100,000 was a small amount.

**Mayor Nabours moved to approve the accounts receivable write-offs as recommended in the areas of miscellaneous revenue (\$3,831.73), transaction privilege tax (\$100,866.05) and utility accounts (\$121,300.64); seconded; passed unanimously.**

- D. **Consideration and Approval of Transaction Privilege (Sales) Tax Account Write-offs:** Delinquent and uncollectable accounts for Fiscal Year 2013.

- E. **Consideration and Approval of Utility Account Write-offs:** Delinquent and uncollectable accounts for Fiscal Year 2013.

- F. **Consideration and Approval of an Intergovernmental Agreement** with Northern Arizona Council of Governments (NACOG) to continue operation of their Head Start programs at five city-owned facilities.

Assistant to the City Manager – Real Estate David McIntire said that the proposed Intergovernmental Agreement (IGA) brings together five existing leases for Head Start into one document. He said that the federal funding requires a local match, but the buildings provide that match for the City. He said that it provides for 400 children and 90 different jobs in the community. He added that this program has been in Flagstaff for over 30 years, working out of these five locations.

Mr. McIntire noted that Head Start provides maintenance and insurance, although sometimes assistance with maintenance is provided through the City.

**Councilmember Overton moved to approve the intergovernmental agreement to allow NACOG to continue operating Head Start programs at the five locations where they currently are operating; seconded; passed unanimously.**

**G. City Manager Excellence Awards.**

City Manager Kevin Burke came forward and presented the following awards to City employees and Council congratulated each:

Fremont (Teamwork)	Patrick Brown
Fremont (Quality)	James Duval
Fremont (Accountability)	William "Rod" Liebe
Fremont (Communication)	Corp. Charles Hernandez II
Fremont (Leadership)	Officer Dave Saurer
Agassiz (Teamwork)	Andy Wagemaker, Ranbir Cheema, Wayne Anderson, Carrie Teich, Chad Stiller, Rick Tadder, Dolores Ramirez, Jenylyn Bills, Sue Miller, Sharon Gonzales, and Robin Mosness
Agassiz (Communication)	Chris Monteverde
Agassiz (Quality)	Nicole Woodman
Agassiz (Accountability)	Detective Casey Rucker
Agassiz (Leadership)	Glorice Pavey
Humphreys	Kimberly Sharp

**RECESS**

The Regular Meeting of the Flagstaff City Council held Tuesday, September 17, 2013, recessed at 4:51 p.m. at which time a reception was held for the award recipients.

**6:00 P.M. MEETING**

**RECONVENE**

Mayor Nabours reconvened the Regular Meeting of the Flagstaff City Council held September 17, 2013, to order at 6:05 p.m.

**NOTICE OF OPTION TO RECESS INTO EXECUTIVE SESSION**

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11. **ROLL CALL**

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

Present:

Absent:

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

Others present: City Manager Kevin Burke; City Attorney Michelle D'Andrea.

Mayor Nabours opened up Public Participation for anyone wishing to address the Council on an item not on the agenda.

Jeff Knorr, representing Flagstaff Shelter Services, addressed the Council requesting assistance with funding to allow their services to remain open.

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

None

13. **PUBLIC HEARING ITEMS**

None

14. **REGULAR AGENDA**

- A. **Consideration of Ordinance No. 2013-20:** An Ordinance adopting the prohibition of intentionally, knowingly or recklessly feeding wildlife.

Deputy Police Chief Walt Miller addressed the Council, briefly reviewing the proposed ordinance.

The following individuals spoke against the wildlife feeding ordinance:

- Joe Farnsworth
- Joe Ray

Comments from those opposed to the ordinance included:

- The Mayor said it would not cost the City a dime, but if the City takes it on, it also takes on the liability
- In the last four years Game & Fish has received 15 calls in the City limits regarding wildlife, two were for mountain lions.

The following individual spoke in favor of the proposed ordinance:

- Nancy

Councilmember Barotz said that over the weekend she spent time rewriting the “whereas” clauses to better reflect the wishes of the citizens.

