

## MINUTES

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

**4:00 P.M.**

1. **CALL TO ORDER**

Mayor Nabours called the meeting of December 17, 2013, to order at 4:02 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:

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**

**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 Special Meeting (Executive Session) of November 26, 2013; the Work Session of November 26, 2013; the Regular Meeting of December 3, 2013; and the Special Budget Work Session of December 4, 2013.

**Councilmember Woodson moved to approve the minutes [of the City Council Special Meeting (Executive Session) of November 26, 2013; the Work Session of November 26, 2013; the Regular Meeting of December 3, 2013; and the Special Budget Work Session of December 4, 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.*

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**

- A. Consideration and Action on Liquor License Application:** Mark Wagner, "Chevron", 4026 S. Lake Mary Road, Series 09 (liquor store - all spirituous liquor), Person Transfer.

Mayor Nabours opened the Public Hearing for both liquor license applications. There being no public comments received, Mayor Nabours closed the Public Hearing.

**Councilmember Oravits moved to forward both applications to the State with a recommendation for approval; seconded; passed unanimously.**

- B. Consideration and Action on Liquor License Application:** Randy Guse, "Walgreens #05221", 1025 S. Milton Rd, Series 09 (liquor store - all spirituous liquor), Person Transfer and Location Transfer.

Recommendation for approval—see motion listed under 8-A above.

**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.*

Councilmember Barotz thanked staff for addressing the Walnut Canyon issue.

- A. Consideration and Approval of Grant Agreement:** Approve the Grant Agreement between the City of Flagstaff and Arizona Department of Transportation, Multimodal Planning Division Aeronautics Group for the Aircraft Parking Ramp Joint Repairs

**MOTION:** Approve the Grant Agreement between the City of Flagstaff and Arizona Department of Transportation, Multimodal Planning Division Aeronautics Group.

- B. Consideration and Approval of Contract:** Wildcat Hill WWTP Bar Screen Replacement Project

**MOTION:** Authorize award and execution of a construction contract with Hunter Contracting, for the purchase and installation of two Bar Screens for the Wildcat Hill Wastewater Treatment Plant. Total contract amount not to exceed \$320,700 and a 240 calendar day contract time; and authorize the City Manager to execute the necessary documents.

- C. Consideration and Approval of Utilities Pump and Well Maintenance Bid:** Utilities Well and Pump Maintenance Contract

**MOTION:** Accept the bid for Utilities Well and Pump Maintenance Bid No. 2014-17, to The Pump Company of Goodyear, Arizona. In October of 2013, five (5) proposals were received for Utilities Well and Pump Maintenance Services. The pump Company submitted the most responsive and responsible bid. The initial contract is for two (2) years with the option to renew for three (3) additional one (1) year periods, upon mutual agreement between the City of Flagstaff and The Pump Company.

**D. Approval of Final 2014 City of Flagstaff State & Federal Legislative Priorities Agenda**

**MOTION:** Approve the City of Flagstaff legislative priorities for 2014 covering regional, state and federal issues. Council approval will serve as the basis for positions and actions of 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.

**E. Consideration and Approval of Contract: Settlement Agreement with American Contractor Indemnity Company to resolve CV2013-006314.**

**MOTION:** Approve settlement of the litigation regarding the landscape bond for the Presidio in the Pines subdivision in the amount of 1.8 million dollars. All other terms of the settlement to be approved by the City Attorney.

**Councilmember Woodson moved to approve the Consent Items as presented; seconded; passed unanimously.**

**10. ROUTINE ITEMS**

**A. Consideration and Approval of Contract of Purchase Through the National Joint Powers Alliance (NJPA) Cooperative Purchasing Agreement: Zamboni Model 546 Ice Resurfacer, with accessories.**

Recreation Services Director Brian Grube gave a brief background on the proposed equipment, noting that the current equipment is 17 years old, and the oldest equipment, currently used as an emergency backup is over 30 years old. He said that the plan was to move the equipment currently used as primary to emergency backup status.

**Councilmember Brewster moved to approve the purchase [of a Zamboni Model 546 Ice Resurfacer, with accessories in the amount of \$100,805.28, plus applicable taxes, through the NJPA cooperative agreement with the state of Minnesota Contract #022113-FZC]; seconded; passed unanimously.**

Mayor Nabours reminded everyone that there would be no Council meetings for the next two weeks; the next meeting would be held on January 7, 2014.

**RECESS**

The 4:00 p.m. portion of the December 17, 2013, Regular Council meeting recessed at 4:15 p.m.

