

## MINUTES

REGULAR COUNCIL MEETING  
TUESDAY, OCTOBER 15, 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 4:05 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; Deputy City Attorney Sterling Solomon.

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

The audience and City Council recited the Pledge of Allegiance and Mayor Nabours read the Mission Statement of the City of Flagstaff.

### **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**

**Consideration and Approval of Minutes:** City Council Special Work Session of September 30, 2013, and the Special Meeting (Executive Session) of October 8, 2013.

**Mayor Nabours moved to approve the minutes of the City Council Special Work Session of September 30, 2013, and the Special Meeting (Executive Session) of October 8, 2013; 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.*

Carol Curtis of the Coconino County Career Center and Russ Yelton with NACET addressed the Council regarding Manufacturing Month and presented each of the councilmembers with material on their recent local efforts. Additionally, they invited everyone to an Open House at NACET on October 28, 2013, from 10:00 a.m. to 12:00 noon.

Abraham Letter, resident of the Rain Valley community (within Flagstaff City limits), addressed the Council regarding a water line on one meter which services five homes.

Joe Shannon, resident representing the Flagstaff cycling community, said that they were interested in adding cycling corridors to the Transportation Program (tax) on which the City was working, to allow people to get through town safely.

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.*

None

10. **ROUTINE ITEMS**

- A. **Consideration and Approval of Final Plat** for Southside Development, LLC for Elden Townhomes subdivision, a six-lot, single-family, attached residential subdivision. The site is 11,342 square-feet (.26acres) in size and is located at 307 South Elden Street, (SW corner of Elden Street and Butler Avenue). The site is zoned both HR, High Density Residential and T4N1 Transect zones.

Planning Development Manager Neil Gullickson said that the Preliminary Plat for this development had come before Council in April 2013 and today they were presenting the Final Plat. He said that it was a proposal to trade the unused portion of lot 1 to the developer if the developer would dedicate one of the developed lots to the City's Land Trust for Affordable Housing. In this case the developer will either directly or through a third party sell the residential building to a qualified buyer, while the City will retain ownership of the subdivision lot, and provide the buyer a long term lease for the land. The target set for affordability is a family making no more than 80% of the Area Median Income (AMI).

**Councilmember Woodson moved to approve the final plat, and authorize the Mayor and City Clerk to sign documents as necessary [both the plat and City/Subdivider Agreement]; seconded; passed unanimously.**

- B. **Consideration and Approval of Intergovernmental Agreement/Joint Project Agreement:** City of Flagstaff Maintenance of Beulah Blvd.

Public Works Director Erik Solberg reviewed the project, noting that it was an IGA/JPA with ADOT and the County for continued maintenance of Beulah once it is realigned. He said that the City has been maintaining the road from Forest Meadows by Wal-Mart down to 200 feet north of the Airport road. He said that the scope of work would not change. If a decorative fence is installed at Fort Tuthill, it will be maintained by Fort Tuthill.

Staff was asked about the timeline of the project. Project Manager Bret Peterson said that he was confirming with ADOT this morning. ADOT plans to advertise for construction next week with construction starting in February, with a 210-220 day project. They are estimating about 150 working days to be available before shutting down for 2014 winter and then finishing up the project in 2015.

**Councilmember Brewster moved to approve the IGA/JPA as recommended [with the Arizona Department of Transportation (ADOT) and Coconino County for the maintenance of Beulah Blvd. after construction of the roadway realignment to accommodate ADOT roundabouts]; seconded; passed unanimously.**

- C. **Consideration and Adoption of Resolution No. 2013-28:** A resolution of the City Council of the City of Flagstaff, Arizona approving an instrument of partial release and partial re-conveyance of a vehicular, non-access easement and a landscaping buffer easement at Lot 29A Woodlands Village Unit 3.

Real Estate Manager David McIntire reviewed the plat, noting that the purpose for the nonvehicular easement in the past was due to the City's FUTS trail in that area. In speaking with Martin Ince, the City was okay with this secondary access as long as the developer was willing to make modifications to the FUTS trail in that area, which they are willing to do.

**Mayor Nabours moved to read Resolution No. 2013-28 by title only; seconded; passed unanimously.**

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, APPROVING AN INSTRUMENT OF PARTIAL RELEASE AND PARTIAL RECONVEYANCE OF A VEHICULAR NON-ACCESS EASEMENT ON LOT 29A, WOODLANDS VILLAGE UNIT 3*

**Councilmember Overton moved to adopt Resolution No. 2013-28; seconded; passed unanimously.**

- D. **Consideration and Approval of Amendments:** Flagstaff City Council Rules of Procedure.

City Clerk Elizabeth Burke reviewed proposed changes based on previous discussion at the recent Council Retreat. Staff was directed to reword Rule 5.01 and bring it back for further discussion at the 6:00 p.m. portion of the meeting, to allow for someone to read a statement for another and speak themselves, as long as it was done within the three-minute time period.

