

COMBINED WORK SESSION/SPECIAL MEETING AGENDA

**CITY COUNCIL COMBINED WORK SESSION/
SPECIAL MEETING
TUESDAY - OCTOBER 28, 2014**

**COUNCIL CHAMBERS
211 WEST ASPEN AVENUE
6:00 P.M.**

WORK SESSION

- 1. Call to Order**
- 2. Pledge of Allegiance**
- 3. Roll Call**

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

MAYOR NABOURS
VICE MAYOR EVANS
COUNCILMEMBER BAROTZ
COUNCILMEMBER BREWSTER

COUNCILMEMBER ORAVITS
COUNCILMEMBER OVERTON
COUNCILMEMBER WOODSON

- 4. Preliminary Review of Draft Agenda for the November 3, 2014, City Council Meeting.***

** Public comment on draft agenda items may be taken under "Review of Draft Agenda Items" later in the meeting, at the discretion of the Mayor. Citizens wishing to speak on agenda items not specifically called out by the City Council for discussion under the second Review section may submit a speaker card for their items of interest to the recording clerk.*

- 5. Public Participation**

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

- 6. Review and Discussion of City Manager Advisory Committee on City Charter Changes
RECOMMENDED ACTION:**

Recognize members of the City Manager's Charter Review Committee; consider proposed changes to the City Charter and provide direction regarding next steps.

7. **Introduction of Draft Relocation Ordinance which would require a Relocation Impact Report and Relocation Assistance Benefits to residents displaced by a request to amend the zoning map (rezoning)**
8. **Staff is seeking comment and direction regarding potential terms and/or prescriptions of the Council for a Request For Information (RFI) process.**

RECOMMENDED ACTION:

Provide direction and guidance prescribing certain parameters, regarding the RFI, to assist staff in developing successful and supportable opportunities.

9. **Review of Draft Agenda Items for the November 3, 2014, City Council Meeting.***

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

10. **Public Participation**
11. **Informational Items To/From Mayor, Council, and City Manager.**
12. **Adjournment**

SPECIAL MEETING

1. **Call to Order**
2. **Consideration and Approval of the Settlement Agreement and Mutual Release:** Between the City of Flagstaff and Capital Improvements, LLC and the Guarantee Company of North America, U.S.A. ***(Approve Settlement Agreement with C.I. and surety for West/Arrowhead project)***

RECOMMENDED ACTION:

Approve the settlement of CV2014-053783, between the City and its contractor, Capital Improvements, LLC and the contractor's surety, Guarantee Company of North America, for \$550,000.00. The agreement will contain mutual releases and will require lien releases from all subcontractors, suppliers and materialmen.

3. **Adjournment**

CERTIFICATE OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at Flagstaff City Hall on _____, at _____ a.m./p.m. in accordance with the statement filed by the City Council with the City Clerk.

Dated this _____ day of _____, 2014.

Elizabeth A. Burke, MMC, City Clerk

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Michelle D'Andrea, City Attorney
Co-Submitter: Rick Barrett
Date: 10/23/2014
Meeting Date: 10/28/2014



TITLE:

Consideration and Approval of the Settlement Agreement and Mutual Release: Between the City of Flagstaff and Capital Improvements, LLC and the Guarantee Company of North America, U.S.A.
(Approve Settlement Agreement with C.I. and surety for West/Arrowhead project)

RECOMMENDED ACTION:

Approve the settlement of CV2014-053783, between the City and its contractor, Capital Improvements, LLC and the contractor's surety, Guarantee Company of North America, for \$550,000.00. The agreement will contain mutual releases and will require lien releases from all subcontractors, suppliers and materialmen.

Policy Decision or Reason for Action:

The Council directed the City Attorney and Staff to proceed with settlement of this claim and the terms of the Agreement are consistent with that authorization.

Financial Impact:

This settlement will not impact other City projects because the settlement is within the budget for the West/Arrowhead project.

Connection to Council Goal and/or Regional Plan:

1. Repair Replace maintain infrastructure (streets & utilities)
2. Effective governance

Previous Council Decision on This:

The Council has not previously considered the proposed Agreement language, but has directed the City Attorney's Office and Staff to settle the lawsuit in an executive session on April 29, 2014.

Options and Alternatives:

Council may approve the Agreement and conclude the lawsuit or Council may proceed with the litigation.

Community Involvement:

Inform

Attachments:

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Kevin Burke, City Manager
Date: 10/23/2014
Meeting Date: 10/28/2014



TITLE:

Review and Discussion of City Manager Advisory Committee on City Charter Changes

RECOMMENDED ACTION:

Recognize members of the City Manager's Charter Review Committee; consider proposed changes to the City Charter and provide direction regarding next steps.

Policy Decision or Reason for Action:

A Council majority gave direction to conduct a comprehensive review of the City Charter in a March 2014 Council meeting. The City Manager recruited a committee of 15 individuals from the community and requested the Deputy City Manager, City Clerk and City Attorney provide staff support to that committee. They met eight times over the course of three months and developed a set of recommendations in priority order (see Attachment A) that included recommendations from staff as well as Committee members. The Committee's recommendation was to take approximately 20 amendments to the ballot. There are also a series of footnotes which came from recommended changes to bring the Charter consistent with State law that supersedes the Charter. Due to the number of questions, the Committee was recommending that these either continue or be included as footnotes in the Charter. Lastly, there is a list of discussion items that had no recommendation but the Committee wanted the Manager and Council to know they were considered.

