

REGULAR COUNCIL MEETING  
TUESDAY, JULY 1, 2014 (AND JULY 2, 2014 FOR ITEM 14-A)  
COUNCIL CHAMBERS  
211 WEST ASPEN AVENUE  
4:00 P.M. AND 6:00 P.M.

**4:00 P.M. MEETING**

1. **CALL TO ORDER**

Mayor Nabours called the Regular Meeting of the Flagstaff City Council of July 1, 2014, to order at 4:00 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: Kevin Burke, City Manager; Michelle D'Andrea, City Attorney.

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 Work Session of May 27, 2014; the Joint Work Session of June 2, 2014; and the Special Meeting (Executive Session) of June 24, 2014.

**Councilmember Woodson moved to approve the minutes of the City Council Work Session of May 27, 2014; the Joint Work Session of June 2, 2014; and the Special Meeting (Executive Session) of June 24, 2014; 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.*

Ann Marie Zeller, Flagstaff, asked that the City Manager start the process to get proper permitting to use reclaimed water for the Dew Downtown in 2015.

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 HEARING**

Mayor Nabours said that the Police Department, Community Development and Sales Tax have all reviewed the five liquor licenses and none of them presented a reason for denial. At this time he opened the Public Hearing for all five licenses. There being no put input, the Public Hearing was closed

**Councilmember Oravits moved to forward all five applications to the State with recommendations for approval; seconded; passed unanimously.**

- A. **Consideration and Action on Liquor License Application:** John Zanzucchi, "Granny's Closet", 218 S. Milton Ave., Series 06 (bar- all spirituous liquor), Person Transfer
- B. **Consideration and Action on Liquor License Application:** Kelsey Drayton, "Brandy's Restaurant & Bakery", 1500 E. Cedar Ave. 40., Series 07 (beer and wine bar), Person Transfer
- C. **Consideration and Action on Liquor License Application:** Jared Repinski, "Alpha Omega Greek Cuisine", 1580 E. Route 66., Series 12 (restaurant), New License.
- D. **Consideration and Action on Liquor License Application:** Donald Grosvenor, "Nadli", 7 N. San Francisco St., Series 12 (restaurant), New License. Hold public hearing.
- E. **Consideration and Action on Liquor License Application:** Andrea Gibson, "Air Cafe", 6200 S. Pulliam Dr., #109, Series 12 (restaurant), New License.

**9. CONSENT ITEMS**

*All matters under Consent Agenda are considered by the City Council to be routine and will be enacted by one motion approving the recommendations listed on the agenda. Unless otherwise indicated, expenditures approved by Council are budgeted items.*

- A. **Consideration and Approval of Sole Source Purchase:** Consideration authorizing the purchase of Axon Flex body cameras manufactured by Taser International in the amount of \$117,000 for the Flagstaff Police Department

**MOTION:** Approve the funding of \$117,000 to Taser International for the Axon Flex camera program to outfit patrol officers. The initial amount of \$48, 628.10, will allow for the purchase of 50 Axon Flex body cameras with mounting, charging, and docking accessories and professional services. The costs for evidence storage and retention will be \$12,446.16 annually, or \$62,230.80 for the five year contract. The total amount of this request (\$117,000) will cover the remaining tax and shipping.

- B. **Consideration and Approval of Payment:** Annual Computer Hardware and Software Maintenance and Support Services.

**MOTION:**

Authorize the payment in the amount of \$562,101.09, plus applicable sales tax, to:

- 1) ERP - Financial Applications - \$151,000.00
- 2) SHI Software - Microsoft Enterprise Agreement - \$135,000.00
- 3) Intergraph Public Safety, Inc. - Maintain the map and corresponding DB for system - \$196,428.08

4) SIRSI - Online Library Catalog 4/1-3/31 - \$79,673.01

**Mayor Nabours moved to approve Consent Items 9-A and 9-B; seconded; passed unanimously.**

10. **ROUTINE ITEMS**

- A. **Consideration and Possible Adoption of Ordinance No. 2014-11:** An ordinance amending Ordinance No. 2000-11 by modifying the Zoning Map Designation of that property generally known as Pine Canyon, through the amendment of a general condition related to the public's overnight access to Pine Canyon.

**Councilmember Brewster moved to read Ordinance No. 2014-11 by title only for the final time; seconded; passed unanimously.**

*AN ORDINANCE OF THE FLAGSTAFF CITY COUNCIL AMENDING ORDINANCE NO. 2000-11, BY MODIFYING THE ZONING MAP DESIGNATION OF THAT PROPERTY GENERALLY KNOWN AS PINE CANYON, THROUGH THE AMENDMENT OF AN UNDERLYING GENERAL CONDITION RELATED TO THE PUBLIC'S OVERNIGHT ACCESS TO PINE CANYON*

**Councilmember Woodson moved to adopt Ordinance No. 2014-11; seconded; passed unanimously.**

- B. **Consideration and Adoption of Ordinance No 2014-12:** An ordinance levying upon the assessed valuation of the property within the City of Flagstaff, Arizona, subject to taxation a certain sum upon each one hundred dollars (\$100.00) of valuation sufficient to raise the amount estimated to be required in the Annual Budget, less the amount estimated to be received from other sources of revenue; providing funds for various bond redemptions, for the purpose of paying interest upon bonded indebtedness and providing funds for general municipal expenses, all for the Fiscal Year ending the 30th day of June, 2015

**Mayor Nabours moved to read Ordinance No. 2014-12 by title only for the final time; seconded; passed unanimously.**

*AN ORDINANCE OF THE CITY COUNCIL OF FLAGSTAFF, ARIZONA, LEVYING UPON THE ASSESSED VALUATION OF THE PROPERTY WITHIN THE CITY SUBJECT TO TAXATION A CERTAIN SUM UPON EACH ONE HUNDRED DOLLARS (\$100.00) OF VALUATION SUFFICIENT TO RAISE THE AMOUNT ESTIMATED TO BE REQUIRED IN THE ANNUAL BUDGET, LESS THE AMOUNT ESTIMATED TO BE RECEIVED FROM OTHER SOURCES OF REVENUE; PROVIDING FUNDS FOR VARIOUS BOND REDEMPTIONS, FOR THE PURPOSE OF PAYING INTEREST UPON BONDED INDEBTEDNESS AND PROVIDING FUNDS FOR GENERAL MUNICIPAL EXPENSES, ALL FOR THE FISCAL YEAR ENDING THE 30TH DAY OF JUNE, 2015*

**Councilmember Woodson moved to adopt Ordinance No. 2014-12; seconded; passed unanimously.**

- C. **Consideration and Adoption of Resolution No. 2014-25:** A resolution authorizing the execution of a Development Agreement between City of Flagstaff and Evergreen - Trax, L.L.C. related to the development of approximately 33.6 acres of real property generally located at the intersection of Route 66 and Fourth Street, Flagstaff, Arizona.