Brief discussion was held on whether the exceptions would address such things as feeding bread to the ducks at the lake. Mr. Phoenix with Game & Fish said that it was not the intent, nor the purpose, of the ordinance.

Councilmember Oravits said that he was happy they addressed the issue of gardens, and if they would include wording to address the duck feeding he would be okay with it.

**Mayor Nabours moved to read Ordinance No. 2013-23 by title only for the final time with the following amendments: 1) include the new whereas clauses; 2) Option 2 to be selected under Section 5; 3) add an exception that it does not apply to hand feeding of ducks or water fowl on a lake or pond; seconded.**

Brief discussion was held on the need for the other exception. Mayor Nabours said that he was trying to get away from someone getting around the ordinance and leaving bread for the ducks and/or wildlife.

Vice Mayor Evans said that she appreciated the openness and candidness of those speaking, and she said that she went door to door to speak to residents in the Country Club area. She said that not one individual had anything negative to say about the deer. The majority that knew about the issue said that it was a feud between two neighbors. She said that the deer can stand on their hind legs and reach bird feeders.

Councilmember Barotz said that it was hard to find solutions when they cannot agree on the problem. As she has looked at it, when she first heard about it she was inclined to not consider it. She did a lot of research and spoke to many around the City. She said that there are supporters and opponents to the ordinance, but the feeding of wildlife hurts them more than it helps them and it could cause public health problems.

Deputy Chief Miller said that if complaints were received after hours the Police Department would respond and help out however they could. He said that they will do in-house training with their officers so everyone is clear.

Mayor Nabours noted that other mountain forest counties and communities, such as Navajo County, Show Low, Pinetop-Lakeside, have adopted similar ordinances, and Maricopa, Pima, and Pinal are subject to it as well.

Councilmember Brewster said that it would not affect 90% of the citizens but she thought that with the exceptions and amendments it was a good ordinance.

**Motion carried 6-1 with Vice Mayor Evans casting the dissenting vote.**

*AN ORDINANCE AMENDING TITLE 6, POLICE REGULATIONS, CHAPTER 6-01, GENERAL OFFENSES, BY ADDING SECTION 6-01-001-0023, PROHIBITING THE FEEDING OF WILDLIFE WITHIN FLAGSTAFF CITY LIMITS; PROVIDING FOR PENALTIES, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE*

**Councilmember Overton moved to adopt Ordinance No. 2013-20; seconded; passed 6-1 with Vice Mayor Evans casting the dissenting vote.**

- B. **Consideration and Approval of Preliminary Plat:** True Life Communities PS AZ for The Estates at Pine Canyon, Unit 5 subdivision, a forty-seven lot, single-family, detached residential subdivision. The site is 29.946 acres in size and is located at 3851 South Clubhouse Circle in the Pine Canyon Development. The site is zoned R1, Single-Family Residential Zone.

Planning Development Manager Neil Gullickson reviewed the preliminary plat for the Estates at Pine Canyon, Unit 5, noting that the Planning and Zoning Commission had recommended approval.

**Councilmember Woodson moved to approve the Preliminary Plat for the Estates at Pine Canyon, Unit 5; seconded.**

Ken Hotsenpiller of Mogollon Engineering said that it had been approved by previous Council, but was delayed due to the economic downturn.

Councilmember Barotz asked Mr. Ostenfeller how many months it had taken to get through the process. Mr. Ostenfeller replied that they started in January of 2013, but there was no rezoning involved and the construction plans had been submitted and approved previously. It went fairly quickly.

**Motion passed unanimously.**

- C. **Consideration and Approval of a Preliminary Plat:** for Miramonte Homes, Tract B of Presidio in the Pines, a subdivision of 14 single-family, residential townhomes on approximately 1.65 acres located at 2700 S Presidio Drive South, within the Highway Commercial (HC) Zone.

Planning Development Manager Brian Kulina reviewed the application, noting that the change was permitted through the conditional use permit process and they were recommending approval with the conditions outlined in the CUP.