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

**RECONVENE**

Mayor Nabours reconvened the Regular Meeting of the Flagstaff City Council held December 17, 2013, at 6:03 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:

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

**12. PUBLIC PARTICIPATION**

Susan Oteveras, Flagstaff, asked the Council to stop all new construction until procedures have been put into place to address the dislocation of residents.

Moran Henn, representing the Flagstaff Independent Business Owners, encouraged everyone to shop at businesses that are locally-owned.

Ronald Christy, Flagstaff, said that he had come to voice his support for purchase of the Zamboni equipment, but since he had missed that portion of the meeting, he would like to thank the Council for their approval of the equipment purchase.

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

None

**14. PUBLIC HEARING ITEMS**

- A. Public Hearing and Consideration / Adoption of Resolution No. 2013-33 and Ordinance No. 2013-26:** A resolution of the City Council of the City of Flagstaff, Arizona declaring that certain document known as "The 2013 City Tax Code Amendments" as a Public Record, and providing for an effective date; and an ordinance of the City Council of the City of Flagstaff, Arizona, amending the Flagstaff City Code, Title 3, *Business Regulations*, Chapter 3-05, *Privilege and Excise Taxes*, by adopting "The 2013 City Tax Code Amendments" as set forth in

that public record on file with the City Clerk; providing for penalties, repeal of conflicting ordinances, severability, authority for clerical corrections, and establishing effective dates.

Revenue Director Andy Wagemaker gave a brief PowerPoint presentation on the changes being proposed to the 2013 City of Flagstaff Sales Tax Code, noting that these are based on changes to the statewide Model City Sales Tax Code.

- 2013 CITY OF FLAGSTAFF SALES TAX CODE CHANGES

- MAJOR CHANGES

- Food for Home Consumption
  - Grocery Tax
  - Separate category in tax code
  - Setting rate at 0%

Councilmember Oravits asked what the current rate was on food. Mr. Wagemaker said that currently it is an option. Now the Council will still have the option to set a different rate, but it takes away the overall option and requires all cities to have this included in its Code. He said that this allows a grocer that distributes throughout the state to know where to look in the code, regardless of what municipality they are in.

Councilmember Oravits questioned whether this would allow the rate to be changed easier in the future. Mr. Wagemaker said that the process required for any change would be the same as with the option; any increase would be discussed with Council and in some cases it would have to go to the voters.

- Wastewater Services

- Sewer flows
- Separate category in tax code
- Setting rate at 0%

- Commercial Property Rental Exemption

- Planned for change in FY14 budget
- Exempts all transactions between two legally different entities that have the same common ownership
- Expected total revenue loss is \$172,000
  - \$100,000 General Fund
  - \$72,000 Transportation Funds

- Reduce Criminal Penalties to Petty Offenses

- Standard language is Class One Misdemeanor
- City follows the “general penalty clause” of the City Code when there is no explicit language for penalty in the tax Code
- Alignment with City Code

Mayor Nabours opened the Public Hearing. There being no public comment, Mayor Nabours closed the Public Hearing.

- 2) Read Resolution No. 2013-33 by title only

**Mayor Nabours moved to read Resolution No. 2013-33 by title only; seconded.**

Councilmember Oravits stated that he only supports this with the sales tax rate at 0% on food, and he was still concerned with this making it easier to change the rate in the future.

**Motion passed unanimously.**

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, DECLARING THAT CERTAIN DOCUMENT KNOWN AS "THE 2013 CITY TAX CODE AMENDMENTS" AS A PUBLIC RECORD, AND PROVIDING FOR AN EFFECTIVE DATE*

- 3) Read Ordinance No. 2013-26 by title only for the first time

**Mayor Nabours moved to read Ordinance No. 2013-26 by title only for the first time; seconded; passed unanimously.**

*AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, AMENDING THE FLAGSTAFF CITY CODE, TITLE 3, BUSINESS REGULATIONS, CHAPTER 3-05, PRIVILEGE AND EXCISE TAXES, BY ADOPTING "THE 2013 CITY TAX CODE AMENDMENTS" AS SET FORTH IN THAT PUBLIC RECORD ON FILE WITH THE CITY CLERK; PROVIDING FOR PENALTIES, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING EFFECTIVE DATES*

## **15. REGULAR AGENDA**

- A. Consideration and Adoption of Resolution No. 2013-31:** A resolution authorizing the execution of a Development Agreement between Trailside MAR, LLC and the City of Flagstaff related to the development of approximately 4.02 acres of real property generally located at 600 West University Heights Drive North. (Development Agreement for Trailside Apartments)

Planning Development Manager Brian Kulina reviewed this item and Item 15-B together, noting that the first item was the Development Agreement associated with the amendment to the zoning map in the next item, which had been discussed at the previous Council meeting. He said that the Development Agreement requested three incentives out of the five allowed—a 45% reduction in forest resource protection threshold, a 10% reduction in required parking lot landscaping, and a 27% increase in permitted dwelling units.