### **RECESS**

The Regular Meeting of the Flagstaff City Council held on Tuesday, October 15, 2013, recessed at 4:37 p.m.

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

### **RECONVENE**

Mayor Nabours reconvened the Regular Meeting of the Flagstaff City Council held on Tuesday, October 15, 2013, at 6:05 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).*

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; Deputy City Attorney Sterling Solomon.

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

Ms. Burke presented five options for the Council to consider, which had been drafted by Mr. Solomon.

**Councilmember Woodson moved to approve Option 5 [If the Chair recognizes a speaker, the Chair shall limit the period of speaking to a reasonable period of time of no more than three minutes per person, at the discretion of the Chair and a speaker may address the Council with the speaker's own statements, and the statements of other persons within the three minute period, but that shall be the speaker's only opportunity to address the Council on that issue], plus the other two amendments [adding Public Participation at the beginning of the 6:00 p.m. meeting and allowing for amendment of an ordinance between first and second read]; seconded; passed unanimously.**

**PUBLIC PARTICIPATION**

Joe Ray, resident, presented a copy of a recent staff report (regarding the Wildlife Ordinance) that had written comments at the bottom of it, and said he would commend whoever made the notes.

Additionally, he challenged the Council regarding the previous statements of there being so many incidents involving deer in the past two years.

Joe Shannon, resident, requested that the Council, Mayor and City staff investigate a hardline item for safe cycling in Flagstaff. On completion of his comments, Mayor Nabours asked that he leave his phone number with the Mayor to further discuss the issue.

The following individuals addressed the Council in support of bicycle safety and asked them to include such in the upcoming transportation tax consideration:

- Kim Allen
- Aeddon Allen
- Alex Winkler
- Eck Doerry
- Dave Able
- Art Keith

Joe Farnsworth, resident, said that when the Council passed the ordinance (re wildlife) they took away his rights.

13. **PUBLIC HEARING ITEMS**

- A. **Public Hearing, Consideration and Adoption of Ordinance No. 2013-21 and Resolution No. 2013-22:** An Ordinance Adopting That Certain Document Entitled "2013 Amendments to Chapter 10-20, Administration, Procedures and Enforcement," By Reference; and Thereby Amending Division 10-20.50, Amendments to the Zoning Code Text and the Zoning Map, and Division 10-80.20, Definition of Specialized Terms, Phrases and Building Functions; and a Resolution of the Council of the City of Flagstaff, Arizona, Declaring as a Public Record That Certain Document Filed with the City Clerk and Entitled "2013 Amendments To Chapter 10-20, Administration, Procedures And Enforcement."

Zoning Administrator Roger Eastman gave a PowerPoint presentation which addressed:

- AMENDMENTS TO DIVISION 10-20.50
- MAINTAIN SCALES
- DECOUPEL DETAILS FROM ZONE CHANGE:
- CHOICE TO DEVELOPER
- FLOW CHART
- CONDITIONS OF APPROVAL
- PLANNING AND ZONING COMMISSION RECOMMENDATION
- RECOMMENDED ACTION

Councilmember Barotz said that she was not clear with the recommendation of the Planning and Zoning Commission and whether it would go into the ordinance or not. Mr. Eastman said that it would not be in the ordinance because the ordinance does not include the submittal requirements. Their recommendation would be included in the submittal requirements separately.

- CONDITIONS OF APPROVAL

Mayor Nabours asked if a request for rezoning went to Council and they had additional requests, if they could be imposed at that time. Mr. Eastman replied that they could.

Mr. Eastman said that a developer could come in and base his zone change application on what he wants to do with the project in a general way and that would define the level of impact analysis. They will have already narrowed their uses. As an example, they may say they want a rezoning for a retail/commercial project. At that point they could say it makes no sense to have some of the permitted uses and in negotiations with the developer the City could take some of those uses off the table. He said that if the developer did not know for sure what they were looking at, staff would look at the remaining uses still on the table and require analyses for the use with the highest impact.

Planning Director Jim Cronk said that staff would be looking to the Regional Plan as well, and if there were, as an example, 30 uses left, there may only be 10 of those 30 that were compatible with the Regional Plan. Staff would then say they would only support a rezone for those ten uses. It would then go to the Planning and Zoning Commission and then on to the Council.

Councilmember Barotz asked what staff presented back in 2011, and how it was different than what was being presented currently. Mr. Eastman replied that in 2011 it was a concept zoning plan idea, referred to as a concept plan. They had tied the concept plan as a preliminary step to the site plan review through IDS, but it got complicated following SB1598 which made it difficult for a municipality to provide good customer service to clients.

Referring back to the Conditions of Approval slide, Councilmember Barotz asked if the Council could require the developer to hold an additional public meeting.

Councilmember Barotz said that what she was having a problem with is that a group of people could talk at such a required meeting; however, it would be after the fact and would not leave them any leverage. Mr. Eastman said that they would see that meeting as a free exchange between developer and attendees, for the developer to show the community that they have adhered to and implemented all of the conditions imposed by the Council.