As an advisory committee to the City Manager, the Manager has taken this report and added his recommendations and notes to their work in presenting it to Council. Again, Attachment A represents the Committee's work in an unaltered form. Attachment B is a summary of the Manager's recommendations. In large part the Manager supports the recommendations made by the Committee. The principal recommendation is to limit the ballot to 20 changes. Under State law, each change to the Charter must be considered by the voters independently. This makes for a very long ballot when some of the changes are very minor in terms of the amount of text necessary to accomplish the change. However, ballot fatigue is a very real issue and we want to ensure a complete and returned ballot. For this reason, I believe we should limit this to 20 ballot questions.

To stay within that recommendation, the Manager has recommended against two items and the consolidation of three items. This reduced the list to 17 questions. He then recommended that one of the items on the "No Action" list be moved into consideration; this is in regards to the sale of property. This leaves two slots. The recommendation is to keep these slots open for possible election changes pending the outcome of the Phoenix and Tucson lawsuit against the State requiring consolidated elections.

The purpose of this work session is to review the items and the recommendations. A second work session is recommended to determine: 1) if you wish to go forward with placing these items on a May ballot or some other time; and 2) which items you wish to place on that ballot.

Financial Impact:

Amendments to the City Charter require a vote of the citizens. A mail ballot election was budgeted in FY15 (July 1, 2014- June 30, 2015). There would also be some small reprinting costs associated with updating the Charter with the measures that pass.

Connection to Council Goal and/or Regional Plan:

The review and possible election of Charter amendments support the following Council Goal:

11. Effective governance

REGIONAL PLAN:

Goal ED.1. Create a healthy environment for business by ensuring transparent, expeditious, and predictable government processes.

Goal ED.7. Continue to promote and enhance Flagstaff's unique sense of place as an economic development driver.

Previous Council Decision on This:

Council discussed this item at its January 21, 2014 and March 11, 2014 work sessions. Council gave direction to review the City Charter and propose amendments for Council consideration using citizen input and with an eye on a March or May 2015 election.

Options and Alternatives:

This meeting is intended to review the proposals and recommendations by the Citizen Advisory Committee and the City Manager. To meet the March ballot, Council would need to call the election by November 4, 2014. To meet the May 2015 ballot, Council would need to call the election by January 2015.

Community Involvement:

The City Manager Appointed a Citizen Advisory Committee. Additionally, any charter amendments require a vote. Therefore the following levels of community involvement are associated with this agenda item.

Consult
Involve
Empower

Attachments: CM Recommendations
 Attachment A

CAC Priority	Title	CM Recommendation
1	Term of Mayor (Length of Term – 2 to 4 years)	<p>Neutral</p> <p>Pros – Hard to obtain and maintain state leadership positions such as Governor Appointments and League of Cities officer positions in 2 year terms.</p> <p>Cons – Means the mayor would cycle with only one half of Council. Those councilmembers on the opposite cycle wishing to run for Mayor would have to resign their seat under state law. I suspect this would have unintended impacts on that Council cycle as well.</p>
2	Powers of City	Support
3	Powers and Duties (City Manager)	Support
4	Mayor – Term Limits	<p>Oppose</p> <p>Pros – ensures the power of the incumbency doesn't trump good challengers.</p> <p>Cons – Doesn't seem to be a current problem. Several instances of long term mayors not being re-elected. Also imposes a condition separate from Council. Should be all members or nothing.</p>
5	Purchases and Contracts	Support (lower priority)
6	Clerk–Approval by Council of Appointment	Support (lower priority)
7	The City Attorney Powers	Support
8	Treasurer-Approval by Council of Appointment	Support (lower priority)
9	Vacancies in the Council and Office of Mayor	Support
10	Powers of Council	Support

11	Term of Councilmembers (Term limits)	Oppose Pros – ensures the power of the incumbency don't trump good candidates. Cons – Does not appear to be a problem. Between the primary system and the multiple slots, opportunity for new candidates to get into the system. Probably more suited in a district system.
12	Induction (Mayor and Council)	Support (any chance we could combine 12 & 13 & 16)
13	Council – Beginning	Support
14	Special Meetings	Support
15	Personnel Rules and Regulations	Support
16	Mayor Term – Beginning	Support
17	Additional Taxes for Special Purposes	Support
18	Reading and Passage of Ordinances and	Support
19	Nomination – Primary	Support
20	Failure to Vote	Support
21	Consideration of Petitions	Support
Footnote 2	Personnel Rules and Regulations	Support
Footnote 3	Emergency Measures: Effective Date	Support
Footnote 4	Publication of Ordinances and Resolutions	Support
No Action 11	Sale of City Property	Support

