

## MINUTES

WORK SESSION  
TUESDAY, OCTOBER 8, 2013  
COUNCIL CHAMBERS  
211 WEST ASPEN AVENUE  
6:00 P.M.

1. **Call to Order.**

Mayor Nabours called the Flagstaff Work Session of October 8, 2013, to order 6:05 p.m.

2. **Pledge of Allegiance.**

The City Council and audience recited the Pledge of Allegiance.

3. **Roll Call**

**Councilmembers present:**

MAYOR NABOURS  
VICE MAYOR EVANS  
COUNCILMEMBER BAROTZ  
COUNCILMEMBER BREWSTER  
COUNCILMEMBER ORAVITS  
COUNCILMEMBER OVERTON  
COUNCILMEMBER WOODSON (telephonically)

**Councilmembers absent:**

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

4. **Public Participation**

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

None

5. **Preliminary Review of Draft Agenda for the October 15, 2013, City Council Meeting.\***

*\*Public comment on draft agenda items may be taken under "Review of Draft Agenda Items" later in the meeting, at the discretion of the Mayor. Citizens wishing to speak on*

*agenda items not specifically called out by the City Council for discussion under the second Review section may submit a speaker card for their items of interest to the recording clerk.*

Councilmember Barotz reported that she had a list of questions for Flagstaff Shelter Services and had requested a list of financial contributions made to the Shelter since its inception, including the lease. She would also like their financial statements, list of Board members, number of staff, annual budget, etc. Additionally, she had also requested information on the fund itself and its use in prior years as well as its overall purpose. She also would like to have the Shelter explain what the money would be used for (e.g. salaries, utilities, mortgage). She said that she also assumed that it would be handled like any other similar requests, as a contract for services.

Councilmember Overton, in referring to Item 14-B, Pine Canyon Agreement, said that the staff summary stated that the regional park funds of \$130,000 would be returned. He asked if that was because the land trade fell through or because they do not feel there is another appropriate place to put those funds.

**6. Discussion on a draft Food Freedom Resolution in support of the rights of individuals and groups to grow their own food for themselves and their families.**

Mayor Nabours said that Councilmember Oravits had first asked that this item be placed on a future agenda. There have been several drafts of a proposed resolution prepared and the public may not be aware of all of them. Mr. Burke noted that they do have them available for the screen.

Mayor Nabours said that there was some concern about whether or not this was intended to be a change in the Zoning Code or would result in a change to the Zoning Code, or if it was a contradiction to the Zoning Code.

Councilmember Barotz gave some history of the resolution, noting that she sat with the Flagstaff Liberty Alliance Initiative for a long time to try and help them understand the process of getting a new ordinance drafted. She thought they came to her because she cared about food production. They went back and forth and she, as someone who supports local food product, felt she was being misunderstood. The reason they parted ways was she felt she could not support anything that would urge the citizens to not comply with state and federal laws.

She said that with that being said, it does not mean that she does not support local food production. That is where there has been a convergence in the community. She thought this was a great opportunity for all of them to come together to find language they could all agree on.

Councilmember Oravits said that he submitted the new version, but it was the group that originally submitted it, after hearing concerns throughout the community.

Vice Mayor Evans said that she keeps hearing “resolution” and “ordinance” being used, and she wanted to clarify that it would be a nonbinding resolution that would not be changing the LDC.

Cindy Dorfsmith, president of Flagstaff Liberty Alliance, said that local food is something she was passionate about. After changes were made to the language and Councilmember Barotz decided to not support it, they talked with Councilmember Oravits who was supportive. She said that they were supportive of the changes that were recently made, and they had also presented the resolution to the Sustainability Commission and they unanimously supported it. She believed that the amended resolution still held to the spirit of the original one, and they supported the amended one submitted by Councilmember Oravits.

Councilmember Barotz said that the words removed were the ones that were problematic for her, so she believed they were all on the same page. She said that it was unfortunate that it happened the way it did.

Vice Mayor Evans asked if the group was able to talk about the resolution with other food-related groups, such as Farmers Market. Ms. Dorfsmith said that they tried to circulate it through Facebook, etc., but they did not get the resolution out to individuals. She said that the Sustainability Commission voiced an opinion on the original resolution, but they had not yet reviewed the amended resolution. She said that they got a lot of signatures during First Friday and never received any negative feedback.