Further discussion was held on the recommendations of the Planning and Zoning Commission, noting that it was his understanding that if they wanted to include any of them the Council would need to add them to the ordinance. Mr. Eastman explained that if the Council wanted to include them, they would be added to the submittal requirements rather than become part of the ordinance as none of the other submittal requirements were in Code, but in a separate document.

Vice Mayor Evans asked what exactly was required at the public hearings. She said that she attended a public hearing last Wednesday and the information being presented was not clear.

Mr. Eastman reviewed the formal public hearing process, noting that the purpose is stipulated in Arizona Revised Statutes. For any zone change application a

public hearing has to be scheduled. That is different from a public meeting, and the public hearing requires at least 15-days' notice with a certain size ad. In addition to the public hearing, the applicant is required to host a neighborhood meeting prior to the public hearing. There are two public hearings required with a Major Regional Plan Amendment or a Comprehensive Amendment, both before Planning and Zoning.

Mr. Burke said that he believed that the meeting Vice Mayor Evans had attended was a neighborhood meeting. Mr. Eastman said that he did not know what neighborhood meeting was held. If it was associated with an application, staff would not be there; it is for the developer to obtain comments from the public. He said that staff does attend meetings from time to time and make presentations, but they are not associated with a project.

Vice Mayor Evans said that she was not sure that the individuals were given the information they needed. It sounded more like a sales pitch and she would have walked out of that meeting thinking it was a done deal.

Mr. Cronk said that there are developer-required neighborhood meetings in which they have to notify people within a certain distance; there are HOA meetings; and they have meetings on their own. Oftentimes developers get invited to attend those other types of meetings, and sometimes staff is invited. He said that the meetings that are required of the developer require them to call the meeting and the City approves what is going to be presented. The results of the meeting then come back to the City and are attached to the staff summary of the Planning and Zoning and Council meetings.

When the City gets ready to have their Planning and Zoning Commission public hearings and the City Council public hearing, they do a new notice, put an ad in the newspaper and post signs on the property.

In reviewing the diagrams, Councilmember Brewster asked what the green boxes were indicating. Mr. Eastman replied that they were the opportunities for public participation within the process.

Councilmember Brewster asked what the difference was with the current process versus the proposed process. Mr. Eastman said that there was no change in terms of the public participation process.

At this time, Mayor Nabours reported that if anyone was present for the Regional Plan discussions, they would not be getting to it this evening. The next discussion would be after 7:00 p.m. on October 22, 2013.

**Mayor Nabours moved to open the Public Hearing; seconded; passed unanimously.**

Mayor Nabours said that they had held considerable discussion about the issue and he was going to limit the public input to 30 minutes. He asked that everyone respect the three-minute lights. The following individuals then addressed the Council:

- Nat White
- Sat Best
- Marilyn Weismann
- Julie Pastrick, representing the Flagstaff Chamber of Commerce
- Carrie Sylvan, representing several landowners
- Rich Bowen
- Moran Henn

Comments received included:

- Would be reversing what the immediate previous Council did in 2011.
- It is a bad thing to make changes within two years and not having the process work.
- It is a bad thing to make changes when they have not seen facts that it would be a good thing to do.
- The prior Council had a lot of discussion about small, medium and large designations and there was a lot of compromise. The larger developments requires greater detail and was closer to what was in the LDL, which made sense since the largest developments have the potential for positive and negative impacts.
- The developer/investor of a large-scale project should spend time and money to demonstrate their commitment to the project, not the zone change.
- Primary concern was democracy in the process. The proposed changes appear to be weighted in favor of development; needs to be balance.
- One of only two members of the committee that did not represent development
- Proposed changes make it easier for development
- Requested that the Planning and Zoning Commission recommendations not be adopted.
- The current Zoning Code did have a Catch 22; the proposed changes are critical to responsible and balanced growth – supports the changes and it accompanies the certified site program.

Councilmember Barotz said that she understood the decoupling of the zoning from the site plan, but did not understand why they believed the public engagement process would still be effective and fair under the proposed changes. Ms. Sylvan used the property development at the corner of I-40 and Butler as an example. She said that the property is zoned as rural residential, but the Regional Plan shows it as General Commercial, and it makes sense to be zoned commercial. If the property owner wants retail, he may not have the specifics, but there are many uses within the commercial designation that could be eliminated. Their ultimate goal is to have the hearings before Planning and Zoning and Council be as smooth as possible, so they will want to do their homework.

- Was opposed to proposed changes as they felt it bypassed a substantial part of the public participation process

Mayor Nabours said that there were just a few more comments and **moved to close the Public Hearing; seconded; failed 2-5 with all but Mayor Nabours and Councilmember Oravits casting the dissenting votes.**

- Norm Wallin voiced opposition to the proposed changes, noting that those voting for the change should be ashamed of themselves
- Tadd Riggs spoke in support of the changes
- Michelle Thomas said that it was an inaccessible and confusing agenda item, and she was opposed to the amendment

**Mayor Nabours moved to close the Public Hearing; seconded; passed unanimously.**

A break was taken between 7:58 p.m. and 8:11 p.m.