FLAGSTAFF CITY CHARTER PROPOSED CHANGES

2014

PRIORITY	#	ART	SEC	SUBMITTED BY	PROPOSED CHANGES
1	II	3	CRC-Daggett CRC-Boone CRC-Mihalik	TERM OF THE MAYOR (MAYOR TERM LENGTH)	The term of office of the Mayor shall commence on the first meeting in April following the election, and shall be for two (2) FOUR (4) years, or until a successor is elected and inducted.
			PURPOSE	To provide a longer term for Mayor to be consistent with Councilmembers.	
2	I	3	CRC-Boone	POWERS OF THE CITY	<p>A. The City shall have all the powers, <u>FUNCTIONS, RIGHTS, PRIVILEGES AND IMMUNITIES POSSIBLE UNDER THE granted to municipal corporations and to cities by the</u> Constitution and general laws of this State <u>AS THOUGH THEY WERE SPECIFICALLY ENUMERATED IN THIS CHARTER AND ALL THE POWERS, FUNCTIONS, RIGHTS, PRIVILEGES AND IMMUNITIES GRANTED OR TO BE GRANTED, EITHER EXPRESSLY OR BY IMPLICATION, TO CHARTER CITIES AND TO CITIES AND TOWNS INCORPORATED UNDER THE PROVISIONS OF TITLE 9, ARIZONA REVISED STATUTES, NOT IN CONFLICT HERewith, AND IN ADDITION, THE CITY SHALL HAVE THE POWER TO: , together with all the implied powers necessary to carry into execution all the powers granted.</u></p> <p>The City may</p> <ol style="list-style-type: none"> <u>1.</u> acquire property within or without its corporate limits for any city purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease, or condemnation, and may sell, lease, exchange, mortgage, hold, manage, and control such property as its interests may require; <u>2.</u> and, except as prohibited by the Constitution of this State, or restricted by this Charter, the City shall and may exercise all municipal powers, functions, rights, privileges, and immunities of every name and nature whatsoever; <u>3.</u> and especially to enter into contracts, cooperative and otherwise, with the Government of the United States, the State of Arizona, Coconino County, or any other political subdivision of this State for the construction, maintenance and operation of roads, highways, parks, sewers, waterworks, water conservancy districts, public utilities, and public buildings; all when deemed for the best interest of the City. <p>B. <u>IN THIS CHARTER MENTION OF A</u> The enumeration of particular powers by this Charter shall not be deemed to be exclusive <u>OR TO RESTRICT THE SCOPE OF THE POWERS WHICH THE CITY WOULD HAVE IF THE PARTICULAR POWER WERE NOT MENTIONED. THE CHARTER SHALL BE LIBERALLY CONSTRUED TO THE END THAT THE CITY SHALL HAVE ALL POWERS NECESSARY OR CONVENIENT FOR THE CONDUCT OF ITS MUNICIPAL AFFAIRS, AND FOR THE HEALTH AND SAFETY OF ITS INHABITANTS, INCLUDING ALL POWERS THAT ARE NOT PROHIBITED BY STATE LAW AND STATE CONSTITUTION., and, in addition to the powers</u></p>

~~enumerated herein, or implied hereby, or appropriate to the exercise of such powers, it is intended that the City shall have and may exercise all powers which, under the Constitution or laws of this State, it would be competent for this Charter specifically to enumerate.~~

PURPOSE To clearly define the source of power for the City, and list such powers for better understanding.

3 III 3 Staff-Anderson
Staff-D'Andrea **POWERS AND DUTIES (City Manager)**

The City Manager shall:

(a)

(b)

(c) Appoint and, when necessary for the good of the service, lay off, suspend, transfer, demote, or remove all officers and employees of the City, except as otherwise provided by this Charter, and except as the Manager may authorize the head of a department or office to appoint and remove subordinates in such department or office, subject to such ~~merit system~~ regulations **THAT DETERMINE THE DUE PROCESS REQUIREMENTS FOR REVIEW OF LAYOFFS, SUSPENSIONS, DEMOTIONS, AND TERMINATIONS** as the Council may adopt;

PURPOSE Removes Council process for the personnel handbook to be more consistent with form of government, and avoids extensive discussion of policies that are mandated by law. Provides clearer guidelines about the division of work between the Council and the Manager. And, it removes the Manager from determining the due process requirements.

4 II 3 CRC-Boone **TERM OF MAYOR (MAYOR TERM LIMITS)**

The term of office of the Mayor shall commence on the first meeting in April following the election, and shall be for two (2) years, or until a successor is elected and inducted, **BUT SHALL NOT SERVE MORE THAN TWO (2) CONSECUTIVE FOUR-YEAR TERMS. THIS SHALL NOT PRECLUDE A PERSON FROM COMPLETING THE UNEXPIRED REMAINDER OF A TERM OF THEIR PREDECESSOR. THERE SHALL BE NO LIMIT OF NON-CONSECUTIVE TERMS.**

PURPOSE To provide term limits for Mayor.

5 VIII 2 Goodrich **~~PURCHASES AND CONTRACTS FOR CITY IMPROVEMENTS~~**

(b) Any City improvement costing ~~ONE HUNDRED THOUSAND DOLLARS (\$100,000)~~ ~~fifty thousand dollars (\$50,000)~~ or more, or any purchase costing more than ~~fifty thousand dollars (\$50,000)~~, **ONE HUNDRED THOUSAND DOLLARS (\$100,000)**, shall be executed by contract, except where such improvements or purchase is authorized by the Council to be executed directly by a City department, in conformity with detailed plans, specifications, and estimates approved by the City Manager. Such contracts shall be advertised for bids, as directed in Section 3 of this Article. The City Manager, with the approval of the City Council, may enter into a contract with the lowest responsible bidder whose proposal is the most satisfactory.

(c) Any contract or purchase exceeding the sum of ~~fifty thousand dollars (\$50,000)~~ **ONE HUNDRED THOUSAND DOLLARS (\$100,000)** shall require the prior approval of the Council.