Joanna Estes, resident, said that she has read through the amended versions and believes that the amended resolution submitted by Councilmember Oravits held true to the underlying message that they were hoping to put forward. They believe that Vice Mayor Evans' version sidetracked that original message, to support the rights of individuals.

She said that under Vice Mayor Evans' version there was still quite a bit of room for legislation that would hinder those rights. She said that several counties have passed laws, in the spirit of a possible drought, hindering people using water in their yards and that could stop gardening.

Councilmember Barotz asked Ms. Estes her thoughts on the issue of nuisances, with residents raising their own livestock. Ms. Estes said that she would hope they would think through the idea of legislation, and recognize the benefit to the community to produce their food. If there was a nuisance, she would hope it could be handled individually rather than through sweeping legislation.

Vice Mayor Evans said that she believed there was something contained in the Water Policy that there would be restrictions if the water level was low, and she would like to get a copy of that section. Mr. Burke said that he believed it was the drought ordinance.

Marilyn Weismann, Friends of Flagstaff's Future, said that the essence of the original resolution was to ensure individual rights, and it appeared they wanted the Council to override laws. It appears that even in the revised resolution they were still trying to subvert the system.

Karna Ottem, resident, said that they did not support nor oppose the resolutions, but was interested in a broader conversation with all organizations, from those involved with growing, producing and accessing local foods.

Joy Staveley said she was not a member of the Flagstaff Liberty Alliance, but wanted to speak in favor of the resolution put forth by Councilmember Oravits. She had signed the original petition some time ago and supported it, and she could not imagine why anyone would be against it.

Lisa Rayner said that she supported Vice Mayor Evans' version and she wanted to see the City Code promote local food production. She was disturbed with the original, as well as the revised, versions as she saw the content of the earlier version showing anti-government sentiments.

Elisha Dorfsmith said that it was never to be a freedom of government resolution, and he supported Councilmember Oravits's version. He said that they now have about 400 signatures, and a bunch have not been turned in.

Vice Mayor Evans said that she did not mean any disrespect with writing her own, but she has had the opportunity to interact with Mr. Dorfsmith in the past and both times were negative. She was not sure they could move past that and thought it could be sent to the City Attorney and discussed this evening.

Jonathan Allen said he was born and raised in Flagstaff and society argues over everything. He was encouraged by the resolution and the response received across the political spectrum. Originally the FFF supported it and he has heard nothing but praise for it until the last few days. He said that he supported the resolution and would support bringing forth a binding ordinance.

Dan Frazier said that he, like Mayor Nabours, did not really support nonbinding resolutions and he felt the newest drafts were meaningless. Of the three versions presented he prefers that of Vice Mayor Evans, mainly because it came from her. He said that they need to look at the source of any resolution or ordinance. The group bringing this issue forward is not a food group—it is a rights group. He felt it could have some Tea Party influence.

James Burton said it was a fundamental right for people to grow their own food.

Councilmember Oravits said that he was trying to help a group that did a lot of outreach carry forward with their intent. There have been significant changes made; two paragraphs were completely removed, and legal concerns were addressed. He was disappointed that it became political as that was never the intent.

Councilmember Brewster said that she did not support the original one; she liked the one on the screen (Councilmember Oravits's) but perhaps they could incorporate some of Vice Mayor Evans's into it.

Councilmember Overton said that he would pass on all three versions.

Vice Mayor Evans said that she supported her version. She agreed that it was disappointing, and she was irritated with people saying that she did not support food rights.

Mayor Nabours noted that the Regional Plan already addresses this issue. Councilmember Overton agreed that the Regional Plan already talks to the elements. He said that he did not feel like they were disallowing it now and he was not interested in any of them. He was not there to kill it, but he did not it as a useful resolution in any of the forms.

After further discussion it was agreed that Vice Mayor Evans and Councilmember Oravits would work together on a resolution to address both sides of the issue and bring it forward for further discussion.

A break was held from 7:20 p.m. to 7:30 p.m.