Mayor Nabours asked if Council members had any questions on the additional suggestions of the Planning and Zoning Commission.

Mr. Eastman clarified that if changes were needed to the submittal requirements, they would be done by staff, but not unilaterally; it would be at the direction provided by the Council.

Further discussion was held on the Commission recommendations. Staff concurred that if a project did not require the submittal of certain items, staff could eliminate that requirement; but they could also add an additional item if it was deemed necessary by staff.

Councilmember Barotz asked if the Commission specified that the requirements not be in the ordinance. Mr. Eastman said that the discussion involving that question was confusing, but his understanding was that they were submittal requirements; they do not go into the Code, but rather into the separate submittal requirement document.

Mr. Burke said that the Council could set it up any way they want. Given that it was not specified, staff put it where the other submittals were included.

Councilmember Oravits said that he understood why they do the submittals the way they do, and he recognizes that staff is in a good position to determine what they need to move forward. He was not interested in Commission Recommendations 1 or 3, but he was okay with #2.

Councilmember Woodson said that today they have standards/regulations in place that dictate conditions of development. There are all sorts of analyses and they were created with public input. He said that the difference in the Zoning Code that exists today and the proposed, is a level of specificity of use and design.

He said that if a developer gets the zoning and wants to do something different from what is allowed in the Zoning Code, they would have to go back to square one.

Councilmember Brewster said that the City was in competition with everyone else in the state for businesses. It was about job creation and raising income levels. She was in favor of the less up front specificity and she thought it would draw in more business, and the public would still have at least two public hearings before the Zoning was done.

She said that the Certified Sites program was a big issue as the Arizona Commerce Authority was endorsing all communities with them and to try and do that with the current code was impossible.

Vice Mayor Evans thanked everyone that came out to be a part of the stakeholders' meetings held and also for the discussion today. She said that she understood there were major issues with the LDC and there were several pieces of legacy properties. She had previously suggested an overlay zone, but was told they needed to rewrite this. They were told of the importance of having shovel-ready properties, and she understands all of those issues.

She continued, noting that she also understood personal property rights, but when a property owner goes before the Council for a rezone, it becomes a public issue and the public wants to know certain things. She said that before last Wednesday she was in agreement with the change in the Zoning Code, but then she experienced a neighborhood meeting. Right now she does not want to do anything that is going to have a negative impact with addressing things that are going to impact the public.

**Mayor Nabours moved to read Resolution No. 2013-22 by title only with the amendment that the maximum building envelope for all uses be an additional submittal requirement; seconded by Councilmember Oravits.**

After further discussion, **Mayor Nabours amended his motion to read Resolution No. 2013-22 by title only; Councilmember Oravits seconded; passed unanimously.**

*A RESOLUTION OF THE COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND ENTITLED "2013 AMENDMENTS TO CHAPTER 10-20, ADMINISTRATION, PROCEDURES AND ENFORCEMENT"*

**Councilmember Overton moved to direct staff to add Bullet #2 from the Planning and Zoning Commission recommendations of 9/11/13, "a maximum building envelope shall be defined for all proposed uses" to the submittal requirements (separate from the ordinance); seconded; passed unanimously.**

**Mayor Nabours moved to read Ordinance No. 2013-22 for the first time by title only; seconded; passed 5-2 with Vice Mayor Evans and Councilmember Barotz casting the dissenting votes.**

*AN ORDINANCE ADOPTING THAT CERTAIN DOCUMENT ENTITLED "2013 AMENDMENTS TO CHAPTER 10-20, ADMINISTRATION, PROCEDURES AND*

*ENFORCEMENT,” BY REFERENCE; AND THEREBY AMENDING DIVISION 10-20.50, AMENDMENTS TO THE ZONING CODE TEXT AND THE ZONING MAP, AND DIVISION 10-80.20, DEFINITION OF SPECIALIZED TERMS, PHRASES AND BUILDING FUNCTIONS*

- B. **Public Hearing, Consideration and Adoption of Ordinance No. 2013-22:** An ordinance of the Council of the City of Flagstaff, Arizona, Amending Title 10, Zoning Code, Division 10-50.100, Sign Standards, Section 10-50.100.080, Sign Districts of Special Designation, of the Flagstaff Zoning Code by adding Section 10-50.100.080.E, Flagstaff Mall and Marketplace District.

Mr. Eastman reviewed the application, noting that this was one of the stipulations of the Settlement Agreement, and then reviewed some distinguishing facts that were not in the staff summary. He said that the Planning and Zoning Commission was not pleased with the way it was approached and there was a 5-0 vote to not approve the amendment.

Mr. Eastman clarified that the sign, as designed and illustrated, was consistent with what the sign program says and it was consistent in area and height.