				PURPOSE	Consider possibly increasing the amount.
6	IV	2	CRC-Wine	THE CITY CLERK	
<p>The City Manager shall, with approval of the Council, appoint an officer of the City, who shall have the title of City Clerk, and who shall give notice of all Council meetings, keep the journal of the Council's proceedings, authenticate by signature, and record in full in books kept for the purpose, all ordinances and resolutions, and perform such other duties as shall be required by this Charter, or by ordinance. The City Clerk will serve at the pleasure of the City Manager.</p>					
				PURPOSE	To remove the requirement that the Council approve appointment of the City Clerk.
7	IV	4	Staff-D'Andrea	THE CITY ATTORNEY	
<p>The Council shall appoint a City Attorney, who shall be an attorney-at-law, admitted to the Bar of the Supreme Court of this State. The City Attorney shall be the chief legal advisor of all offices, departments, and agencies, and of all officers and employees in matters relating to their official powers and duties. The City Attorney shall represent the City in all legal proceedings. It shall be the City Attorney's duty to perform all services incident to this position as may be required by statute, by this Charter, or by ordinance. <u>THE CITY ATTORNEY SHALL HAVE THE NON-EXCLUSIVE POWER TO SET EXECUTIVE SESSIONS ON THE AGENDA FOR THE PURPOSE OF GIVING LEGAL ADVICE AND RECEIVING DIRECTION FROM COUNCIL REGARDING CONTRACT NEGOTIATIONS OR CONTEMPLATED OR PENDING LITIGATION.</u> The City Attorney will serve at the pleasure of the Council.</p>					
				<p>.....</p> <p>To allow the City Attorney to place items on the Executive Session agenda as needed.</p>	
8	IV	3	CRC-Wine	THE CITY TREASURER	
<p>The City Manager shall, with approval of the Council, appoint an officer of the City, who shall have the title of City Treasurer, and who shall receive and have custody of all the money of the City, and shall keep and save said money, and dispense the same only as provided by ordinance, and who shall always be bound by the Constitution, laws of the State, Charter of the City, and ordinances, and upon whom legal garnishments may be served. The City Treasurer will serve at the pleasure of the City Manager.</p>					
				PURPOSE	To remove the requirement that the Council approve appointment of the City Treasurer.
9	II	10	CRC-Boone Staff-E Burke Staff-D'Andrea	VACANCIES IN THE COUNCIL AND THE OFFICE OF MAYOR	
<p>The Council, by a majority vote of its remaining members, shall, within thirty-one (31) days, fill the vacancies in its own membership, and in the office of Mayor, for the unexpired terms. In the event that such unexpired term exceeds two years <u>FROM THE FIRST DATE ON WHICH CANDIDATES MAY FILE THEIR NOMINATION PAPERS AND PETITIONS,</u> then the appointment to such vacancy shall be for the period from the appointment until the next succeeding <u>CANDIDATE</u> election, at which time a Councilmember shall be elected to serve the remainder of the term and who shall be designated on the ballot as running for the "short term."</p>					

				PURPOSE	To clarify start time of two-year period, as well as the next Candidate election.
10	II	11	CRC-Boone	POWERS OF THE COUNCIL	<p>All powers of the City, and the determination of all matters of policy, <u>NOT PROHIBITED BY THE CONSTITUTION AND APPLICABLE LAWS OF THE STATE OF ARIZONA AND SUBJECT TO THE LIMITATIONS OF THIS CHARTER</u> shall be vested in the Council. WHICH SHALL ENACT APPROPRIATE LEGISLATION AND DO AND PERFORM ANY AND ALL ACTS AND THINGS WHICH MAY BE NECESSARY AND PROPER TO CARRY OUT THESE POWERS OR ANY OF THE PROVISIONS OF THIS CHARTER.</p>
				PURPOSE	To clarify.
11	II	4	CRC-Bonne CRC-Mihalik	TERM OF COUNCILMEMBERS (TERM LIMITS FOR COUNCILMEMBERS)	<p>The term of office of Councilmembers shall commence on the first meeting in April¹ following their election, and except as otherwise provided herein, shall be for four (4) years, or until their successors are elected and inducted. Each even-numbered year, three (3) Councilmembers shall be elected. <u>NO PERSON SHALL BE ELIGIBLE TO SERVE IN THE OFFICE OF COUNCIL MEMBER FOR MORE THAN TWO (2) CONSECUTIVE TERMS, BUT THERE SHALL BE NO LIMIT ON THE NUMBER OF NON-CONSECUTIVE TERMS.</u></p>
				PURPOSE	To provide term limits for Councilmembers
12	II	8	CRC-Boone	INDUCTION	<p>On the DATE SET BY ORDINANCE second meeting in April² following the General Election, the Council shall hold a meeting to induct into office the newly-elected Mayor and Councilmembers and to organize the Council. At this meeting, the Council shall designate one of its members as Vice-Mayor, who shall serve in such capacity at the pleasure of the Council. The Vice-Mayor shall perform all the duties of the Mayor during the absence or disability of the Mayor.</p>
				PURPOSE	To allow for ordinance to establish when the Mayor and Councilmembers are inducted.
13	II	4	CRC-Boone CRC-Mihalik	TERM OF COUNCILMEMBERS (CORRECT BEGINNING OF TERM FOR COUNCILMEMBERS)	<p>The term of office of Councilmembers shall commence on the DATE SET BY ORDINANCE first meeting in April³ following their election, and except as otherwise provided herein, shall be for four (4) years, or until their successors are elected and inducted. Each even-numbered year, three (3) Councilmembers shall be elected.</p>
				PURPOSE	To allow Charter to be amended once Court case is settled to reflect one of four consolidated election dates. Could include actual date if case is settled and Council decides on dates for election.