Mayor Nabours noted that Items C, D and E were all related and would be discussed together.

Planning Development Manager Elaine Averitt reviewed Item C which addressed:

- OVERALL PROCESS
- DEVELOPMENT AGREEMENT - Main Points
  - ROW Acquisition
  - FUTS Trail
  - Pedi Crossing Study & Improvements
  - Route 66 Lighting

Management Services Director Barbara Goodrich reviewed Item D, noting that if Item C was adopted as presented this item would amend the Purchase Agreement previously approved from \$2,881,000 to \$3,041,000, an increase of \$160,000.

Discussion was held on Section 7.2. Ms. Averitt confirmed that the language states that if Evergreen is unable to negotiate the property at the intersection of First Street, that the City would exercise eminent domain, but not take any property that would impact a structure.

Ms. Averitt confirmed that staff did have a signed Development Agreement from the developers, as presented today. She said that they want to make sure that the agreements are both in place and signed before they have the final read and vote on the zoning ordinance.

Ms. Averitt then reviewed Item E, the rezoning ordinance.

Councilmember Overton, referring back to the Development Agreement and Purchase Agreement, said that he has concerns that based on data provided previously they know there is going to be an impact to the bridge structure. Councilmember Barotz echoed those concerns and said she was interested in a conversation about where resources would come from.

Councilmember Woodson said that he was in agreement, although not necessary in how they split the overpass costs, but he thought it would leave a hole in their case in asking for others to participate when they have excluded this one.

Mayor Nabours said that they had a lot of discussion a few weeks ago and what impressed him was that it came out that at this time they need four lanes over I-40, and even without all of these projects that need is there.

Further discussion was held on the need to have this developer contribute to the bridge improvements. Councilmember Brewster said that she has been sitting on the fence until recently. This is the first one they will go through and she is in favor of them contributing to the bridge improvements.

Vice Mayor Evans said that she supports this development and she is not interested in asking the developer for a contribution because the bridge is currently failing and has been. As a community they should have looked at how the improvements would be addressed. Councilmember Oravits said that he agreed with much of what Vice Mayor Evans was saying.

**Mayor Nabours moved to read Resolution No. 2014-25 as presented in the packet (does not require the contribution); seconded; failed 3-4 with Councilmembers Barotz, Brewster, Overton and Woodson casting the dissenting votes.**

**Councilmember Overton moved to read Resolution No. 2014-25, amending the DA with 7.6 reinstated to require the Fourth Street Bridge contribution; seconded.**

Councilmember Oravits said that he disagrees but he would support the motion to move the project forward. Vice Mayor Evans agreed; she supports the project but does not support charging them for a failing bridge. Councilmember Woodson said that he would rather see a different percentage of contribution, but he would support the motion.

Ms. D'Andrea noted that if they move forward with this motion, amending the Development Agreement, there is no need to amend the Purchase Agreement (the next item on the agenda).

Laura Ortiz, representing Evergreen, said that she understands all of the conversation and would submit for consideration that as far as setting a precedent, given the unique structure of this project it would not set one. She said that it does not matter to Evergreen because they are paying one way or the other, but it will impact the other developers.

Mayor Nabours said that those not present at the meeting are the representatives from the other five projects that are on the list.

**Motion passed 6-1 with Mayor Nabours casting the dissenting vote.**

*A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL APPROVING A DEVELOPMENT AGREEMENT AND WAIVER OF CLAIMS FOR DIMINUTION IN VALUE FOR LAND USE LAWS APPLICABLE TO REAL*

*PROPERTY GENERALLY LOCATED AT THE INTERSECTION OF ROUTE 66 AND FOURTH STREET, FLAGSTAFF, ARIZONA, AS AMENDED*

**Councilmember Overton moved to adopt Resolution No. 2014-25 as amended; seconded; passed 6-1 with Mayor Nabours casting the dissenting vote.**

- D. **Consideration and Approval of Second Amendment of Purchase and Sale Agreement:** Between the City of Flagstaff and Evergreen - TRAX, LLC ("Evergreen"), for the sale of approximately 33.6 acres of property consisting of three parcels located at the southeast and southwest corners of the intersection of Fourth Street and Route 66, and the northwest corner of Fourth Street and Huntington drive adjacent to the Fourth Street Overpass (the "Property").

ITEM WITHDRAWN FROM AGENDA

- E. **Consideration and Possible Adoption of Ordinance No. 2014-14:** An ordinance amending the Flagstaff Zoning Map designation of approximately 33.6 acres of real property located at the southwest and southeast corners of Route 66 and Fourth Street and at the northwest corner of Huntington Drive and Fourth Street, from Light Industrial (LI) and Light Industrial-Open (LI-O) to Highway Commercial (HC). (*Amending Zoning Map for "The Trax" commercial development*).

**Councilmember Oravits moved to read Ordinance No. 2014-14 by title only for the final time; seconded; passed unanimously.**

*AN ORDINANCE OF THE COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, AMENDING THE FLAGSTAFF ZONING MAP DESIGNATION OF APPROXIMATELY 33.6 ACRES OF REAL PROPERTY GENERALLY LOCATED AT THE INTERSECTION OF ROUTE 66 AND FOURTH STREET, FROM LIGHT INDUSTRIAL ("LI") AND LIGHT INDUSTRIAL OPEN ("LI-O"), TO HIGHWAY COMMERCIAL ("HC")*

**Councilmember Oravits moved to adopt Ordinance No. 2014-14; seconded; passed unanimously.**

- F. **Consideration and Adoption of Ordinance No. 2014-13:** An ordinance of the Council of the City of Flagstaff, Arizona amending Flagstaff City Code Title 6, Police Regulations, Chapter 6-01, General Offenses, by adding a new Section 6-01-001-0004, Graffiti Prohibited; and amending Title 7, Health and Sanitation, by adding a new Chapter 7-01, Graffiti Abatement.

Discussion was held on this ordinance and Councilmember Oravits and Mayor Nabours voiced concern with the issue of liens on the property. Mr. Boughner said that the big question is access to those properties that they cannot get a hold of. He said that the lien allows the City to move forward and have a contractor take care of the cover-up and then lien the property if the property owner does not cover the costs.

Vice Mayor Evans said that the lien would seldom be used but gives staff a tool to get the work done. She said that if they are not able to move forward quickly it can destroy and whole street and neighborhood.

Councilmember Barotz said that they have to figure out revenue sources. If they are going to continue down this path of the City absorbing the expenses, they need to include funds in the budget to cover it.