7. **Discussion regarding proposed amendments to City Code Division 8-03-002 of the Flagstaff City Code to create revised standards allowing for sidewalk cafes and sidewalk vending carts.**

Mr. Eastman gave a PowerPoint presentation that addressed the following issues:

- MEETING PURPOSE
- THE CURRENT CODE – DIVISION 8-03-002
- INTRODUCING THE DRAFT DIVISION 8-03-002
- PRELIMINARY – A STARTING POINT
- APPLICATION FEE
- LOCATION RULES FOR SIDEWALK CAFES
- INTRODUCING AN IDEA – PARKING SPACE FOR SEATING
- ISSUES FOR WHICH DIRECTION/CLARIFICATION IS NEEDED
- APPLICABLE TO SIDEWALK CAFES
- APPLICABLE TO SIDEWALK VENDING CARTS

Mayor Nabours asked how the proposed ordinance differed from the existing one. Mr. Eastman replied that it addresses the inequality of the use fee, that area outside of downtown, establishes easier rules for carts and cleans out the ambiguity.

Councilmember Overton said that he thought they were headed down the right court. He would like to be certain that the downtown business owners have predictability, so it is equitable for all.

Councilmember Barotz said that one thing she has been concerned with is the local businesses being at a disadvantage and there being unintended consequences.

Councilmember Brewster said that she was glad it was brought to Council. It included good ideas. She asked what communities had already incorporated these ideas into their downtown area, and she said that she would like to get a list of them.

Vice Mayor Evans said that she would like to know more about the compliance. She gets called a lot on accessibility for wheelchairs and individuals not able to get around the downtown area.

Mr. Burke said that there is a philosophical question—is the sidewalk a community product? Are they allocating it to one business for a private gain? Is there a gift aspect?

On the reverse side they may see it as a public asset that is developing a community gain by having a vibrant area that sees people inside and outside businesses.

Mayor Nabours asked if they could prohibit the serving of liquor before 11:00 a.m. in the morning outside, as well as the issue of amplification. Mr. Eastman said that they could discuss those issues with Legal.

In referring to the issue of vending carts receiving approval of adjacent property owners, she said that she would support giving as much input to the locals as possible as long as they think through the mechanics so it does not backfire.

Mark Lamberson, business owner in the downtown and involved with the DBA, said that he appreciated the outreach and Council comments, but he respectfully suggests that they had a "solution in search of a problem." He said that the City Manager mentioned the vitality, variety, authenticity of the downtown area, and he believed they have done a good job with it. Their bigger challenges are coming up with Heritage Square, street closures, etc.

Mayor Nabours said that no one on Council was trying to stop that. There have been concerns with accessibility on the sidewalks downtown, and perhaps it was more of an enforcement issue. He asked Mr. Lamberson, as a retailer, if he liked the idea of a retailer next to him putting up a rack outside of his business on the sidewalk. Mr. Lamberson said that it would not bother him; competition is good; and the same with the restaurants.

Mayor Nabours asked if there was any chance they would form a Special District and take all of the holistic problems into account. Mr. Lamberson said that the downtown improvement district was ready to come forward to Council with more than 50% in support of a district that would be self-assessing, self-taxing, to take these issues on the plate of the Council.

Councilmember Barotz asked Mr. Lamberson if he felt that some of the recommendations brought forth by Mr. Eastman would be harmful in terms of what the visitor experiences. Mr. Lamberson said that they cannot deal with problems individually. The downtown district has all of the overlaying needs for services. They have an incredible mixed-use downtown that needs to be protected. The best way is to allow them to move forward to bring ideas to the Council. The encroachment onto the sidewalks is far down the list; they have more pressing issues such as sanitation, water/sewer, Heritage Square, closure of Aspen, etc.

Councilmember Barotz said that she was glad to hear Mr. Lamberson say it was a "solution looking for a problem" but she hears from other locals expressing their concerns.

Councilmember Brewster said that she appreciated the comments, and he made a good point about needing a holistic approach. She was thrilled that they were going to bring the Downtown Business District plan forward.

Joan Pevarnik said that she was still concerned with vending carts. If they do have the district it would be a mute point, but she does not want to see more competition. She would like them to consider not allowing the vending carts.