Page 5

All proposed ordinances and resolutions shall either be read in full or posted in a public place at least twenty-four (24) hours prior to its adoption, provided if any amendments are proposed to a posted ordinance or resolution such amendments shall be read in full prior to its adoption. An ordinance may be read for the final time at the same meeting as when introduced upon unanimous consent of those Councilmembers present **THE AFFIRMATIVE VOTE OF SIX (6) MEMBERS OF THE COUNCIL**. A resolution shall require only one (1) reading before its adoption and may be adopted at the same meeting at which it is first introduced by a majority of those Councilmembers present.

Staff-D'Andrea
Eastman

OPTIONAL: Also may wish to consider an ordinance only requiring one (1) reading as well as resolutions.

PURPOSE It should not be harder to do first and final read together than it is to find an emergency.
OPTIONAL: Would streamline the time period.

19 IX 4 Staff-E Burke **NOMINATION FOR PRIMARY ELECTION**

(a) Nominations for Primary Elections shall be by petition of nomination, which shall consist of a printed or written form, which shall be furnished to applicants by the City Clerk.
(b) The petition or petitions for nomination, consisting of signatures of qualified voters, aggregating not less than five (5) percent, nor more than ten (10) percent of the number of electors voting at the last preceding municipal General Election, shall be presented to the City Clerk not earlier than **ONE HUNDRED TWENTY DAYS (120)** ~~ninety (90)~~ days, nor later than **NINETY (90)** ~~sixty (60)~~ days before the date set for the Primary Election. The City Clerk shall endorse on such petition or petitions the date and the time when the same was received by the City Clerk, and shall cause the candidates' names to be printed on the ballot.

PURPOSE To be consistent with time requirements of state law and allow for overseas voters timing requirements.

20 II 16 CRC-Boone **FAILURE TO VOTE**

~~No member of the Council present at any meeting shall be excused from voting, except in matters involving the consideration of their own official conduct. In all other cases, a failure to vote shall be entered on the minutes as an affirmative vote.~~

THE MAYOR AND COUNCIL MEMBERS SHALL NOT BE EXCUSED FROM VOTING EXCEPT UPON MATTERS INVOLVING THE CONSIDERATION OF THEIR OWN OFFICIAL CONDUCT OR IN SUCH MATTERS AS THEY MAY HAVE A CONFLICT OF INTEREST AS SET FORTH BY STATUTE OR WITH THE APPEARANCE OF IMPROPRIETY. IN ALL OTHER CASES, A VOTE OF AYE OR NAY MUST BE CAST.

PURPOSE To clarify

Any citizen of the City may present a written petition to the City Manager, **SIGNED BY A MINIMUM OF 25 RESIDENTS FROM THE CITY OF FLAGSTAFF IN A FORM PRESCRIBED BY ORDINANCE**, who shall present it to the Council at its next regular meeting; such petition shall be acted upon by the Council, in the regular course of business, within thirty-one (31) days after such presentation.

PURPOSE To require a minimum number of signatures on a petition to be considered, and in a form prescribed by the City.

22 IV 1 CRC-Mihalik **ADMINISTRATIVE DEPARTMENTS AND OFFICES**

- (a)
- (b)
- (c)
- (d) ~~City officials, as designated by this Article, and a~~ All heads of departments shall be residents of the City during their tenure of office.

PURPOSE Requires (in addition to the City Manager as required in another section of the Charter) the Deputy City Managers to be residents of the City, and removes requirements for other officers.

23 XV CRC-Mihalik **METHOD OF CHARTER AMENDMENT**

This Charter, or any part of any Article or Section hereof, may be amended in the manner provided by the Constitution of this State.

IN ORDER TO REMAIN CURRENT AND RELEVANT, A CHARTER REVIEW COMMITTEE SHALL BE ESTABLISHED EVERY (#) YEARS TO CONSIDER RECOMMENDATIONS BROUGHT FORTH BY STAFF, THE PUBLIC, AND COMMITTEE MEMBERS TO BE PRESENTED TO THE COUNCIL FOR FUTURE CONSIDERATION.

PURPOSE To keep the Charter current and relevant.

24 VI 6 CRC-Otenyo **Section 6—PERMISSION TO EXCEED THE BUDGET**

Nothing in this Article shall prevent the Council from seeking permission from the Arizona State Tax Commission to exceed the adopted budget in the event that an emergency should arise **TO PROTECT PUBLIC HEALTH, SAFETY, OR WELFARE.**

PURPOSE To clarify the definition of an emergency.

25 IV 1 CRC-Mihalik **ADMINISTRATIVE DEPARTMENTS AND OFFICES**

- (a)
- (b)
- (c)

- (d) ~~City officials, as designated by this Article, and a~~ All heads of departments shall be residents of the City during their tenure of office. ADDITIONALLY, ANY EMPLOYEE WHO MAKES SUGGESTIONS OR DECISIONS TO SET OR CHANGE CITY ZONING, BUILDING CODES OR BEAUTIFICATION PROJECTS THAT HAVE TO BE FUNDED BY ADDITIONAL TAX MONEY, MUST BE RESIDENTS OF THE CITY DURING THEIR TENURE OF OFFICE.