**Mayor Nabours moved to read Ordinance No. 2014-13 for the final time, with the amendment that the cost recovery and lien provisions be deleted; seconded.**

Councilmember Overton said that he would go with the amendment to get it done, but he did not think it was an overstretch to include the lien.

Vice Mayor Evans said that she was supportive of the ordinance, but could not support it amended. Councilmember Woodson said that he would support it to move it forward, but they need to review it at budget time. Councilmember Oravits agreed with revisiting the issue during budget discussions.

**Motion passed 4-3 with Vice Mayor Evans and Councilmembers Barotz and Brewster casting the dissenting votes.**

*AN ORDINANCE OF THE FLAGSTAFF CITY COUNCIL AMENDING FLAGSTAFF CITY CODE TITLE 6, POLICE REGULATIONS, CHAPTER 6-01, GENERAL OFFENSES, BY ADDING A NEW SECTION 6-01-001-0004, GRAFFITI PROHIBITED; AND AMENDING TITLE 7, HEALTH AND SANITATION, BY ADDING A NEW CHAPTER 7-01, GRAFFITI ABATEMENT*

**Councilmember Oravits moved to adopt Ordinance No. 2014-13 as amended; seconded; passed 4-3 with Vice Mayor Evans and Councilmembers Barotz and Brewster casting the dissenting votes.**

Mr. Eastman clarified a statement made at the last meeting regarding a paint-matching machine being \$500. He said that after further research, they found a piece of equipment, but it is much more than the \$500 and they may bring it back as a one-time purchase in next year's budget.

- G. **Consideration and Adoption of Ordinance No. 2014-18:** An ordinance of the City Council of the City of Flagstaff, amending the Flagstaff City Code, Title 3, Business Regulations, Chapter 10, User Fees, Section 3-10-001-0005, Recreation Fees, by increasing certain Parks and Recreation Fees; providing for penalties, repeal of conflicting ordinances, severability, authority for clerical corrections, and establishing an effective date. ***(Increasing recreation fees)***

Recreation Director Brian Grube said that he had no presentation, but was there to answer any questions. He noted that this was the second phase of increases started last year.

Bruce Grubbs, representing the Flagstaff Figure Skating Club, said that two years ago there was a proposal for a 43% increase out of the blue with no input. He said that most of them were opposed to it. He said that they proposed a three-year phased-in approach and last year it was proposed to have a 17% increase, when it was only going to be a 7% increase. He said that these increases are falling unfairly on the ice skating community.

The following individuals submitted written opposition to the increases:

- Rhonda Cashman
- Ronald Christy
- Christine Coverdale

Mayor Nabours said that his recollection was that they were going to do a 21% increase over three years. Mr. Grube said that did not change; however, last year they had suggested a one-time increase in addition to the phased approach.

Mayor Nabours said that he was hugely appreciative of what the club does, but on the other hand, they have expended a great deal of money into the rink with a new Zamboni, compressor, etc. Mr. Burke noted that the increase does not provide a full-cost recovery; the City still is subsidizing it through General Fund dollars.

**Councilmember Woodson moved to read Ordinance No. 2014-18 by title only for the first time; seconded; passed unanimously.**

*AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AMENDING THE FLAGSTAFF CITY CODE, TITLE 3, BUSINESS REGULATIONS, CHAPTER 10, USER FEES, SECTION 3-10-001-0005, RECREATION FEES, BY INCREASING CERTAIN PARKS AND RECREATION FEES; PROVIDING FOR PENALTIES, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE*

- H. **Consideration and Adoption of Ordinance No. 2014-19:** An ordinance of the City Council of the City of Flagstaff, amending the Flagstaff City Code, Title 7, Health and Sanitation, Chapter 7-04, Municipal Solid Waste Collection Service, Section 7-04-001-0009, Fees, by reinstating the \$2.50 per ton Environmental Maintenance Facility Fee, repeal of conflicting ordinances, severability, authority for clerical corrections, and establishing an effective date. ***(Reinstate the \$2.50 per ton landfill tipping fee).***

Pat Bourque, Public Works, explained that this was a fee that the City has charged before for users of the landfill. It is primarily for commercial accounts or construction accounts.

Mayor Nabours asked if it would apply to non-City residents. Mr. Bourque replied that it would; it would apply to anyone that uses the landfill. Mayor Nabours asked if residents would see a change in their water bill. Mr. Bourque replied that

at this point in time there will not be a change in the monthly services; it would only be an additional fee at the landfill.

Councilmember Overton said that he has never liked this fee, but he realizes it is used for the Core Services Maintenance Facility. He said that he would be more favorable if they looked at all commercial accounts or all accounts across the City.

**Councilmember Brewster moved to read Ordinance No. 2014-19 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 7, HEALTH AND SANITATION, CHAPTER 7-04, MUNICIPAL SOLID WASTE COLLECTION SERVICE, SECTION 7-04-001-0009, FEES, BY REINSTATING THE \$2.50 PER TON ENVIRONMENTAL MAINTENANCE FACILITY FEE, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE*

- I. **Consideration of Ratifying Approval of Agreement Amendment:** Joint Project Agreement 11-085 between the State of Arizona and the City of Flagstaff acting for and on behalf of the Flagstaff Metropolitan Planning Organization, Amendment 3 for Fiscal Year 2015

FMPO Manager David Wessel explained that this was an IGA with ADOT which authorizes the MPO work program. The amendments that are part of this year's amendment relate to in-kind matches and other changes to federal references. He said that the action being requested is to ratify the Mayor's signature on this document as it was time sensitive. He said that this was the authorization that brings about \$250,000 into the region.

**Councilmember Overton moved to ratify JPA 11-085 Amendment 3; seconded; passed unanimously.**

- J. **Consideration of amendment to agreement:** Authorizing an increase in funding to the Coconino Humane Association.

Deputy Policy Chief Dan Musselman gave a brief review of this request.

Mayor Nabours said that they have had this contract for services and the fact that their costs have changed internally, as it might with any business, is not the motivating factor. He said that they have been providing the City additional services and continue to do so. Councilmember Brewster noted that there was also a change in state law that affected the procedures required, which also resulted in higher costs.

Councilmember Overton said that this contract was up for renewal in 2015 and he could not emphasize enough that with a five-year contract there will be give and taken that none of them anticipate. He said that providing \$12,000 of back payment for a shortage is one thing, but it puts them in a difficult budget situation

to add for additional scope of work. He said that he wants to see this issue resolved next year.

**Councilmember Oravits moved to approve the increase to the Coconino Humane Association in the amount of \$50,000 for the final year of the current contract; seconded; passed unanimously.**

- K. **Consideration and Adoption of Ordinance No. 2014-20:** An Ordinance prohibiting the use of wireless communication devices while operating a motor vehicle or bicycle.