Councilmember Overton asked if there was an opportunity for the developer to ask for another sign at another location. Mr. Eastman said that they could, but whether it would be approved is another question, and they would have to amend their Comprehensive Sign Plan. This was their only off-site location.

Councilmember Oravits asked if the proposed sign met the current Sign Code. Mr. Eastman replied that it was consistent with the Comprehensive Sign Program already approved. The only purpose of the district was to allow this sign to be located off-site.

Councilmember Oravits asked if the opportunity existed for other businesses in Flagstaff to develop off-site sign districts. Mr. Eastman replied that this was unique to the Mall. If they had any other unique situation come before them to warrant such a district, it could be considered.

Mr. Burke said that it was his understanding that the Zoning Code allows for the creation of sign districts. Mr. Eastman said that was correct; there were two very old and well-established sign districts in the downtown area.

Mayor Nabours said that he did not personally think that all off-premises signs were bad, although he was not supportive of billboards; and, additionally, this grew out of a settlement with a recorded easement.

**Mayor Nabours moved to open the Public Hearing; seconded; passed unanimously.**

The following individuals spoke to this issue:

- Nat White
- Carol Kendall

- Jim McCarthy

- Attended the Planning and Zoning Commission meeting and was also involved in the discussions regarding signs that took place back in the 1980's. The first domino flipped with the Auto Park Sign, and was concerned. Believed that they have opened Pandora's Box.

- First thought it would be good, but after seeing the proposed location, believed it would be a waste of money and could lead to a lot of frustrated customers.

- The people on the Council make a Pledge of Allegiance, which talks about "liberty and justice for all." Off-site signs are not allowed under the current City Code and this would give a landowner a right that no one else can get; it was not equal. Support for this sign would be in opposition to open government.

**Mayor Nabours moved to close the public hearing; seconded; passed unanimously.**

Brief discussion was held on whether to go into Executive Session to discuss specific issues.

Garrett Newlin, Vice President of Development for Macerich Development, said that there was time sensitivity to the project. He said that their company worked hard with the City for over two years to negotiate and reach a settlement, which they believed to be fair. Some would argue that neither party was completely happy. He said that they had a signed easement and the easement had already been recorded. He said that they were very pleased with the Mall and the Marketplace, and believed they had a good working relationship with the City. He said that they were working with a major tenant at the second phase and the sign is a major consideration of that tenant.

**Councilmember Overton moved to recess into Executive Session for legal advice regarding the ordinance and Settlement Agreement; seconded; passed 6-1 with Mayor Nabours casting the dissenting vote.**

The Flagstaff City Council recessed into Executive Session at 9:08 p.m. and reconvened into Open Session at 9:26 p.m.

**Mayor Nabours moved to read Ordinance No. 2013-22 by title only for the first time; seconded; passed unanimously.**

Councilmember Woodson said that the staff report was a little misleading in that the actual size was larger than the 216 sq. ft. indicated. He has looked through the agreement and would vote in favor of it, but in looking to the future in review of the Sign Code, if this is good for them, it is probably good for others. He said that they could get this one up and see what they think of it.

Councilmember Oravits said that he has been asking to review the Sign Code, and it is disappointing that it is going to be past the new year before they do that. He said that he does not mind off-site signs so much, but he believes it is an equity issue. He would support this tonight, but he thought there was a precedence being set.

Councilmember Overton said that he did not support changing the entire Sign Code based on one issue. Vice Mayor Evans echoed that thought. She was not interested in changing the entire Code.

Mayor Nabours noted that there were some unique features about this location and this business and they need to keep those in mind, such as:

1. The Flagstaff Mall and Marketplace is a unique regional shopping center that draws people from outside the immediate Flagstaff area. Large signs are, therefore, helpful for people to locate the retail center.
2. The site area of the Flagstaff Mall and Marketplace is over 40 acres (excludes the Flagstaff Autopark).
3. The original Mall was first opened in 1980 while the existing Marketplace expansion was approved in 2004 and opened in 2006.
4. This is the largest shopping mall in Flagstaff and it results in significant employee and customer traffic.  
 Existing floor area data:  
 Mall Over 350,000 sq. ft.  
 Marketplace Over 250,000 sq. ft.  
 Total existing Est. 600,000 sq. ft. of retail/restaurant space
5. Undeveloped Marketplace Est. 150,000 sq. ft.
6. Total existing/proposed retail, restaurant, and theatre floor area - over 750,000 sq. ft.
7. Number of tenants:  
 Flagstaff Mall 67  
 Marketplace 7
8. Total tax revenue for the Flagstaff Mall and Marketplace for the past four years is provided in the table below. This tax revenue is based on the 1% general sales tax, 0.721% transportation sales tax, and 2% BBB sales tax.
9. The proposed sign is consistent with the Comprehensive Sign Program for the Mall