PURPOSE Requires (in addition to the City Manager as required in another section of the Charter) the Deputy City Managers to be residents, as well as Division Heads that makes decisions... those that have a stake in the increased spending being a resident taxpayer and living in the City.

26 II 5 CRC-Mihalik **QUALIFICATIONS (PROHIBITING OUTSIDE INVOLVEMENT WITH ORGANIZATIONS RECEIVING \$)**

The Mayor and the Councilmembers shall be qualified electors of the City, and shall hold no other public office except that of notary public, or member of the National Guard or Naval or Military Reserve. If a Councilmember or the Mayor shall cease to possess any of these qualifications, or shall be convicted of a crime involving moral turpitude, the office shall immediately become vacant.

THE MAYOR AND COUNCILMEMBERS CANNOT BE A PARTICIPANT, WHETHER PAID OR VOLUNTARY, ON A BOARD OR SPECIAL COMMITTEE OF ANY INSTITUTION, CHARITABLE OR OTHERWISE, WHO RECEIVES FINANCIAL SUPPORT OR DONATIONS FROM THE CITY OF FLAGSTAFF AND TAXPAYER FUNDS.

PURPOSE To avoid the suspicion of a conflict of interest or resulting in self gain.

27 II 20 CRC-Boone **ELECTORAL DISTRICTS; ESTABLISHMENT (DISTRICT ELECTIONS)**

A. WHEN THE POPULATION REACHES 75,000 AS CERTIFIED BY A DECENNIAL CENSUS OR A SPECIAL CENSUS CONDUCTED FOR THE PURPOSE OF DETERMINING THE POPULATION OF THE CITY, THE MAYOR AND COUNCIL SHALL DIVIDE THE CITY INTO FOUR (4) ELECTORAL DISTRICTS NOT LESS THAN SIX (6) MONTHS AFTER THE CERTIFICATION OF SUCH CENSUS. EACH ELECTORAL DISTRICT SHALL BE COMPACT AND CONTIGUOUS, BUT SHALL BE AS NEARLY EQUAL IN POPULATION AS POSSIBLE, AT WHICH TIME THE FOLLOWING MODIFICATIONS WILL OCCUR:

1. SECTION 2 (OF THIS ARTICLE) SHALL READ, "THE COUNCIL SHALL CONSIST OF A MAYOR AND TWO (2) COUNCIL MEMBERS ELECTED FROM THE CITY AT LARGE, AND FOUR (4) COUNCIL MEMBERS FROM THEIR RESPECTIVE DISTRICTS.

2. IMPLEMENTATION OF ARTICLE IX SECTION 11 (NEW) NOMINATION BY DISTRICT; ELECTION AT LARGE.

B. AT THE NEXT SUCCEEDING MUNICIPAL ELECTIONS, THE TWO (2) COUNCIL MEMBERS TO BE ELECTED SHALL BE FOR TERMS OF TWO (2) YEARS.

C. AT THE NEXT SUCCEEDING ELECTIONS FOLLOWING THE ELECTIONS PROVIDED IN SECTION 20 (B) ABOVE, SIX (6) COUNCIL MEMBERS SHALL BE ELECTED AS PROVIDED IN ARTICLE IX, SECTION 11, OF THIS CHARTER. THE COUNCIL MEMBERS FOR ELECTORAL DISTRICTS 1 AND 3 SHALL SERVE TRANSITIONAL TERMS OF TWO (2)

YEARS AND COUNCIL MEMBERS FOR ELECTORAL DISTRICTS 2 AND 4 SHALL SERVE FULL TERMS OF FOUR (4) YEARS. AT EACH SUCCEEDING ELECTION ALL COUNCIL TERMS SHALL BE FOR FOUR (4) YEARS AS PROVIDED IN THIS CHARTER.

- D. NOTWITHSTANDING THE DIVISION OF THE CITY INTO DISTRICTS, THE MAYOR SHALL CONTINUE TO BE ELECTED AT LARGE.

PURPOSE To require district elections once the City reaches a population of 75,000.

IF DISTRICTS ELECTIONS WERE TO MOVE FORWARD, THE FOLLOWING CHANGES WOULD BE INCLUDED AS SEPARATE QUESTIONS ON THE BALLOT:

DISTRICTS; RESIDENCY

AT SUCH TIME AS THE CITY IS DIVIDED INTO ELECTORAL DISTRICTS, A COUNCIL MEMBER ELECTED FOR ANY SUCH DISTRICT SHALL HAVE BEEN A RESIDENT OF SUCH DISTRICT FOR A PERIOD OF NOT LESS THAN ONE HUNDRED EIGHTY (180) DAYS NEXT PROCEEDING THE DATE, FOR THE PRIMARY ELECTION AND SHALL CONTINUE TO RESIDE IN SUCH DISTRICT AS A QUALIFICATION FOR ELECTION TO AND HOLDING OF SUCH OFFICE.

NUMBER

The Council shall consist of a Mayor and six (6) Councilmembers elected from the City AT LARGE, EXCEPT AS PROVIDED IN SECTION 20 OF THIS ARTICLE.