Police Chief Kevin Treadway said that he was before Council on behalf of Walt Miller. He said that what was before Council was the distracted driving ordinance with two options. The first option would prohibit texting while a vehicle was in motion and the second option would prohibit texting while in physical control of a vehicle.

**Councilmember Oravits moved to read Ordinance No. 2014-20, with Option 1, by title only for the first time; seconded; passed unanimously.**

*AN ORDINANCE OF THE FLAGSTAFF CITY COUNCIL AMENDING TITLE 9, TRAFFIC, CHAPTER 9-01, TRAFFIC CODE, BY ADDING A NEW SECTION 9-01-001-0013, USE OF WIRELESS COMMUNICATION DEVICES WHILE DRIVING PROHIBITED; EXCEPTIONS; AND PROVIDING FOR PENALTIES*

- L. **Consideration and Adoption of Resolution No. 2014-28:** A resolution of the Mayor and Council of the City of Flagstaff, Arizona, ordering a question be submitted to the qualified electors of the City with respect to a temporary increase to the City's transaction privilege (sales) tax and authorization for the sale and issuance of bonds of the City of Flagstaff, Arizona, said question to be submitted at the City's General Election to be held on November 4, 2014. ***(Road Repair and Street Safety Ballot Initiative)***

**Vice Mayor Evans moved to read Resolution No. 2014-28 by title only; seconded; passed unanimously.**

*RESOLUTION OF THE COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, ORDERING A QUESTION BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE CITY WITH RESPECT TO A TEMPORARY INCREASE TO THE CITY'S TRANSACTION PRIVILEGE (SALES) TAX AND AUTHORIZATION FOR THE SALE AND ISSUANCE OF BONDS OF THE CITY OF FLAGSTAFF, ARIZONA, SAID QUESTION TO BE SUBMITTED AT THE CITY'S GENERAL ELECTION TO BE HELD ON NOVEMBER 4, 2014*

**Councilmember Oravits moved to adopt Resolution No. 2014-28; seconded; passed unanimously.**

The Regular Meeting of the Flagstaff City Council held July 1, 2014, recessed at 5:50 p.m.

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

Mayor Nabours reconvened the Regular Meeting of the Flagstaff City Council held July 1, 2014, at 6:16 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**

Present:

Absent:

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

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

12. **PUBLIC PARTICIPATION**

Emily Davalos, Flagstaff, said that she has been enjoying seeing democracy in the process during the meetings over the last few months.

Ann Heitland, Flagstaff, said that she was there in support of Vice Mayor Evans and to speak in favor of a political process that focuses on the issues and not attempted intimidation. She urged the Councilmembers to approach all of the political processes in accordance with that.

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

None

14. **PUBLIC HEARING ITEMS**

Councilmember Woodson declared a conflict of interest and left the dais.

- A. **Public Hearing, Consideration and Adoption of Ordinance No. 2014-21:** An ordinance amending the Flagstaff Zoning Map designation of approximately 3.06 acres of real property located at 703 South Blackbird Roost from "MH,"

Manufactured Housing, to "HC," Highway Commercial. ***(Zoning Map amendment ordinance review for the development known as "The Standard".) CONSIDERATION OF THIS ITEM WILL END AT 9:30 P.M. (IF NECESSARY) AND CONTINUE UNTIL 6:00 P.M. ON WEDNESDAY, JULY 2, 2014***

Planning Director Dan Folke briefly reviewed the process of this application. He said that this case is the culmination of a 12-month application review. They evaluate the consistency of a project with their development standards and the General Plan. In the rezoning application they looked at impacts on traffic, sewer/water, storm water and the result is the staff report which Brian will be reviewing. It will address those potential impacts and contains conditions that they suggest would minimize, manage, or mitigate those impacts. Some of the conditions speak to a reduction in the mass/scale of the building, pedestrian and traffic improvements, implantation of a relocation plan, contributing to an affordable housing program to create new housing and also development of a management plan/good neighbor policy. He asked that as they get into their deliberation, and their decision, to consider the Planning and Zoning recommendation (to deny), staff recommendation, complete application and public comment. If they get close to considering some action, he asked that they tie their conclusions to the findings.

Program Development Manager Brian Kulina then began review of a PowerPoint presentation (Exhibit A attached hereto and made a part hereof).

- REQUEST
- VICINITY MAP
- ZONING MAP AMENDMENT MAP
- AERIAL PHOTO
- REGIONAL PLAN
- ZOING
- REQUIRED FINDINGS
- GENERAL PLAN – FLAGSTAFF AREA REGIONAL LAND USE AND TRANSPORTATION PLAN
- SUPPORTING GENERAL PLAN GOALS AND POLICIES
- LA PLAZA VIEJA NEIGHBORHOOD PLAN
- ZONING – CITY OF FLAGSTAFF ZONING CODE
- PARKING
- DESIGN REVIEW
- TRAFFIC AND ACCESS
- PUBLIC COMMENT
- NEIGHBORHOOD MEETING
- MEETING #2
- RELOCATION
- DISCUSSION (Highway Commercial HC Zone)
- DEVELOPMENT AGREEMENT
- RECOMMENDATION
- DEVELOPMENT REQUESTED AMENDMENT

Councilmember Barotz asked Mr. Kulina to explain a Conditional Use Permit (CUP). Mr. Kulina replied that the Zoning Code gives the Planning and Zoning Commission additional authority to mitigate and regulate various development standards, such as building heights and uses that may have additional adverse impacts. CUPS are approved through a public hearing process and during the process the Commission has the ability to add conditions or requirements on that project to bring it into additional compliance.

Councilmember Barotz asked about the Development Agreement being on the Working Calendar for July 15. Mr. Kulina said that staff has completed a draft of the DA which has been transferred to the developer for their review, and it typically it would be approved prior to the second read and adoption of the ordinance.

Councilmember Barotz asked what the current status was related to the section of the staff report addressing affordable housing. Mr. Kulina said that any zoning map amendment that grants an increase in density requires the developer to provide affordable housing through an in-lieu of fee. Understanding the nature of student housing, staff started working with the developer. The relocation issue then became front and center and they determined that a portion of that affordable housing fee could be used toward the relocation package. At this time they do not have exact numbers, but the DA would require that some form of fee for affordable housing would be paid to the City.

Councilmember Barotz said that when staff does an evaluation of the Regional Plan with respect to a project it looks at the goals and shows those in support, but there are some in support and some that are not in support. She had asked staff to provide all of the relevant language. Mr. Folke replied that when staff was doing the evaluation they looked at the policies that were applicable and Mr. Kulina included a few others. Moving forward they would try to find a more balanced approach, but he was not clear that it has been the practice in the past.