Dana Kjellgren, representing the developers, thanked staff. She said that they were working with the new Zoning Code and they had a lot of questions, and staff, including Brian Kulina, Mark Sawyers, Sarah Darr, and David McIntire, as well as others, was very helpful.

Mayor Nabours noted that at the last meeting they held a Public Hearing and they have had a great deal of discussion on this development.

**Mayor Nabours moved to read Resolution No. 2013-31 by title only; seconded; passed 6-1 with Vice Mayor Evans casting the dissenting vote.**

*A RESOLUTION AUTHORIZING THE EXECUTION OF A DEVELOPMENT AGREEMENT BETWEEN TRAILSIDE MAR, LLC AND THE CITY OF FLAGSTAFF RELATED TO THE DEVELOPMENT OF APPROXIMATELY 4.02 ACRES OF REAL PROPERTY GENERALLY LOCATED AT 600 WEST UNIVERSITY HEIGHTS DRIVE*

**Councilmember Overton moved to adopt Resolution No. 2013-31; seconded; passed 6-1 with Vice Mayor Evans casting the dissenting vote.**

- B. Consideration and Adoption of Ordinance No. 2013-24:** An ordinance amending the Flagstaff Zoning Map designation of approximately 4.02 acres of real property located at 600 West University Heights Drive from "SC", Suburban Commercial, to "HR", High Density Residential (Amending Zoning Map for Trailside Apartments).

**Mayor Nabours moved to read Ordinance No. 2013-24 by title only for the final time; seconded; passed 6-1 with Vice Mayor Evans casting the dissenting vote.**

*AN ORDINANCE OF THE FLAGSTAFF CITY COUNCIL AMENDING THE FLAGSTAFF ZONING MAP DESIGNATION OF APPROXIMATELY 4.02 ACRES OF REAL PROPERTY LOCATED AT 600 WEST UNIVERSITY HEIGHTS DRIVE FROM "SC", SUBURBAN COMMERCIAL, TO "HDR", HIGH DENSITY RESIDENTIAL*

**Councilmember Overton moved to adopt Ordinance No. 2013-24; seconded; passed 6-1 with Vice Mayor Evans casting the dissenting vote.**

- C. Discussion/Direction and Possible Action Regarding the Regional Plan Parking Lot and Election Date**

Councilmember Oravits noted that most of these discussions did not begin until 7:00 p.m. Mayor Nabours replied that they would take public comment from those present and continue it past 7:00 p.m. to allow everyone an opportunity to speak.

The following individuals spoke regarding the Regional Plan:

- David Monihan
- Nat White
- Jeff Knorr
- Andrea Guerrette



- Bill McCullough
- Moran Henn, Friends of Flagstaff's Future
- Sallie Kladnik
- Roger Boone
- Carol Kendall
- Charlie Odegaard
- Terry O'Neal
- Judy Louks

The following comments were received:

- Supports changes
- Regardless of vote, thank you for the process
- Supports a May election
- This is not an adversarial role; they are all trying to get a good document
- Reviewed suggested changes and forwarded comments to Council; didn't appear that they were considered
- Staff, Council and the Citizens Advisory Committee have done an outstanding job
- While he may not agree on everything, he would vote for it
- With the changes made, they are wondering if it truly represents the voices and vision of those that worked on it and contributed
- Wished that the community had the opportunity to vote on it as written by the CAC
- Liked original more and also like the Board of Supervisor's action to accept it as a vision. Will still support it.
- Heard a report on NPR yesterday that in Ft. Collins, Colorado there is a new development called Bucking Horse, which is a combination of housing and farms and it equals a sustainable community. She would love to see Flagstaff support the environment and model something like that rather than second homes and a golf course.
- The proposed Plan demands action on specific priorities while ignoring the cost of the action
- Limits their options by favoring only specific kinds of development
- Thanks to Paul Babbitt for leading, to all the CAC members, the City staff and City Council for taking the Plan very seriously and going through it
- Is a County resident and objects to letting a plan go forward that on which they are unable to vote
- Is a local realtor and was one of three or four that served on the CAC that were guided by their previous regional plan. With that experience she felt she brought a more practical approach
- Asks that the Council respect and listen to the voices of unique peoples
- Outreach through the process was incredible—there were open houses, loads of presentations, input received over Internet

- The last 13 weeks have brought forth many additional comments not previously heard or even mentioned. Are they to be admonished because they were not brought up earlier? Make the compromises.