Mr. Kulina explained that the original plan was to have neighborhood commercial within the residential subdivision, but they have found that the smaller commercial nodes within a development were not viable unless heavily subsidized by the development, so they were proposing to move the commercial to the outer perimeter of the development.

Vice Mayor Evans said that she knows of some traditional development where it was still working with commercial within the development. She suggested that perhaps it was the type of commercial that had been attempted. Mr. Kulina said that oftentimes those development areas have grown over time.

Mr. Hotsenpiller said that they started this project three or four months before the Pine Canyon, but there have been a lot of issues involved with it. He said that the applicant was okay with the conditions.

**Councilmember Overton moved to approve the Preliminary Plat [of Tract B of Presidio in the Pines] subject to the conditions listed in the Conditional Use Permit; seconded; passed unanimously.**

- D. **Consideration and Possible Adoption of Resolution No. 2013-23:** A resolution of the City Council of the City of Flagstaff, Arizona, ordering and calling the 2014 Primary/General Elections; and providing for and giving notice of said election(s).

City Attorney Michelle D'Andrea said that this had been placed on the agenda so the City could move forward with a 2014 spring election, but the State of Arizona has appealed the decision of the lower court so there may not be a final answer in the near future. She said that she would like to discuss the issue further with Council in an upcoming Executive Session.

She said that Flagstaff was in the same situation as Tempe, Douglas and Winslow, in that their charters called for spring elections. She said that Tempe would be discussing their direction within the next few days.

**Mayor Nabours moved to postpone action for two weeks to allow Council time to get legal advice, and see what the other cities were doing; seconded.**

Councilmember Barotz noted that many people do not know the City was discussing this issue. As far as they were concerned they thought the election would be in November of next year.

Mayor Nabours then gave a brief review of how the charter called for spring elections but the State Legislature had passed legislation requiring that cities and towns hold their elections in fall of even-numbered years. There had been a challenge to the legislation and it was overturned in the lower court, but it has now been appealed to the Court of Appeals.

**Motion passed unanimously.**

15. **DISCUSSION ITEMS**

B. **Discussion of the City's Materials Testing Program.**

City Engineer Rick Barrett gave a PowerPoint presentation on the City's Materials Testing Program (MTP) which addressed:

- COUNCIL'S GUIDING PRINCIPLES
- MTP: BACKGROUND/HISTORY
- MTP: Request for Information
- MTP: Pricing
- OPTIONS
  - #1: Maintain City Materials Testing Program
  - #2: Eliminate City Materials Testing Program and hire Private Sector Service Provider
  - #3: Continue hybrid staff/on-call work group
  - #4: Eliminate City Materials Testing Program and transfer testing responsibility to private sector

After some discussion, Council directed staff to move forward with Option 2

Councilmember Overton suggested that if the City ultimately went with Option 2, perhaps NACET would be interested in the City's testing equipment.

Councilmember Woodson asked what other communities do. Mr. Barrett replied that they have done some benchmarking and for a community of Flagstaff's size, it was rare for them to have their own lab.

Councilmember Woodson asked Construction Manager Daniel Casados his opinion of how it had been working the past four months. Mr. Casados said that there had been some hiccups along the way but they have made it a full-time tech and treated him as part of their techs. They have been able to have him as a full-time tech on a particular job and another inspector on an as-needed basis.

Mr. Burke said that the context of the decision being made is very administrative in nature, and it normally would not be a decision to come before Council, but from a procurement standpoint, it was discussed during the budget process and they wanted to receive Council input.

Councilmember Woodson said that they need to understand that if they go down this path they cannot come back to it easily.

A break was held from 7:33 p.m. to 7:42 p.m.

**A. Regional Plan Discussion #3 – Ch. VII. Energy**

***THIS ITEM WILL NOT BE DISCUSSED PRIOR TO 7:00 P.M.***

Comprehensive Planning Manager Kimberly Sharp gave a brief PowerPoint presentation on the chapter of Energy. She first stated that, in response to a previous question, there were 17 required elements within the document and 5 optional elements.