SELECTION

The Council shall be elected at large, EXCEPT AS PROVIDED IN SECTION 20 OF THIS ARTICLE.

NOMINATION BY DISTRICT; ELECTION AT LARGE

- A. FROM AND AFTER SUCH TIME AS THE CITY IS DIVIDED INTO DISTRICTS, THE COUNCIL MEMBERS SHALL BE NOMINATED BY VOTE OF THE ELECTORS IN THE PRIMARY ELECTION IN THE DISTRICT IN WHICH THE CANDIDATE RESIDES, AND SHALL BE ELECTED IN THE GENERAL ELECTION BY THE ELECTORS OF THE CITY AT LARGE.
- B. FOR THE PURPOSES OF PARAGRAPH A OF THIS SECTION, EACH DISTRICT SHALL NOMINATE NO MORE THAN TWO (2) CANDIDATES FOR THE GENERAL ELECTION AND NO MORE THAN ONE (1) CANDIDATE FROM EACH DISTRICT SHALL BE ELECTED.

The Mayor and the Councilmembers shall be qualified electors of the City, and shall hold no other public office except that of notary public, or member of the National Guard or Naval or Military Reserve. If a Councilmember or the Mayor shall cease to possess any of these qualifications, or shall be convicted of a crime involving moral turpitude, the office shall immediately become vacant.

CITY EMPLOYEES ARE NOT ELIGIBLE TO STAND FOR ELECTION OR SERVE AS MAYOR OR AS MEMBERS OF THE CITY COUNCIL. NO PERSON SHALL BE ELIGIBLE FOR THE OFFICE OF MAYOR WHO SHALL NOT HAVE ATTAINED THE AGE OF TWENTY-FIVE (25) YEARS AT THE TIME OF ELECTION.

PURPOSE To place age limits on Mayor

The Mayor and the Councilmembers shall be qualified electors of the City, and shall hold no other public office except that of notary public, or member of the National Guard or Naval or Military Reserve. If a Councilmember or the Mayor shall cease to possess any of these qualifications, or shall be convicted of a crime involving moral turpitude, the office shall immediately become vacant.

CITY EMPLOYEES ARE NOT ELIGIBLE TO STAND FOR ELECTION OR SERVE AS MAYOR OR AS MEMBERS OF THE CITY COUNCIL. NO PERSON SHALL BE ELIGIBLE FOR THE OFFICE OF COUNCIL WHO SHALL NOT HAVE ATTAINED THE AGE OF TWENTY-ONE (21) YEARS AT THE TIME OF ELECTION.

PURPOSE To place age limits on Councilmembers.

ADMINISTRATIVE DEPARTMENTS AND OFFICES

STAFF

PRIORITY #7-C

(a)

(b)

(c)

~~(d) — City officials, as designated by this Article, and all heads of departments shall be residents of the City during their tenure of office.~~

PURPOSE To remove the requirement for residency for all but City Manager (which is addressed elsewhere in Charter)

FOOTNOTES

*THE FOLLOWING ITEMS ARE EITHER ALREADY FOOTNOTED, OR ARE BEING RECOMMENDED AS FOOTNOTES,
DUE TO ARIZONA REVISED STATUTE SUPERCEDING THE CHARTER.*

F 1	IV	5	Jacobson	PERSONNEL RULES AND REGULATIONS
------------	----	---	----------	--

The Council shall, by ordinance, provide for the establishment of Personnel Rules and Regulations for the purpose of regulating and controlling the appointments, promotions, demotions, discharges, and reinstatements of all officers and employees of the City, except those elected by the people, members of appointive boards and commissions and volunteers who serve without pay, and also except the City Manager, the City Attorney, and the ~~Police~~ **MAGISTRATE** Judges.

				PURPOSE Other changes are being recommended to this section of the Charter by the Committee; however, to correct the term from Police to Magistrate would require another question on the ballot, so it is being recommended for a footnote at this time.
--	--	--	--	--

F 2	VII	7	E. Burke	EMERGENCY MEASURES: EFFECTIVE DATE
------------	-----	---	----------	---

(a) An emergency measure is one necessary for the immediate preservation of the public peace, health, or safety, in which the emergency is set forth and defined. An emergency measure may be placed upon its final reading and final passage at the same meeting as when first introduced upon the affirmative vote of ~~five (5)~~⁴ - **SIX (6)** members of the Council.

				PURPOSE To be consistent with Arizona Revised Statutes which supersede Charter
--	--	--	--	---

F 3	VII	9	E. Burke	PUBLICATION OF ORDINANCES AND RESOLUTIONS
------------	-----	---	----------	--

			D'Andrea	(a) All ordinances and resolutions having the effect of ordinances, except emergency measures, shall become effective and operative thirty (30) days after its adoption or twenty (20) days after its publication in the official newspaper of the City, IN ACCORDANCE WITH STATE LAW whichever is later.
				(b) An emergency ordinance which has been passed by the necessary vote of five (5) ⁵ - SIX (6) members of the Council shall be published one time in the official newspaper of the City- IN ACCORDANCE WITH STATE LAW within ten (10) days after its passage.