Calendar Year	Flagstaff Mall	Marketplace	Total
2009	\$1,396,777	\$851,973	\$2,248,749
2010	\$1,374,713	\$831,496	\$2,206,209
2011	\$1,126,081	\$912,416	\$2,038,497
2012	\$1,005,611	\$1,040,503	\$2,046,114
<b>Annual Average</b>	<b>\$1,225,795</b>	<b>\$909,097</b>	<b>\$2,134,892</b>

*AN ORDINANCE OF THE COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, AMENDING TITLE 10, ZONING CODE, DIVISION 10-50.100, SIGN STANDARDS, SECTION 10-50.100.080, SIGN DISTRICTS OF SPECIAL DESIGNATION, OF THE FLAGSTAFF ZONING CODE BY ADDING SECTION 10-50.100.080.E, FLAGSTAFF MALL AND MARKETPLACE DISTRICT*

Mayor Nabours explained that ordinances required two readings, so the second reading and adoption would occur at the November 5, 2013, Council meeting.

Vice Mayor Evans left the dais from (9:31 p.m. to 9:36 p.m.)

Councilmember Woodson declared a conflict of interest on the next item and left the dais (at 9:31 p.m.)

- C. **Public Hearing, Consideration and Adoption of Ordinance No. 2013-23:** An ordinance amending the Flagstaff Zoning Map designation of approximately 3.15 acres of real property located at 601 East Piccadilly Drive from HC (Conditional), Highway Commercial Conditional, to HC (Conditional), Highway Commercial Conditional, by removing, modifying and replacing those conditions previously imposed.

Planning Development Manager Elaine Averitt reviewed this application through a PowerPoint which addressed:

- HOW THE MASTER PLAN HAS CHANGED
- SITE PLAN
- REGIONAL PLAN
- ZONING STANDARDS VS. PROPOSED AMENDMENT
- DESIGN REVIEW

The Planning and Zoning Commission added a condition that the color is complimentary to commercial and residential areas; developer agreed and it will be added to the Development Agreement.

- CITY SYSTEMS IMPACTS
- PUBLIC INPUT
- WHAT IS CHANGING?
- DEVELOPMENT AGREEMENT
- RECOMMENDATION
- ENTITLEMENT SCHEDULE – 2013

Ms. Averitt said that she did not believe that everything would come together until the November 19, 2013, Council meeting.

Mayor Nabours asked if the proposed height was the same as the Groves. Ms. Averitt said that the Groves were four stories, or 52-53 feet high; this was a little higher than the Groves.

Councilmember Brewster said that she was excited as she sees it as a good mixed use development. She asked if the garage would be available for the public visiting the retail areas. Ms. Averitt said that part of it was for the retail shoppers and part was for the residents.

Vice Mayor Evans said that she had received a public notice and had the opportunity to sit down with the engineer. She was excited, especially that they thought about parking, and she was looking forward to seeing this move forward.

**Councilmember Overton moved to open the Public Hearing; seconded; passed 6-0 with Councilmember Woodson abstaining.**

There being no public input, **Councilmember Overton moved to close the Public Hearing; seconded; passed 6-0 with Councilmember Woodson abstaining.**

**Councilmember Barotz moved to read Ordinance No. 2013-23 by title only for the first time; seconded; passed 6-0 with Councilmember Woodson abstaining.**

*AN ORDINANCE OF THE FLAGSTAFF CITY COUNCIL AMENDING THE FLAGSTAFF ZONING MAP DESIGNATION OF APPROXIMATELY 3.15 ACRES OF REAL PROPERTY LOCATED AT 601 EAST PICCADILLY DRIVE FROM HC (CONDITIONAL), HIGHWAY COMMERCIAL CONDITIONAL, TO HC (CONDITIONAL), HIGHWAY COMMERCIAL CONDITIONAL, BY REMOVING, MODIFYING AND REPLACING CONDITIONS PREVIOUSLY IMPOSED*

Councilmember Woodson returned to the dais at this time (9:51 p.m.)

14. **REGULAR AGENDA**

A. **Consideration of Financial Assistance:** Flagstaff Shelter Services

Deputy City Manager Josh Copley said that he had provided his staff summary along with a number of documents provided by both the City and Flagstaff Shelter Services (FSS). He noted that Lori Barlow from FSS was also present to speak. He said that previously they had discussed use of the Emergency Housing Fund, and it was thought the tent was for forest closures; however, he found that it had a much broader purpose than that. One example was if the City were to condemn a property the fund could be used to assist those displaced. He said that the City does have a policy that prohibits organizations that receive funding (through United Way or Flagstaff Cultural Partners).

Ms. Barlow, Board President and Interim Director of Flagstaff Shelter Services, said that a lot of people did not know what they did. They provide overnight emergency services to the critically and chronically homeless. The only requirement is that they be able to follow basic instruction and not impose an immediate threat to staff or the other patrons.