Mayor Nabours asked Ms. Pevarnik her thoughts on a retail rack outside on the sidewalk. Ms. Pevarnik said that they have had a lot of arts and crafts fairs downtown and people go to that but do not go inside. She sensed that the vending carts might create the same type of problem.

Holly Stahl, downtown business owner, said that she did not think it was necessary to change the current code to allow vending carts. Everyone that uses the sidewalk should pay the same fee.

George Averbeck said that he could only think of one or two retailers that put items outside. The sidewalk usage is pretty much contained to the bars and restaurant. They do not want vendors. They had an interesting summer when they found out that Heritage Square was rented out for every Sunday throughout the summer. He did not think it was the City's job to lease out Heritage Square. If someone rents out Wheeler Park they pay \$500 or more, but if someone rents Heritage Square it is only \$50. He suggested that they put Heritage Square on the agenda for discussion when talking about the street closures.

Kaelin Foster said that she was concerned with the parking spaces being used. Putting people at Heritage Square is better since there is more room.

Councilmember Overton said that they have a long way to go on the carts. He was hoping to have discussion so everything is equitable, but items will continue to crop up.

Program Manager Reid Miller said that the current ordinance reads that in order to obtain a cart permit, they have to obtain 100% approval from the competing businesses within 145' from the location. They have a map that defines the areas that are acceptable, but they will generally have at least one of the competing businesses say no.

Mr. Eastman said that there were prior comments about book stores and benches having items on the sidewalk, but technically those are not permitted. When he first started seven years ago, the DBA was not supportive of that and asked Code Enforcement to step in. They were much more interested in the vitality and while staff realizes those were violations, they have let them be.

Vice Mayor Evans said that perhaps they need to make a concerted effort to remind people that the sidewalks are used by those in wheelchairs, walkers, crutches, etc. and they need to remain accessible.

Mr. Eastman said that they would come up with a lease rate and application rate, and bring something back.

8. **Regional Plan Discussion #6 - Ch. XII. Public Buildings, Services, Facilities and Safety; and Ch. XV. Recreation**

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

Planning Manager Kim Sharp reviewed Chapters XII and XV of the proposed Regional Plan, noting that both chapters were mandated.

The following individuals addressed the Council regarding these sections of the proposed Regional Plans:

- Michelle Thomas
- Terry O'Neal
- Angela Horvath
- Gaylord Staveley
- Charlie Odegaard
- Jean Myers
- Jeff Knorr
- Richard Mihalik

Comments made included:

- Supports the goals of these sections
- County residents would like to vote on the Plan
- Commended CAC on focusing on public safety goals and supports them
- Supports the Plan; asked that they not make major changes

Staff was asked to Place F2.2 in the Parking Lot. Ms. Sharp was also asked to include a definition of "civic design" and Vice Mayor Evans noted that Murdock was misspelled.

9. **Review of Draft Agenda Items for the October 15, 2013, City Council Meeting.\***

*\*Public comment on draft agenda items will be taken at this time, at the discretion of the Mayor.*

Angela Horvath noted there were changes made to the schedule and the web needed to be updated with those changes.

10. **Public Participation**

None

11. **Informational Items To/From Mayor, Council, and City Manager, and Requests for Future Agenda Items.**

Councilmember Brewster reminded everyone that Thursdays was the Arizona Bio Awards and W.L. Gore was receiving an award for Research Company of the Year.

Mayor Nabours reported that they were in the middle of the National Park closures and it was greatly hurting Tusayan. Flagstaff was asked by Tusayan to 1) write a letter in

support of getting the Park opened; and 2) consider a monetary match with hotels, etc. Council agreed to support the letter but not the monetary commitment.

Mayor Nabours reported that they had recently received a request by Vice Mayor Evans and Councilmember Barotz to place on a future agenda the issue of hunting within City limits, but they just had a meeting with Game & Fish and they had requested to take that item off the table.

Joy Staveley, representing the river outfitters, said that her industry depends on a full schedule in October with people coming in from other countries and the Park closure has killed their businesses.

12. **Adjournment**

The Flagstaff City Council Work Session of October 8, 2013, adjourned at 9:33 p.m.

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MAYOR

ATTEST:

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CITY CLERK