

REGULAR COUNCIL MEETING*
MONDAY, AUGUST 25, 2014
COUNCIL CHAMBERS
211 WEST ASPEN AVENUE
4:00 P.M. AND 6:00 P.M.

**This is a reschedule of the Regular Meeting of August 26, 2014, due to the Primary Election on that date.*

4:00 P.M. MEETING

1. **CALL TO ORDER**

Mayor Nabours called the Regular Meeting of the Flagstaff City Council of August 25, 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**

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

MISSION STATEMENT

The mission of the City of Flagstaff is to protect and enhance the quality of life of its citizens.

4. **APPROVAL OF MINUTES FROM PREVIOUS MEETINGS**

- A. **Consideration and Approval of Minutes:** City Council Budget Retreat of April 23-25, 2014; the Combined Special Meeting and Work Session of May 13, 2014; the Regular Meeting of July 1, 2014; the Work Session of July 8, 2014; and the Regular Meeting of July 15, 2014.

Councilmember Woodson noted that on page nine of the July 1, 2014 minutes there is a misspelling of Councilmember and on page twelve he noted that it was not recorded that he had declared a conflict of interest and left the dais.

Councilmember Barotz stated that on page five of the July 8, 2014 minutes the name of Alicyn Gitlin was spelled incorrectly.

Councilmember Overton moved to approve the minutes of the City Council Budget Retreat of April 23-25, 2014; the Combined Special Meeting and Work Session of May 13, 2014; the Regular Meeting of July 1, 2014 as amended; the Work Session of July 8, 2014 as amended; and the Regular Meeting of July 15, 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.

Billy Gonzalez addressed Council regarding a love conference center at Buffalo Park.

6. **PROCLAMATIONS AND RECOGNITIONS**

- A. **Report on Flagstaff Convention and Visitors Bureau Awards and Recognition.**

Convention and Visitor's Bureau Director Heidi Hansen provided an overview of multiple awards received by the City of Flagstaff Tourism Section. The awards are as follows:

- Arizona Governor's Tourism Awards – Innovative Promotions for Flagstaff Reimaging
- Arizona Interactive Marketing Association – Best Display Ad
- MARCOM Awards – Platinum Winner for Branding Refresh
- MARCOM Awards – Gold Winner for Advertising

- Campaign Communicator Awards – Gold Award for Outdoor Advertising - for light rail and king kong bus wraps
- Communicator Awards - Silver Award for Destination Website
- Communicator Awards – Silver Award for Integrated Branding Campaign.

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).

A. **Consideration of Appointments:** Airport Commission.

Councilmember Barotz moved to appoint Beth Applebee and Jeff Wheless to the Airport Commission, with terms expiring October 2015; seconded; passed unanimously.

Mayor Nabours offered appreciation to all of the applicants and encouraged them to re-apply again for openings in October. Councilmember Woodson added that the caliber of candidates is very high which makes appointments more difficult.

8. **LIQUOR LICENSE PUBLIC HEARINGS**

- A. **Consideration and Action on Liquor License Application:** Devendrabhai Patel, "India Palace", 103 W. Birch Ave., Series 12 (restaurant), New License.
- B. **Consideration and Action on Liquor License Application:** Randy Nations, "Sportsman's Bar & Grill", 1000 N. Humphreys St. #98, Series 06 (bar- all spirituous liquor), Person Transfer.
- C. **Consideration and Action on Liquor License Application:** Paul Moir, "Proper Meats and Provisions", 110 S. San Francisco St., Suite B., Series 07 (beer and wine bar), Person and Location Transfer.
- D. **Consideration and Action on Liquor License Application:** Jeffrey Roff, "Whole Foods Market", 320 S. Cambridge Lane, Series 10 (beer and wine store), New License.
- E. **Consideration and Action on Liquor License Application:** Hetal Patel, "O'Leary Street Market", 322 S. O'Leary St., Series 10 (beer and wine store), New License.

Mayor Nabours opened the Public Hearing for items 8-A through 8-D; there being no public comment he closed the Public Hearing.