She said that last December they became aware of a large population of homeless women in the area and they contacted the City's first responders. They brought in blankets and cots and had women showing up. One was 92 years old who stayed with them for six weeks. She said that they have been impacted by adding the women's shelter and also moving from a \$1 year lease into a new location where they pay rent and utilities. Additionally, they missed a critical CDBG grant funding, and they are currently facing a shortfall of nearly \$27,000.

Ms. Barlow said that they are now expected to be closed the week of Thanksgiving, the entire month of January and again in February for one week.

Those temporary closures are because they do not have funds to cover payroll. She said that they have not asked the City for direct assistance, although they believe that the City should provide assistance.

Councilmember Oravits asked if someone would address their policy on public intoxicants. Ms. Barlow said that they do allow people under the influence and those that are visibly insane; the only requirement is that they can follow basic direction and not pose an immediate threat.

Mayor Nabours asked how many women they could house. Ms. Barstow said that they finished their renovation, but have not yet received their Certificate of Occupancy, but they anticipate housing about 15 women. She said that won't be enough, but that is their capacity.

Councilmember Barotz said that she noticed on the web that they recently made a presentation to the Winslow Council. Ms. Barlow explained that one of their Board members had business there, and they found out that there is not a shelter service there. FSS is the only shelter in Northern Arizona with a "no questions asked" policy. He was there and reported it as a "by the way" presentation. She said that they were looking at a grant provided by the Department of Transportation for a 12-passenger van. She said that they are trying to let neighborhood communities know and open up the discussions on how to use that van.

Councilmember Barotz asked if they would be seeking financial support from Winslow. Ms. Barstow said that they could not provide support to them unless there was financial support. It was more of an opportunity for the Board member to provide information.

Councilmember Overton said that he had not had the opportunity to meet Ms. Barlow prior to the meeting. He has sat on Council since 2006 and seen mayors and councilmembers come and go, and he does not know that it has been explained what the FSS does. He said that he is in an uncomfortable position because the Council has elected to use United Way for providing funding to various nonprofit organizations with which they contract. He said that it was his understanding that if they came before Council directly for funding, that they would be eliminating their ability for funding through United Way.

Ms. Barlow said that she has received a lot of education on the issue over the past few days. She said that they have been waiving their white flag for awhile and there was a concerned citizen that came before Council and voiced concerns. Councilmember Oravits then requested to put it on the agenda.

She said that she understood that it was not a simple yes or no; but, her job as Board President, was to say, "vote how you want," but she did not want to call them up Thanksgiving morning and tell them they were closing for a week.

She said that she was meeting with the United Way President in the morning. She said that it was not stated in their contract that they would lose United Way

funding if they went before Council directly, but they will be reviewing the entire process.

Brief discussion was held on what had been provided in the last for funding and where the funding came from. Mr. Copley noted that last year they had a situation with some veterans staying at a local shelter and the City asked them to open weeks earlier. That request was City-initiated and the funding came from the emergency housing fund.

Councilmember Oravits asked if there was a waiver of the City's policy because they received United Way funding, and if it was an administrative decision. Mr. Copley said that they could have used any number of vendors, but it was convenient that FSS was in a position to provide that service and they felt it was in keeping with their policy.

Discussion was held on the Emergency Housing Fund. Housing Manager Sarah Darr provided some history on the funding, noting that it originated from the Flagstaff Interagency Task Force and it started before her tenure. She said that it started in the late 1990's when Chateau Royale was redeveloped. The City and County were all setting funds aside for actions such as a condemnation. She said that in 2007 Council awarded \$20,000 to FSS through a contract with United Way to pay for rent and/or vouchers.

Mayor Nabours asked if the Shelter received CDBG operating funds in past years. Ms. Darr said that they received operational assistance in 2008, 2009, 2012 and 2013, between \$20,000 and \$32,000, depending on award year for operational assistance.

Councilmember Barotz said that they were also awarded support for rehab and purchase of their building, at \$174,000 and \$124,000, respectively.

Councilmember Barotz said that the City has been nothing but supportive in their efforts, and that is beside the prior lease and funding through United Way.

Vice Mayor Evans said that she had the opportunity to speak with Ms. Barlow and listened and read notes from the Winslow presentation. She said that she has also struggled with the way the request came before Council. The City goes through the United Way process which allows an equal playing field for everyone. She said that the Sunnyside group where she works is also a United Way agency and when they apply for funds through United Way they have people come out and look at the organization. They have a lot to offer and when she spoke with Ms. Barlow she had suggested using some of their services. She said that with all of the organizations in town it allows the Council to have an arm's length distance. They even had some Councilmembers stating the City should not be giving government money to charities at all.

Vice Mayor Evans said that they have a homeless population that needs assistance, and she sees a nonprofit that is in desperate need. She believed that their nonprofit has struggled since its beginning; they need some management assistance. She told Ms. Barlow that United Way provides more than just money;

they will assign a United Way Board Member to look at her organization. She said that in her mind they could give them the \$20,000, but she did not think that would solve the problems.