Mr. Folke reviewed the four policies and one goal included in the memo, noting that they believed they did meet most of those; the most difficult being the affordable housing component. Councilmember Barotz said that she was not sure that she agreed they had been met.

Mayor Nabours asked what the street category was for Blackbird's Roost and Clay and whether the anticipated traffic would change those ratings.

Traffic Engineer Jeff Bauman said that they are minor collectors and they will continue to be minor collectors.

Councilmember Overton asked, regarding the parking garage, if they did not apply for the CUP, if it would be required to meet the 35' limit. Mr. Kulina said that it is far enough away from the property line that it does not appear that would impact that. He noted that the CUP was required because the maximum height was 66' altogether.

Mr. Bauman said that the developer has provided for a mini roundabout at Clay and Blackbird's Roost and a center island on Clay and Kingman in front of the Montessori School.

Councilmember Oravits asked about the possibility of a pedestrian crossing. Mr. Bauman said that they have looked at various alternatives and it appears, at this point, that the best solution is the highway beacon.

Vice Mayor Evans asked about the \$10,000 bond requested by ADOT. Mr. Kulina said that ADOT is recommending a post-development study looking at traffic and it is recommended that the developer and City split the cost of that study. Mr. Bauman noted that the beacon light and signal at Milton/Route 66 could be timed to work together.

At this time Nick Wood, Snell & Wilmer, representing Landmark, continued the presentation. He said that at the first Planning and Zoning Commission meeting they listened to a lot of people come up and speak with great eloquence and passion, asking for denial of the application, to prevent the closure of the mobile home park. Regardless of what decision is ultimately made, he has great admiration and respect for the residents in that area. His client understands that in the event that the company buys the property and closes the park, there will be an impact on residents there. He is trying to mitigate that by placing almost \$700,000 into a fund to help mitigate those costs.

He said that the park is a landlord/tenant relationship and it is governed by the Mobile Home Park/Landlord Tenant Act. There is a provision of a closure or redevelopment of a park (33-1476.01) and the obligation of the owner is 1) to give a 180-day notice to all of the residents of the park informing them; and 2) required to make a contribution to the State Redevelopment Fund. That fund is managed by Arizona Department of Fire, Building and Life Safety - \$500 for each singlewide mobile home in the park and \$800 for each doublewide. That is their only legal requirement. No contributions or payments are required to be made to the residents.

The residents' rights are to apply to the State Department Relocation Fund for the relocation of moving their trailer. They can receive whatever their costs are for moving, up to a maximum of \$5,000 (singlewide) or \$10,000 (doublewide). If they choose not to move or it cannot be moved, the only compensation they can receive is \$1,250 for a singlewide and \$2,500 for a doublewide. The result is, no payments are made by the landlord to the tenants.

His client decided to donate money to the fund, an average of \$14,000 per unit, inclusive of whatever they're able to collect from the fund, but there are many that will be unable to collect anything, or a minimal amount. It has been suggested that his client would be willing to pay \$35,000, exclusive of the fund, if tenants did not fight this. He understands the request, but this is a donation by his client, and a generous donation, and they have not asked anyone to not oppose this. He told everyone that if they support or oppose, participate in the process. They are not in the business of exchanging support, but his client is willing to donate this money.

They have also received a couple of letters from the current owner, Brent Wood, who he does not represent, stating that they plan to close the park if Landmark does not buy it and they will not be making the same donation. There is no date on the letter and it has been referenced in the newspaper.

Councilmember Barotz said that as a Councilmember she has heard nothing directly from the mobile home park and she does not rely on the newspaper for facts.

Mayor Nabours asked Mr. Wood if he had anything signed by the park. Mr. Wood said that all he has is a copy of the letter and it was attached to an e-mail he received. He then read the letter.

Mayor Nabours asked if he was saying that Landmark was offering \$14,000. Mr. Wood replied that it would be an average of \$14,000 inclusive of the state's funds.

A break was held from 7:38 p.m. to 7:50 p.m.

Lora Viasenora, 7201 N. Central, Phoenix, Arizona, said that she was approached by a representative of Landmark to put together a relocation package. One of her early questions was what federal funds were involved. She found there was no requirement under the URA, but she was told that they were looking to exceed any requirements. With that in mind she put together the following program:

**FEDERAL UNIFORM RELOCATION ASSISTANCE (URA)**

- Moving allowance (to both owners and renters)
- Rent/down payment assistance (to both owners and renters)
- Replacement housing (just to owners)

**URA LIMITATIONS**

- Proof of income
- Proof of citizenship
- Proof of expenditures for disbursement

**MOVING ALLOWANCE**

Established by URA

1 room	\$ 700
2 rooms	\$ 800
3 rooms	\$ 900
4 rooms	\$1,000
5 rooms	\$1,100

Under the URA the minimum someone would receive is \$700; Landmark has opted to set this limit at \$1,100 and everyone would receive this.

**RENT/DOWN PAYMENT ASSISTANCE (Renters/Owners)**

**Comparable Unit (Based on URA Guidelines)**

Type of Unit  
Size  
Year of Construction  
Number of Bedrooms  
Square Footage

**Calculation**

(Expected Rent + Utilities) – (Current Rent + Utilities)

**MOBILE HOME SPACE AVAILABILITY**

She asked a series of questions  
Do you have available or do you expect to spaces available?  
Rent amount?

After the first meeting with residents there was concern expressed about the location; she went back in early June and contacted only those on the west side and were within a reasonable proximity of the Arrowhead MHP. Three parks to the west responded that among those there were 65 spaces available and within 1.7 miles.

**RENT/DOWN PAYMENT ASSISTANCE (Renters/Owners)**

**Calculation per URA**

\$425 - \$285 = \$140/month  
42 months of assistance:  
\$140 x 42 = \$5,580

**Landmark**

6 x \$285 = \$1,710  
36 x \$140 = \$6,750 (More than required of URA)

**REPLACEMENT HOUSING (Owners)**

Based on NADA comparisons  
Age of homes in park  
Comp is for either a 1980 unit or one that is 15 years newer  
Equivalent square footage  
Same number of bedrooms

**STATE RELOCATION FUND**

The criteria includes that the person living there has to be owner on title at the time of the 180-notice issued and has a SS # or tax ID number. If either is not met they are not eligible, but Landmark is still willing to pay the \$1,250 for residents unable to obtain this from state.

**LANDMARK RELOCATION PACKAGE**

Moving = \$1,100  
Rent/Down Payment = \$6,750  
Replacement Housing = \$1,163 and \$5,235 (depending on size/unit age)

After the last meeting they heard a lot about transportation difficulties and food spoilage so Landmark has offered to pay \$1,420 for owners and renters for transportation and \$632 for food spoilage (based on food cost of family of four for one month). They also heard from an independent consultant that it may be worthwhile to offer funds to move early, so Landmark was offering \$1,500 if they moved within 45 days and \$1,200 if they moved within 90 days.