Councilmember Oravits moved to forward the applications of item 8-A, 8-B, 8-C, 8-D to the State with a recommendation for approval; seconded; passed unanimously.

Mayor Nabours opened the Public Hearing for item 8-E.

Mr. Patel, Owner of O'Leary Street Market, addressed Council stating that he had taken over the business a few months ago. He stated that the concerns may be with the selling of single beers. The singles that are offered are mostly craft beer. He offered concern with discontinuing the sale of items because he fears he will lose business to the other shops in the vicinity.

Vice Mayor Evans stated that the bulk of complaints were coming from how the store was being run. She has noticed fewer intoxicants hanging around. There has been a positive change in the store and it has been cleaned up nicely, she thanked Mr. Patel for his efforts. She further encouraged him to eliminate the sale of the cheap forties.

Mayor Nabours closed the Public Hearing.

Councilmember Barotz asked for clarification on the zoning in the area. Comprehensive Planning and Code Administrator Roger Eastman offered that as long as the current use continues the sale of liquor would be allowed. Staff has determined the store to be an approved non-conforming use and able to continue business as usual.

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

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. **Acceptance of Grant and Approval of Contract:** Arizona Department of Environmental Quality Brownfields State Response Grant - Asbestos Abatement for the City of Flagstaff (for Midgley Market at 23 N. Beaver Street - aka The Lion and the Lamb Building)(**Approve ADEQ grant contract for asbestos abatement**).

MOTION: Accept the Arizona Department of Environmental Quality (ADEQ) Brownfields State Response Grant (SRG) in the amount of approximately \$55,000 and authorize the City Manager to execute Contract No. ADEQ15-077563 (which includes, but under separate cover, the City's participation in the ADEQ Voluntary Remediation Program).

Councilmember Oravits asked what the contingency is if there is something unexpected that comes up with the abatement. Community Design and Redevelopment Manager Karl Eberhard stated that there is no contingency plan

but the risk is small and the cost should be small, staff is confident they can find funding should the need arise.

Councilmember Overton stated that he would like to see the space used as parking for the Court.

Councilmember Barotz noted that it is very nice to have the Regional Plan goals included in the staff summaries.

Mayor Nabours moved to approve Consent Item 9-A; seconded; passed unanimously.

10. **ROUTINE ITEMS**

A. **Consideration of Bids: 4th Street Gateway Project.**

Community Design and Redevelopment Project Administrator Mark DiLucido stated that the recommendation from staff is to reject all bids. Staff has concluded that the bids were way out of line with the budget. The next step would be to rebid the project in the next two weeks. He stated that some value engineering has been done to bring the cost down.

Councilmember Woodson asked what elements were so miscalculated that it leads to all bids being well over budget. Mr. DiLucido stated that a pair of onyx piers was one of the big issues; because of the nature of the onyx there was confusion from the design and it is a pretty difficult item to find so the price was higher.

Councilmember Oravits offered concern about value engineering the project too much to where the essence of the project is lost. He asked if it might be necessary to postpone the project until additional funds could be allocated. Mr. DiLucido stated that staff feels that they are close with the redesign. Budget augmentation can be considered but it is hopeful that the project will be what it was visioned to be.

Vice Mayor Evans stated that this is the first major project to be seen on Fourth Street and she would hate to see it so value engineered that it is not what is wanted. She suggested phasing the project in to help with budget allocation.

Councilmember Woodson moved to reject all bids as submitted; seconded; passed unanimously.

B. **Consideration and Approval of the Third Amendment and the Fourth 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"). ***(Third Amendment to Evergreen Purchase Agreement to extend closing date; Fourth Amendment to Evergreen Purchase Agreement to Adopt Limited Warranty Quit Claim Conditions)***

Mayor Nabours requested that this item be moved to the 6:00 p.m. portion of the meeting because legal advice will be given in Executive Session on the implication of the amendments.

Mayor Nabours moved to convene into Executive Session for legal advice on the Evergreen Amendments and the Auto Park Lot 12; seconded; passed unanimously.

Mayor Nabours moved to convene into Executive Session for legal advice on pending litigation.