- ENERGY – 4<sup>TH</sup> CHAPTER
- GUIDING PRINCIPLES
- PUBLIC PROCESS

- GOAL 1: Increase Energy Efficiency

- Education
  - Building
  - Transportation

- GOAL 2 – Expand Production and Use of Renewable Energy

Ms. Sharp clarified that wood for home heating was encouraged in the Plan.

The following individuals spoke regarding the Regional Plan:

- Carol Kendall
- Angela Horvath
- Gaylord Staveley
- Sally Kladneck
- Bill McCullogh
- Marilyn Weismann, Friends of Flagstaff's Future
- Moran Henn
- Joy Staveley
- Jeff Knorr

Comments received included:

- The Plan is a guide, not a binding document
- Amend Plan to emphasize educating community on conservation versus incentivizing
- Write the Plan with health in mind
- This section of the Plan took a balanced approach with a good vision of where they want to be
- Would like to see words like “promote,” “preserve,” and “pursue” used more throughout the Plan
- It is a beautiful plan and hoped the Council did not rewrite it entirely
- Energy Plans and others may be based on false assumptions re climate change

Further discussion took place with regard to language used within the document and it was noted that this issue would be discussed further at the Council Retreat on Thursday, September 19, 2013.

Councilmember Barotz asked, as an example (assuming the Plan had been approved), if someone came before Council in 2019 and wanted to have a wind turbine in their backyard and the Regional Plan states that the City supports the use of wind turbines, if they would be required to allow the turbine if the zoning did not permit it. Ms. D'Andrea said that there would be no legal consequence of deciding different than the Plan. It would just indicate that the citizens thought it would be a good path.

Vice Mayor Evans said, on the issue of strong language versus not strong language, there was the concept that they all agree that the document is not

binding, so they should wordsmith it. On the flip side, she would suggest they leave it the way it is.

Councilmember Barotz said that she wants people to understand where she was coming from. She believed in regional planning and does not believe there are ulterior motives. Because it was written by a citizens committee, it was the people asking the government to do what their vision was. The City used a lot of different outreach methods—surveys, comments solicited, public meetings, Facebook, printed mailers, etc. She felt badly that some people felt left out, but she does not feel they were intentionally left out. She concurred that this was a real good chapter; it was short and to the point.

Mr. Cronk said that staff had prepared a paper copy of the Parking Lot to date, and he distributed to each of the Councilmembers. He said that staff's goal was to include the Parking Lot every Friday in the packet, understanding that only Councilmembers were putting things on the parking lot, but they would include comments received from the public.

Councilmember Barotz said that she understood that some people were frustrated because they live in the County and cannot vote on the Plan; however, after hearing from Bill Ring it made more sense. She said that the answer to those living in the County would be to address their legislators to change the law and allow for voting in the future.

16. **POSSIBLE FUTURE AGENDA ITEMS**

*Verbal comments from the public on any item under this section must be given during Public Participation (#5) near the beginning of the meeting. Written comments may be submitted to the City Clerk. After discussion and upon agreement of three members of the Council, an item will be moved to a regularly-scheduled Council meeting.*

None

17. **PUBLIC PARTICIPATION**

None

18. **INFORMATIONAL ITEMS AND REPORTS FROM COUNCIL AND STAFF, REQUESTS FOR FUTURE AGENDA ITEMS**

Councilmember Woodson commended City Management staff, and staff in general. He said that they got to see some wonderful employee recognition earlier in the evening and it was a great recognition.

Councilmember Oravits requested that an item be placed on Possible Future Agenda Items for addressing the needs of Flagstaff Shelter Services.

Vice Mayor Evans reported that she had attended the 9/11 Veterans Day Forum and she would like to see a Work Session held to address Veterans issues and receive an update from the VA representatives.

Mr. Burke reminded everyone that the Council Retreat would begin at 8:00 a.m. on Thursday at the Flagstaff Aquaplex.

CITY CLERK