The difference between the two programs is:

LANDMARK

Renters	= Min. \$ 9,910; more if they moved early
Owners	= Min. \$12,320; more if newer or moved early.

URA

Renters	= \$6,580
Owners	= \$7,743 (only for owners on record)

Mayor Nabours noted that when Council interrupted the speakers, their time would be stopped.

Mr. Wood noted that when his client looked at this property, they felt it was appropriate for student housing because it was near NAU, on a major arterial, and in a non-single family dwelling area. The General Plan shows it as high density in an urban growth boundary which anticipates a significant amount of density and height.

They looked at the transportation plan and it was on a collector, with both Blackbird Roost and Clay intended to carry 12,000 trips a day and they looked at the Zoning Code and worked with staff.

Mr. Wood said that they started with a four to five floor building along Blackbird Roost and the neighbors thought it was too tall, so they moved back from the street and kept it at four stories with three stories along Blackbird Roost.

In addition, there was the issue of traffic. Blackbird Roost and Clay are both minor collectors, designed to carry 12,000 trips per say. The current trips per day go from 1,700 to 2,100 a day. Adding 400 trips a day still only brings it to 39% of the capacity of those routes. The service levels of those streets are C for Clay and D for Blackbird Roost and the traffic will not change that level.

They were asked to put a signal at Blackbird Roost and Route 66 and ADOT said no. They then talked about a pedestrian access and they approached ADOT about installing the flashing red lights and ADOT asked them to wait until after it is built to look at the traffic. After a lot of work and discussions together with the City's traffic engineer and ADOT, ADOT allowed them to put it in right away before it was built and it would be tied to the timing at the main intersection.

He said that they met with NAIPTA and his client has negotiated to include in the Development Agreement to purchase one bus pass for the entire school year for

each student. They believe that by making that commitment, it would remove a tremendous volume of traffic from all of the streets and provides an alternative that does not cost them any money.

There was also talk about the concern for neighbors to the north about traffic mitigation so they agreed to streetscape improvements on Clay, assuming the right-of-way can be acquired, and his client will put in trees, a streetlight, some type of pedestrian pathway to cross the street and two medians for safety land landscape improvements, a roundabout at the intersection of Clay and Blackbird Roost and median components on all four sides, the purpose of which is to slow traffic down and discourage people from cutting through the area.

They would put monuments to identify the neighborhood itself. They believe they are in conformance with all of the criteria. They are not generating any pollution; they are well within the capacity of the roads. They are creating a situation where students can move out of neighborhoods and can walk to school.

Mr. Wood said that they heard tonight that there were four or five new provisions given to Council that he has not seen.

Landmark's traffic engineer also mentioned there was a missing link of sidewalk on Blackbird Roost left off the list; they have agreed to complete that sidewalk. Also, they agreed that after it is opened, along Route 66, looking at future pedestrian crossing, and the neighborhood has requested a left-turn signal at Clay and Milton. They have offered to go back and look at that after it is opened to see if it would then hit the warrant.

Councilmember Barotz asked if they considered the changes to the plan as significant. Mr. Wood said that they are willing to pay the entire amount of the study for pedestrians after they are opened.

Vice Mayor Evans asked what the current ranking was for Milton between Butler and Clay. His traffic engineer replied that it was a ranking D. She clarified that any pedestrian signal on Route 66 would be interconnected with the signal at Milton/Route 66.

Mayor Nabours opened the Public Hearing at this time, noting that they would stop public comment at 9:30 p.m. and anyone who had submitted a card tonight would be permitted to return tomorrow evening and speak (beginning at 6:00 p.m.). Additionally, he said that due to the large number of public members wishing to speak, they are limiting their comments to two minutes.

The following individuals spoke in opposition to this development:

- Michelle Thomas - As community organizer for Hermosa Vida of North Country Healthcare, their objective has been to encourage civic engagement. They asked that the Council listen to the speakers tonight; listen to the people. Mayor Nabours said that they heard tonight that if this does not pass, the mobile home park owner will close the park and they will receive nothing. He asked Ms. Thomas if that played into her decision at all. Ms. Thomas said that she was

not the right person to answer that question; she was supporting the citizens' right to be heard and to facilitate that process.

- Martha Aragon
- Kenneth Burford
- Ame-Lia Tamburrini
- Mac England
- Marilyn Weissman
- Maulik Patel
- Susan Ontiveros
- Emily Davalos
- Robert Schehr
- Robert Neustadt
- Jess Domingues
- Robert Gonzales
- Laura Myer
- Jody Weller
- Olga Garcia
- Deborah Harris
- Lizabetha
- James Hasapis
- Gloria Valencia
- Kendall Perkinson
- Frankie Beesley
- Mary Sojourner
- Miriam Meza
- Jim McCarthy
- Francisca Gonzales

The following comments were received:

- Solve the situation now; she is unable to sleep
- Will affect a lot of families
- Make the right decision
- Convinced the proposal fails to meet criteria required by City
- Do not want to witness breakup of this community
- Affordable housing is needed in Flagstaff for Arrowhead and other areas
- Is an independent healthcare health impact assistant and suggests that if The Standard goes through it would have negative consequences
- Displacement has severe impacts
- Residents would be at risk of poor mental health and chronic health disease
- Please consider health of residents
- Developers have tossed out a lot of bones but in Arrowhead Village and Las Plaza Vieja they have not addressed the aspect of community that is so important
- City needs programs in place to address these issues in the front end
- Is not appropriate for developer's attorney to meet with Council individually
- Follow the lead of the Planning and Zoning Commission and reject
- This development removes affordable housing
- FFF is prepared to do a referendum if necessary