Vice Mayor Evans declared a Conflict of Interest and recused herself from the vote.

The motion was seconded; passed 6-0 with Vice Mayor Evans abstaining.

RECESS

The Regular Meeting of the Flagstaff City Council held August 25, 2014, recessed at 5:32 p.m.

6:00 P.M. MEETING

RECONVENE

The Regular Meeting of the Flagstaff City Council held August 25, 2014, reconvened at 6:15 p.m.

NOTICE OF OPTION TO RECESS INTO EXECUTIVE SESSION

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11. ROLL CALL

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

Present:

Absent:

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

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

12. **PUBLIC PARTICIPATION**

Emily Davalos addressed Council in regards to the first amendment right to free speech.

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

- 10-B. **Consideration and Approval of the Third Amendment and the Fourth 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"). ***(Third Amendment to Evergreen Purchase Agreement to extend closing date; Fourth Amendment to Evergreen Purchase Agreement to Adopt Limited Warranty Quit Claim Conditions)***

Councilmember Overton moved to approve the Third Amendment to the Purchase and Sale Agreement between the City of Flagstaff and Evergreen for the development of the Property, and ratify the City Manager's signature on the document; and approve the Fourth Amendment to the Purchase and Sale Agreement between the City of Flagstaff and Evergreen for the development of the Property; seconded; passed unanimously.

Mr. Burke asked if the Council could preliminarily consider the agenda for September 2, 2014 to see if there is any information for staff.

Councilmember Woodson requested information on item 15-A; he would like to see information on the use of reclaim water versus potable water. There are conflicting statements about the ability to use reclaimed water and he would like those clarified.

14. **PUBLIC HEARING ITEMS**

None.

15. **REGULAR AGENDA**

- A. **Consideration and Adoption of Ordinance No. 2014-22:** An ordinance setting aside and preserving twenty (20) acres of specific city property for open space and authorizing staff to apply to Coconino County for a rezoning to reflect the preservation ***.(Designating property near Schultz Pass Rd. and Mt. Elden Lookout Rd. as Open Space)***

Assistant to City Manager for Real Estate David McIntire gave a brief description of both parcels for items 15-A and 15-B. He explained that an open space designation by ordinance and subsequent rezoning offers the greatest protection. In order to make a change to the designation two very highly public and visible processes would have to occur.

Mayor Nabours noted that the area where people park to access the Shultz parcel is privately owned. In the future the City may want to trade with the owner for City property which would remedy the parking problem. He asked if the designations would make it more difficult to trade property with this owner. Mr. McIntire explained that staff has been in discussions with the property owner and if it is the Council's desire the rezoning could be postponed to allow for time to try and come to a solution with the property owner. There has also been conversation with the Forest Service to put parking on the parcel itself. Mr. Burke added that there is nothing that would prevent the Council from adopting the ordinance tonight and having that discussion later.

Councilmember Overton requested additional information concerning the rezoning application fee for the City and County.

The following individuals spoke in favor of designating the Shultz property as Open Space:

- Marilyn Weissman
- Kathryn Barrett
- Anthony Quintile

The following comments were received:

- The City should not consider trading its Open Space for land that is of no benefit.
- Encouraged Council and staff to work with the Forest Service to put parking on the parcel.
- Thank you for listening to the public and moving forward.
- Flagstaff Biking Organization supports the adoption of both ordinances.
- Parking and a well developed trail head would be beneficial to the area.

Written comment cards in support of preserving the identified parcels as open space were received from the following individuals:

- Sharon Edgar
- Collene Barnhart
- Jane Jackson
- Jim McGeorge
- Jane O'Donnell
- Betty Kahrl
- Brian W. Taylor
- Jeane Walker
- Margaret Erhart
- Robert Douglass
- Sharon Hester
- Chuck McDougal
- Denise Hudson
- Norm Wallen
- Geoff Barnard

- Gisela Kluwin
- William Kluwin
- Suzanne Motsinger

Councilmember Brewster moved to read Ordinance No. 2014-22 for the first time by title only; seconded; passed unanimously.