Ms. Barlow said that until she met with Vice Mayor Evans she was not aware that United Way provided additional services, and that was when she called to schedule a meeting with them (for tomorrow morning). She said that their Board does recognize that they have had a lot of holes and processes that need to be improved. She said that they have gone through a rough six months and a house cleaning process. These financial impacts they were feeling now are the residual effect of what has been going on.

Ms. Barlow said that about 30% of their funding comes from the State, on a reimbursement structure. They went from 2 FTE's to 14 FTE's and because they need all that staffing due to the nature of the clientele, that is their biggest hit.

Matt Mansfield, FSS Board member, said he has listened in the meeting and everyone has made great points. They are in a unique situation. There is a process in place and everyone has worked in that process, but the shelter is in a difficult position as well. The City is sitting on a \$20,000 fund that can only be used for certain things. If the Shelter is forced to close in November people are likely to die. If they are forced to close in January, people will die.

Mayor Nabours noted that if the FSS had made their CDBG application in a timely manner, they would have probably received \$30,000, but he did not want it to come across as a "teaching a lesson" issue. He said that the City does have that fund and he would propose that they give a grant of \$5,000 to get them through the end of the year. Additionally, this is a facility/organization for which the public can receive a state tax credit and perhaps the Board should take that opportunity to pound the ground and share that message.

Vice Mayor Evans said that she did not think it was a matter of "teaching them a lesson." She said that if they were going to give the FSS \$5,000 then she would suggest that they give it to them through United Way with specific oversight. She believed that the issue is that FSS is not solvent, and they have not been.

Councilmember Oravits said that he would support the \$5,000 grant without prejudice to future fundraising. He thought it was a unique situation. He said that he would encourage them to give the funding directly so that United Way did not keep the 12-15% that they normally keep.

Councilmember Barotz said that she found the entire process incredibly uncomfortable. She said that they have an entire board saying they are asking for money, but she believed that Vice Mayor Evans pointed out the central issue-accountability and management. She said that she was originally inclined to not support the request, and she was still not sure. The only way she would vote for it is if it went through United Way. She felt it would be irresponsible to do anything else.

Jill Briggs, President and CEO of Flagstaff United Way, addressed the Council and thanked them for grappling with the issue. She said that they do have partnerships with the City and the community to make sure services are available. She said that she was meeting with FSS tomorrow to talk about strategic business planning to keep them afloat. She said that sometimes it is an issue of cash flow and they are always willing to be flexible and help in any way possible.

Ms. Briggs said that there have been some things that have occurred at the Shelter that have prevented them from participating in their partnership. It requires the partners to let United Way know when of specific issues so they can begin working together to address them. She did not believe it was United Way's fault or Flagstaff Shelter Services' fault, but rather a lack of communication.

**Mayor Nabours moved to give Flagstaff Shelter Services a \$5,000 grant from the Housing Contingency Fund, with the City Manager to write the terms of its use; seconded; failed 3-4, with Vice Mayor Evans and Councilmembers Barotz, Overton and Woodson casting the dissenting votes.**

Due to the lateness of the hour, staff was directed to add the remaining items to the next week's agenda.

- B. Consideration and Approval of Agreement:** With True Life Companies (TLC) D.B.A. Pine Canyon regarding a modification of an existing zoning condition and disposition of fees.
- C. Consideration and Approval of Preliminary Plat PPPL2013-0005:** Miramonte Homes for Forest Springs Unit 2 subdivision, a residential townhouse subdivision with seventy (70) lots/units. The site is 15.1 acres in size and is located at 1115 North Flowing Springs Trail in the MR, Medium Density Residential zone.

15. **DISCUSSION ITEMS**

- A. Regional Plan Discussion #7 - Ch. X. Transportation and Ch. XI. Cost of Development and Prefatory Language**

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

This item was not discussed, as directed earlier in the meeting.

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**

Vice Mayor Evans reported that at last Tuesday's Council meeting she and Councilmember Oravits were given direction to move forward and draft a fourth iteration of the Food Rights Freedom Resolution and she was looking forward to working with him. However, the next day she read a blog that made some unfortunate statements, and due to those statements she was no longer interested in working on the project.

Vice Mayor Evans asked that the Council consider for a Possible Future Agenda Item the discussion of a relocation ordinance.

Councilmember Brewster reminded everyone that the upcoming weekend was Homecoming Week with the football game and parade on Saturday.

19. **ADJOURNMENT**

The Regular Meeting of the Flagstaff City Council held on October 15, 2013, adjourned at 10:55 p.m.

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MAYOR

ATTEST:

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CITY CLERK

**CERTIFICATION**

STATE OF ARIZONA)  
                                  ss.)  
County of Coconino )

I, ELIZABETH A. BURKE, do hereby certify that I am the City Clerk of the City of Flagstaff, County of Coconino, State of Arizona, and that the above Minutes are a true and correct summary of the meeting of the Council of the City of Flagstaff held October 15, 2013. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 5th day of November, 2013.

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CITY CLERK