- Catastrophic Impact on Budget Host Inn and Saga Hotel; family-owned and operated business; also supports four families; will suffer from noise and traffic; parties
- Born and raised in Flagstaff; many family and friends affected by this; suffering anxiety; would like to have rest at night; do the right thing
- They knew there was a risk that the park owner would sell and there would be no funding, but they took that risk
- Vote against the rezoning
- Economic justice
- Opposed to lawsuit being filed against Vice Mayor
- In Palo Alto, City funds and local people are helping the last remaining trailer park
- If you can understand the problem, you can solve it
- Lifetime resident in La Plaza Vieja; and appreciate thoughtful consideration; thanks for listening to comments
- La Plaza Vieja (known as Old Town) Association has been involved for many years and submitted a final draft for their Neighborhood Plan in 2011, but it was tabled to work on Regional Plan
- In their Plan they emphasized the importance of safe pedestrian and bike access and safe access to amenities like parks, schools, businesses, etc.
- Their association is not opposed to new development but we feel strongly that any new development must fit the scale and character of the neighborhood
- Concerned about public safety, law enforcement response and overall management of the project
- Have requested from developer copies of their Management Plan and policies/procedures
- Impacts from intoxication, disturbance of the peace, will impact their neighborhood
- If this project would fit into the scale of Council's neighborhoods – in Boulder Point, Ponderosa Trails, near the Hospital, etc?
- La Plaza Vieja Neighborhood Association does not support this plan
- If Council does approve, consider displacement of residents
- Concerned with safety for children and elderly residents and quality of life
- Facts presented by developer: estimated there will 4,496 trips per day generated; in 2012 existing average on Clay was 3,730 trips. Same year it was 2,287 trips; 60% increase on Clay and 150% on Blackbird Roost
- ADOT has already designated the need for a signal at Blackbird Roost and Route 66 and rated it as F
- Disappointed with lack of response for security plans and management from developer
- Petition has been signed by over 20% of surrounding property owners requiring a  $\frac{3}{4}$  vote of the Council
- Regional Plan is now complete; would now like to complete the La Plaza Vieja Neighborhood Plan finalized
- NAU said they will not be admitting more than 150 students over the next several years
- Buses are already stressed
- 650 beds at \$600/student - \$406,000 a month--\$5 million a year
- If this is turned down, the owner has fewer options; it is up to the Council
- Talking about greed; Council is to represent residents—not developer

- Representing League of Neighborhoods – asked Council not to pass
  - People were lining the walls at the Planning and Zoning Commission; 4 students waited 5.5 hours to speak in favor
  - Tom Belton, hails from Mesa, set up 14,000 robocalls – what committee did that go through?
- Developers sued Vice Mayor Evans and sent a letter to her requesting she recuse herself from voting
- Concerned with developer meeting with Councilmembers individuals; possible Open Meeting Law violation
  - As resident and proud NAU alumni, has heard enough from the developer and Students Matter website
  - Shops local and drives through the areas that will be impacted
- Drove by this area and drove by the Grove; this hybrid commercial is inappropriate for that neighborhood
- We all support the university and the students; this is not about that; is about the neighborhood
  - Not about to run into these people because they are not from here.
  - Landmark should build on the campus; urge you to vote no

This portion of the meeting recessed at 9:24 p.m. and Mayor Nabours noted that the remainder of speakers would be permitted to speak at tomorrow night's meeting beginning at 6:00 p.m. The remainder of the items on the agenda were then discussed after reconvening at 9:40 p.m. (*See the end of these minutes for the July 2, 2014 portion of the minutes*)

- B. Public Hearing, Consideration and Adoption of Ordinance No. 2014-17:** An ordinance of the City Council of the City of Flagstaff, Arizona, amending the Flagstaff City Code, Title 7, Health and Sanitation, Chapter 7-3, City Water System Regulations, Section 7-03-001-0003, Deposit Required, to change water service deposits; providing for penalties, repeal of conflicting ordinances, severability, authority for clerical corrections, and establishing an effective date. (***Changing the amount of water service deposits***)

Mr. Wagemaker briefly reviewed this item noting that the City has been charging \$25 for a deposit on utilities for at least 20 years, and they were proposing to increase that to \$150 for residential and \$300 for nonresidential. Discussion was held on the ability to pay the deposit over time.

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

Councilmember Woodson returned to the meeting at this time.

**After further discussion, Mayor Nabours moved to read Ordinance No. 2014-17 by title only for the first time, with the amendment that payment of the deposit be permitted with one-third up front and the balance paid off over the next two months; seconded; passed unanimously.**

*AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, AMENDING THE FLAGSTAFF CITY CODE, TITLE 7, HEALTH AND*

*SANITATION, CHAPTER 7-3, CITY WATER SYSTEM REGULATIONS, SECTION 7-03-001-0003, DEPOSIT REQUIRED, TO CHANGE WATER SERVICE DEPOSITS; PROVIDING FOR PENALTIES, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE*

- C. **Public Hearing, Consideration and Possible Adoption of Resolution No. 2014-23 and Ordinance No. 2014-15:** A Resolution of the City Council of the City of Flagstaff, Arizona, Declaring that Certain Document Known as "The 2014 BBB Tax Re-Codification Amendments as a Public Record, and Providing for an Effective Date; and an Ordinance of the City Council of the City of Flagstaff, Amending the Flagstaff City Code, Title 3, *Business Regulations*, Chapter 3-06, *Privilege and Excise Taxes*, Chapter 3-06, *Lodging, Restaurant and Lounge Tax*, are Hereby Amended by Adopting "The 2014 BBB Tax Re-Codification 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. ***(Recodification of BBB Tax)***

Mr. Wagemaker stated that nothing is changing in the context of the ordinance; it is just a recodification to place it into the Tax Code

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

**Councilmember Woodson moved to read Resolution No. 2014-23 by title only; seconded; passed unanimously.**

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, DECLARING THAT CERTAIN DOCUMENT KNOWN AS "THE 2014 BBB TAX RE-CODIFICATION AMENDMENTS" AS A PUBLIC RECORD, AND PROVIDING FOR AN EFFECTIVE DATE*

**Councilmember Woodson moved to read Ordinance No. 2014-15 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, CHAPTER 3-06, LODGING, RESTAURANT AND LOUNGE TAX, ARE HEREBY AMENDED BY ADOPTING "THE 2014 BBB TAX RE-CODIFICATION AMENDMENTS" BY REFERENCE, 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 AN EFFECTIVE DATE*

- D. **Public Hearing, Consideration and Adoption of Resolution No. 2014-24, and Consideration and Adoption of Ordinance No. 2014-16:** A Resolution of the City Council of the City of Flagstaff, Arizona, Declaring that Certain Document Known as "The 2014 Use Tax Adoption and Related 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*, is Hereby Amended by Adopting "The 2014 Use Tax Adoption and Related City Tax Code Amendments" by reference 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 an Effective Date. **(Adoption of local 1% use tax)**

Mr. WagemakerI reviewed this ordinance, noting that it was self-reporting for businesses and individuals. For sales tax customers they would notify them, and for individuals they would put notices in the paper and do outreach.

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

**Councilmember Brewster moved to read Resolution No. 2014-24 by title only; seconded; passed 6-1 with Mayor Nabours casting the dissenting vote.**

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, DECLARING THAT CERTAIN DOCUMENT KNOWN AS "THE 2014 USE TAX ADOPTION AND RELATED CITY TAX CODE AMENDMENTS" AS A PUBLIC RECORD, AND PROVIDING FOR AN EFFECTIVE DATE*

**Councilmember Brewster moved to read Ordinance No. 2014-16 by title only for the first time; seconded; passed 4-3 with Mayor Nabours and Councilmembers Oravits and Woodson casting the dissenting votes.**

*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, IS HEREBY AMENDED BY ADOPTING "THE 2014 USE TAX ADOPTION AND RELATED 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**

None

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 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

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

Councilmember Woodson noted that he would be recusing himself from the meeting tomorrow evening due to a conflict, so he would not be present.