A break of was held from 7:02 p.m. to 7:10 p.m. when public comment continued and the following individuals addressed the Council:

- Gabor Kovacs
- Sophia Katz
- Gaylord Staveley
- Michael Dugan
- Merle Henderson
- Richard Mihalik
- Joy Staveley

The following additional comments were received:

- Is against dense construction; will invite social problems
- The process by which a Regional Plan is developed is as important as the Plan
- Over the 4.5 years they drafted their collective vision of what Flagstaff should look like; that was open to the public, and during evaluation periods many changes were made. Praise to Council and staff to diligently adhering to the appropriate procedure
- Now that the City has more Open Space would like to see the City working on inviting clean industry that will pay people more instead of having children working two to three jobs to stay in Flagstaff
- They are surrounded by Open Space and anyone can get there within 15 minutes
- The Plan is more than an inch thick; a similar plan was made over 230 years ago that has only 28 amendments in the entire span of time—the Constitution. If they took any composite of the community more people would understand the Constitution of the United States than the Regional Plan because of its compatibility. For that reason he may not agree with the Plan as presented
- Does not claim to know what citizens want, but the CAC cannot expect everyone to accept everything they wrote without any changes. Thanks for all their hard work

Mayor Nabours thanked everyone for their comments.

Planning Director Jim Cronk reviewed the proposed changes, page by page, asking for final instruction to staff. He said that staff would make those changes, reprint the document, and bring a clean copy back in January so they can read and see what they will be asked to vote on.

After lengthy discussion was held on the intent of Items 37, 38 (A) and 38 (B), it was agreed, 5-2, to have Item 37 remain as is, 38 (18.12) change the word

“ensure” to “seek;” and 38 (18.3) staff will rewrite and bring back for Council to consider whether to leave in the Plan or move to the Strategies document.

Brief discussion was held on the issue of a by-pass near A-1 Mountain. Mayor Nabours said that it was clear that they did not want such wording adding to the Plan; however, he would suggest that some type of wording be included to “study transportation solutions on SR180” and asked if there was a majority in favor of doing so. Along with Mayor Nabours, Councilmembers Oravits, Woodson and Overton agreed.

Discussion was held on the statement at the bottom of Page 10 regarding Native American tribes, and Mayor Nabours asked why it stated that no data was available. Mr. Cronk said that earlier in the paragraph they talked about the value of the others, but they did not have data since the casino is so new. After brief discussion, Mr. Cronk said that they could add some language to address a “positive impact in the future.” Vice Mayor Evans also questioned why some data was not available for them to include something regarding the impact of the casino’s employees. Mr. Burke said that they could add some language to indicate it is anticipated to become a player in the local economy.

Additionally, Vice Mayor Evans asked why College of America was not included in the Workforce Training Organizations. Mr. Cronk said that they were added to the text.

It was suggested that under the Airport section, the wording be stopped in the last sentence after “business development.” Councilmember Barotz also suggested that in talking about the land currently surrounding the airport be clarified that it was the city-owned property being addressed.

Councilmember Oravits said that in the Land Use Section, page 9, he would prefer to go back to the original definition of “urban agriculture.” After brief discussion, it was agreed to leave “urban” as is.

Councilmember Barotz said that she had a concern about one of the maps, but she did not have it with her so she would hold off until later. She said that it was not a change, but rather a comment.

Mr. Cronk said that staff would make the final changes, get it printed and on the web page. They will be working with the editor to do this by the January deadline. He noted that there was a request to print the document with “track changes,” however, they are unable to do that, other than the entire Land Use Chapter has been provided in that format.

Mr. Cronk said that he was recently asked what the proportion of the document was that had been edited. He said that they were not able to look at it entirely, but they did go through and look at the Goals/Policies, of which they had 454.

Out of those 454, 90 were edited, or roughly 20%. He said that when the CAC was working on this they had a rough draft and put it out for three months. After those three months they got back 700 suggestions.

He thanked the City Council, and Citizens Advisory Committee, for their endurance and for listening to the public in the forums. He said that he would bring the document back at the January 14, 2014, meeting; however, they would have a placeholder at the January 7, 2014, meeting if staff ran into something.

At this time, City Clerk Elizabeth Burke briefly reviewed the pros and cons of the various elections dates that were available. Council directed staff to move forward with having the Regional Plan on a May 2014 Special Ballot election.

**16. DISCUSSION ITEMS**

None

**17. 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.*

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

Mayor and Councilmembers wished everyone happy holidays and a happy New Year. Councilmember Brewster congratulated staff on acquiring the Observatory Mesa open space property.

**19. ADJOURNMENT**

The Regular Meeting of the Flagstaff City Council held December 17, 2013, adjourned at 8:35 p.m.

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MAYOR

ATTEST:

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CITY CLERK

## CITY CLERK