AN ORDINANCE OF THE FLAGSTAFF CITY COUNCIL SETTING ASIDE, AND PRESERVING APPROXIMATELY 20 ACRES OF SPECIFIC CITY OWNED REAL PROPERTY, AS OPEN SPACE, WHICH PROPERTY IS COMMONLY KNOWN AS THE SHULTZ PROPERTY GENERALLY LOCATED NEAR SHULTZ PASS ROAD AND MT. ELDEN LOOKOUT ROAD (COCONINO COUNTY ASSESSOR'S PARCEL NUMBER 300-47-004), AND PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE.

- B. **Consideration and Adoption of Ordinance No. 2014-23:** An ordinance of the City of Flagstaff setting aside specific City owned property for inclusion in Buffalo Park and restricting the land to uses and improvements consistent with a passive park (*Neighborhoods*) and authorizing staff to rezone the parcel to reflect its new designation. (***Designating property at the north end of San Francisco as Open Space***)

The following individuals spoke in favor of designating the San Francisco property as Open Space:

- Kathy Gales
- Joan Entz

The following comments were received:

- Citizens for a Greater Buffalo Park and the community want this land preserved. Thank you to City staff for all their work on this ordinance.
- We love this space and want it protected.

Councilmember Barotz moved to read Ordinance No. 2014-23 for the first time by title only; seconded; passed unanimously.

AN ORDINANCE OF THE FLAGSTAFF CITY COUNCIL SETTING ASIDE, PRESERVING AND DESIGNATING APPROXIMATELY 26.03 ACRES OF SPECIFIC CITY OWNED REAL PROPERTY, AS OPEN SPACE FOR PASSIVE PARK PURPOSES, WHICH PROPERTY IS COMMONLY KNOWN AS THE NORTH SAN FRANCISCO PROPERTY GENERALLY LOCATED NEAR FIR AVENUE AND NORTH SAN FRANCISCO STREET (COCONINO COUNTY ASSESSOR'S PARCEL NUMBER 110-03-001B), TO BE INCLUDED AS PART OF BUFFALO PARK IMMEDIATELY ADJACENT THERETO, AND PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY AND AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE.

- C. **Consideration and Adoption of Ordinance No. 2014-25:** An ordinance authorizing the provision of a ten (10) foot utility easement encumbering parcel number 301-89-001 (Cinder Lake Landfill) and authorizing the City Manager or his designee to execute the necessary documents **(Grant utility easement to APS at the Cinder Lake Landfill).**

Mr. McIntire stated that this ordinance is a cleanup of an easement that originally existed for providing power to the landfill. The ordinance will provide a new easement to APS and abandon the easement currently in place.

Councilmember Oravits moved to read Ordinance No. 2014-25 for the first time by title only; seconded; passed unanimously.

AN ORDINANCE OF THE FLAGSTAFF CITY COUNCIL AUTHORIZING THE PROVISION OF A UTILITY EASEMENT ENCUMBERING PARCEL NUMBER 301-89-001 AND BENEFITTING ARIZONA PUBLIC SERVICE ("APS"), AS IS MORE FULLY DESCRIBED IN THE LEGAL DESCRIPTION ATTACHED AS EXHIBIT A, AND PROVIDING AUTHORITY FOR THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ALL NECESSARY DOCUMENTS, AND AUTHORITY FOR THE CITY CLERK TO MAKE CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

16. **DISCUSSION ITEMS**

- A. **Review of the September 2, 2014, City Council Meeting Draft Agenda.**

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 Brewster congratulated Deputy City Manager Jerene Watson on being awarded the Gabe Zimmerman Award for Civic Engagement at the League of Cities and Towns.

Councilmember Oravits asked for clarification on the upcoming Council schedule; Tuesday November 11 is a holiday.

Councilmember Oravits expressed concern about the bus stop on Fourth Street by Walgreens; he is concerned about safety and suggested that the stop be moved further up Fourth Street.

Councilmember Oravits also requested that the Fourth Street bridge be restriped.

CITY CLERK