Vice Mayor Evans asked that they add the La Plaza Vieja Neighborhood Plan to a future agenda to look at it.

Councilmember Barotz asked that after the Summer Break they look at the Regional Plan just adopted and explore how they can better address the issue of student housing from a policy perspective.

Mr. Burke reported that next week the Executive Session would be starting at 3:00 p.m.

19. **ADJOURNMENT**

Mayor Nabours noted that the meeting would reconvene tomorrow night at 6:00 p.m. (July 2, 2014).

The meeting of July 1, 2014, recessed at 10:19 p.m.

***CONTINUATION OF JULY 1, 2014 MEETING***

Mayor Nabours reconvened this portion of the July 1, 2014, meeting at 6:02 p.m. on Wednesday, July 2, 2014.

Present:

Absent

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

COUNCILMEMBER WOODSON (COI)

The following individuals then addressed the Council:

- Martha Miranda
- Alycia Lewis
- Dorothy Rissel
- Rober Douglass
- Roz Clark
- Norm Wallen

- Leslie Pickard
- Frankie Madrid
- Tom Bilsten
- Karna Otten
- Connie Kim
- Mauricio Rodriguez
- Sharon Edgar
- Charlie Silver
- Marnie Vail (Martha)
- Tom Bean
- Roxana Deniz

The following comments were received:

- Does not want to lose their house
- Only reason that new housing is needed is because NAU is aggressively attracting new students
- Out of 1.5 hours of testimony last night, no one spoke in favor of development
- 650 students, more than population of Munds Park or Tusayan
- Drivers under 25 years of age are not the most competent
- They are ready and willing to run a referendum against this; 1046 signatures are needed; already have over 30 signed up to help
- Let people come forward with ideas
- Building height out of character
- Displaced residents do not have realistic options
- Need to get the Displacement Ordinance on Council agenda ASAP
- Need to initiate meaningful discussion with NAU
- Find means of incorporating student housing into Regional Plan
- Think “bait and switch”
- Grew up in Sunnyside area; board member for Flagstaff PRIDE
- Northern Arizona Interfaith Council (NAIC) has been doing a lot of work
- Speaking as a representative for NAU Students Matter; proud alumni; serves as advisor to alumni; biggest choices for students is where to live; he asked students in support of this to stay away from meeting last night and tonight to eliminate possibility of fight
- They are being blackmailed—either pass this issue and let them build and residents get some \$ or they sell and get nothing
- Asking the Council to not let threats affect their decision
- Would not want this development in his neighborhood
- Does not want his City complacent about displacement
- Why not have a Neighborhood Services Department?
- Our towns are living systems; not machines susceptible to manipulation
- Need to restructure the process and nurture their living system
- Students are not the only ones needing affordable housing
- Are the developers ready to listen now?

Additionally, the following individuals submitted written opposition:

- Francisca Gonzales
- Emily O-Neil

- Brian Moody
- Dawn Dyer
- Sean Parson
- John Huctgren
- Anamaria Ortiz
- Michelle Thomas
- Sage Nelson
- Zane Shewalter
- Mary McKell
- Gavin Owen Parsons
- Ruth Ann DeCou
- Matt Laessig
- Monica Ferraro
- Jacob Erickson
- Mary L. Chun
- Alycia Lewis
- Norm Wallen
- Marty Eckrem
- Kourtney Dunning
- Tyler Nicole Barnard
- Eva Putzova
- Charlie Silver
- Evan Hawbaker
- James Kennedy
- Cynthia Pardo
- Joe Turner
- Kevin Ordean
- Robert Neustadt
- Cathy Ann Trotta
- Steve Dix
- Margarite Bradley
- Andrew Gould
- Jeremiah Murphy

At this time Mayor Nabours closed the Public Hearing.

Andrew Young, Sr. Vice President of Landmark, said that he was the representative from Landmark at the October 2013 meeting and he has attended three of the four neighborhood meetings since then, the Planning and Zoning Commission meeting and now these two meetings. He said that he would be remiss to not stand before the Council, based on his involvement and what he has heard from staff and the Commission, and not say he is guilty of letting this go too far. It is clear to him, from listening to the comments, there is still a lot of work to be done on this project.

Mr. Young said that their intent has been to be a community partner. His request tonight is to come back to the Council at the mid July meeting and provide a timeline on how to provide some fundamental changes to the project.

Councilmember Barotz said that she has had so many sleepless nights over this. She has been involved with land use in Coconino County for ten years and has seen

controversial cases come forward, but she has never seen anything like this. She found it to be horrifying and saddened and troubled. She asked Mr. Young why they should trust him.

Mr. Young said that they would like to provide a fundamental change to their approach. Some of that mistrust is in the composition of their team and they would like the time to reassess that and have discussions with them.

Councilmember Barotz asked what they could accomplish in two weeks. Mr. Young replied that they would come back to the July 15 meeting with a plan, not a redesigned project. They have made some major changes that are fundamental and redesigns to address some of the concerns.

Mayor Nabours said that the Council takes a break and will be coming back on August 25; perhaps they should postpone until after that time.

Vice Mayor Evans said that she did not believe it was fair to put the residents through another two weeks of waiting. She would need more assurance. They have put her and her child through a lot of stress. She said that they need to be more specific about the reason behind this request because the community wants to be done with it.

Brief discussion was held on whether major changes would need to go back through the Planning and Zoning Commission and start the process over. Ms. D'Andrea noted that if there were major changes made the public would be entitled to see the new project and comment. She said that the Council has the ability to accept or deny the request to continue.

Mr. Young said that there is a difference of perception between himself and the community on what has gone into the project and he is suggesting that they go back and improve on the process. Councilmember Barotz again asked why they should trust him.

Mayor Nabours said that they do not control their business by mob rule and they have legal and other issues that need to be followed.

Councilmember Barotz said that it is an issue of trust. She said that if she cannot ask that question, she asked what was going to be different; if they were going to have a different team, a local team.

Vice Mayor Evans said that with all due respect, right now she is being sued by a member of the developer's team because she set up a meeting to mediate a solution between members. She is now being asked for a "re do" and she believed it was a fair question as to why they should trust him.

At this time, Mr. Young requested to formally withdraw their project.

The meeting of July 1, 2014, continued to July 2, 2014, adjourned at 7:11 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 July 1-2, 2014. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 25<sup>th</sup> day of August, 2014.

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CITY CLERK