

RESOLUTION NO. 2014-06

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, FORMING THE “FLAGSTAFF DOWNTOWN BUSINESS IMPROVEMENT AND REVITALIZATION DISTRICT”, A SPECIAL TAXING DISTRICT; AND APPOINTING THE INITIAL BOARD OF DIRECTORS

RECITALS:

WHEREAS, Arizona laws permit formation of special taxing districts for purposes of revitalization, as set forth in A.R.S. §§ 48-6801 -48-6819; and

WHEREAS, the City Council of the City of Flagstaff has been presented with a petition signed by the owners of least fifty-one percent of the net assessed value of the property proposed to be included in a revitalization district and a petition signed by at least fifty-one percent of the property in the area proposed to be included in the district; and

WHEREAS, a General Plan for the revitalization district is on file with the City Clerk; and

WHEREAS, on January 7, 2014 the City Council adopted Resolution No. 2014-03, declaring its intention to form the “Flagstaff Downtown Business Improvement and Revitalization District”, a special taxing district (“Resolution of Intention”); and

WHEREAS, notice of the passage of the Resolution of Intention and a hearing on formation (“Notice”) was mailed to the owners of real property in the proposed district and all others who had timely requested a written request for a copy of the notice, and notice was published a newspaper in accordance with law; and

WHEREAS, affidavits evidencing mailing and publication of the Notice in accordance with law are on file with the City Clerk; and

WHEREAS, objections against formation of, the areas to be included in, and/or the General Plan for the “Flagstaff Downtown Business Improvement and Revitalization District” were filed within the time specified by law; and

WHEREAS, the City Council has held a public hearing on the objections, including testimony and evidence presented in support of or opposition to the objections.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

Section 1. Public Convenience and Necessity.

The City Council finds that the public convenience and necessity require formation of the “Flagstaff Downtown Business Improvement and Revitalization District”.

Section 2. Statutory Requirements Met.

The City Council finds that all statutory requirements for formation of the “Flagstaff Downtown Business Improvement and Revitalization District” have been met.

Section 3. Consideration of Objections and Modifications.

As to any objections received as to formation, the City Council has considered the objections, and any testimony in support or in opposition thereto, and has

[OPTION 1: determined that all property designated in the General Plan will be benefited by being part of the district and that the General Plan is hereby approved without modifications.]

[OPTION 2: determined certain property will not be benefited by the district, and that modifications to the General Plan are appropriate. The areas to be included in the district and General Plan have been modified in accordance with the City Council direction.]

Section 4. Formation

The “Flagstaff Downtown Business Improvement and Revitalization District” is hereby formed and shall be operated pursuant to A.R.S. §§ 48-6801-48-6819 as may be amended from time to time.

Section 5. Area or Areas to be Included in the District.

The area or areas to be included in the district are generally described as the properties within the area bounded by the east/west alley between Birch and Cherry Streets to the North, Agassiz Street to the East, West Phoenix Avenue to the South, and Humphreys Street to the West, and are legally described and shown on the maps attached hereto as Exhibit A.

Section 6. Purposes for the District.

The purpose for the district is to implement the General Plan for the district, and to accomplish all other purposes permitted by law.

Section 7. General Plan for the District.

The General Plan for the district on file with the City Clerk is hereby approved. The General Plan sets out a general description of the improvements for which the district is formed and the areas to be improved. The General Plan may be modified from time to time by the board of directors for the district. A copy of the General Plan, including any modifications, shall at all times be kept on file with the City Clerk. The district clerk is responsible for submitting any modifications to the City Clerk.

Section 8. Governing Board.

The district will be governed by a board of directors chosen pursuant to A.R.S. §§ 48-6801-6819, and shall consist of real property owners in the district. The initial board of directors shall be:

[INSERT 3 NAMES]

and each shall serve a term of one (1) year, commencing on the effective date of this resolution. Subsequent members of the board of directors shall be elected at large by the real property owners in the district as shown on the property tax assessment roll who are qualified to vote pursuant to A.R.S. § 48-6818, and each shall serve a term of four (4) years.

Section 9. Powers of the District

The district will have all powers as permitted by law, including but not limited to those powers set forth in A.R.S. §§ 48-6801 - 48-6819, as may be amended from time to time.

The district is a special purpose district for purposes of Article IX, Section 19 of the Arizona Constitution; a tax levying public improvement district for purposes of Article XIII, Section 7 of the Arizona Constitution, and a municipal corporation for all purposes of Title 35, Chapter 3, Articles 3, 3.1, 3.2, 4 and 5 (A.R.S. §§ 35-451 et seq., 35-465 et seq., 35-466 et seq., 35-471 et seq., and 35-491 et seq.) The district will be a municipal corporation and political subdivision of this state, separate and apart from the municipality; provided, however, the district shall not have the power of eminent domain nor the power to enact zoning ordinances.

Section 10. Taxes or Assessments.

The district may result in the levy of taxes or assessments to pay the costs of improvements constructed by the district and for their operation and maintenance.

The district may levy ad valorem taxes against all taxable property in the district, and issue revenue bonds and special assessment lien bonds payable by any combination of revenues or special assessments as specified in the bonds and permitted by law.

Section 11. Exclusion of Certain Property from Taxes or Assessments.

To the extent the Arizona Constitution, state or federal law exclude certain property or property owners from taxes or assessment by the district, such property shall be omitted from the taxes or assessment to be made. Nothing herein shall preclude a property owner or governmental entity from electing to participate in the costs of the district.

Section 12. Annual Budget; Annual Statements and Estimates.

On or before July 15 each year, the treasurer of the district shall prepare a proposed budget for the ensuing fiscal year. At the conclusion of a budget hearing, the board of directors for the district shall adopt a budget before October 1 each year.

When levying an ad valorem tax, the board shall make annual statements and estimates of the operation and maintenance expenses of the district, and hearings shall be held prior to adoption of the budget and levy, as provided in A.R.S. § 48-6817.C.

Section 13. Dissolution.

Subject to conditions related to disposal of property and assumption of the obligations of the district, the district may be dissolved by the board of directors at any time, and shall be dissolved upon approval of the vote of the property owners or if the district has been inactive for at least five (5) consecutive years and has no future purpose, all as specified in A.R.S. § 48-6819. Pursuant to A.R.S. § 48-6809 if the district does not have any bonds or other obligations outstanding shall be dissolved after a period of ten (10) years after such date of formation,

unless the governing bodies of the participating municipalities by resolution extend the district by an additional ten (10) years.

Section 14. Notice of Formation; Recordation.

The City Clerk is directed to record within ten (10) days of the passage of this resolution, a notice of formation of the district as provided in A.R.S. § 48-607.A, along with a copy of this resolution, in the records of the Coconino County Recorder's Office. It is further ordered that the City Clerk deliver a copy of this resolution forming the district to the Coconino County Assessor, Coconino County Board of Supervisors, and to the Arizona Department of Revenue by February 15, 2014.

PASSED, ADOPTED AND APPROVED this 4th day of February, 2014.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

EXHIBIT A

Legal Description and Map of District