				PURPOSE To be consistent with Arizona Revised Statutes which supersede Charter, AND to allow for alternative publication methods if State law should change in the future.
--	--	--	--	---

F 4	IX	5	E. Burke	PRIMARY ELECTIONS
------------	----	---	----------	--------------------------

(a) The Primary Election shall be held on the ~~first Tuesday in February~~⁶ **TENTH TUESDAY BEFORE THE FIRST TUESDAY AFTER THE FIRST MONDAY IN NOVEMBER**, in even-numbered years. The two candidates receiving the highest number of votes at the Primary Election for each office for which there is a vacancy will be considered nominated for such office, and their names shall be printed on the ballot for the General Election; provided, that

if there be any person who, under the provisions of this Section would have been entitled to become a candidate for any office except for the fact that some other candidate received said equal number of votes therefor, then all such persons receiving said equal number of votes shall likewise become candidates for such office.

- (b) In the event that no more than two candidates file nominating petitions for each vacancy in office, the Primary Election may be dispensed with as to that office.

D'Andrea **OPTIONAL:** Should charter cities prevail in pending litigation.

- (a) The Primary Election shall be held on the ~~first Tuesday in February~~⁶ **SECOND TUESDAY IN MARCH** in even-numbered years. The two candidates receiving the highest number of votes at the Primary Election for each office for which there is a vacancy will be considered nominated for such office, and their names shall be printed on the ballot for the General Election; provided, that if there be any person who, under the provisions of this Section would have been entitled to become a candidate for any office except for the fact that some other candidate received said equal number of votes therefor, then all such persons receiving said equal number of votes shall likewise become candidates for such office.
- (b) In the event that no more than two candidates file nominating petitions for each vacancy in office, the Primary Election may be dispensed with as to that office.

PURPOSE To be consistent with current state law.

OPTIONAL: To allow for spring elections on the permitted consolidated election dates.

F 5

IX

6

E. Burke

TIME OF HOLDING OF GENERAL ELECTION

The General Election shall be held on the ~~first Tuesday in March~~⁷ **FIRST TUESDAY AFTER THE FIRST MONDAY IN NOVEMBER** in each even-numbered year.

D'Andrea **OPTIONAL:** Should charter cities prevail in pending litigation.

The General Election shall be held on the ~~first Tuesday in March~~⁷ **THIRD TUESDAY IN MAY** in each even-numbered year.

PURPOSE To be consistent with current Arizona law.

OPTIONAL: To allow for spring elections on the permitted consolidated election dates.

NO ACTION

THE FOLLOWING ITEMS WERE DISCUSSED, BUT WERE NOT RECOMMENDED TO MOVE FORWARD DUE TO THE NUMBER OF OTHER, MORE PRESSING ITEMS.

N 1	II	8	E. Burke	INDUCTION
			M. D'Andrea	ADDITIONAL CONSIDERATION: Formalize the current informal policy of having the councilmember who received the largest number of votes at the last election to serve as Vice Mayor.
			PURPOSE	To formalize current informal policy.
N 2	VII	15	E. Burke D'Andrea	CODIFICATION OF ORDINANCES Any and all ordinances of the City which have been enacted and published in the manner required at the time of their adoption, and which have not been repealed, shall be compiled, consolidated, revised, indexed, and arranged as a comprehensive ordinance code, and such code may be adopted by reference, with the same effect as an ordinance, by the passage of any ordinance for such purpose. Such code need not be published in the manner required for other ordinances, but not less than three (3) copies THE NUMBER OF COPIES REQUIRED BY STATE STATUTE thereof shall be filed for use and examination by the public in the office of the City Clerk prior to the adoption thereof. Amendments to the code shall be enacted in the same manner as ordinances.
			PURPOSE	At this time, State Statutes require three (3) copies to be maintained; however, this is an antiquated statute and may change in the future. This verbiage would allow the Charter to change as well, if that should occur.
N 3	IX	11	D'Andrea	APPLICATION OF STATE LAW The provisions of the laws of this State relating to and governing the nomination of elective officers and the conduct of elections, and each and every provision of said law, with all amendments thereto, shall apply, and shall govern the nomination of elective officers, and the conduct of elections, except as otherwise provided in this Charter. The Council shall have the power to make any other provisions relating to the nomination of officers, and to the conduct of elections not repugnant nor contrary to the provisions of the laws of this State, or to the provisions of this Charter.
			PURPOSE	Clean up the language regarding the application of state law to the elections process to make it clear that the Charter prevails unless it is legally preempted. I believe that is what the current language means, but it is so wordy that it could be challenged.
N 4	XI	1	Jacobson	POLICE MAGISTRATE COURT The Police MAGISTRATE Court created by the general statutes of the State, and all statutes pertaining to the jurisdiction and procedure of said Court, shall be fully observed

				PURPOSE	Change all references to Police Court to Magistrate Court.
N 5	XI	2	D'Andrea Jacobson	POLICE MAGISTRATE JUDGE(S), APPOINTMENT, TERM	The Police MAGISTRATE Judge(s) shall be appointed by the Council, and shall hold office <u>CONSISTENT WITH STATE LAW</u> at the pleasure of the Council.
				PURPOSE	Consider whether the section on Police Judges serving "at the pleasure of Council" should be revised considering the required independence for Judges.
N 6	XI	3	Jacobson	SERVICE OF PROCESS	The Chief of Police shall cause all summonses issued by the Police MAGISTRATE Judge(s) to be served, and the return endorsed thereon and signed by the officer making such service. The Chief of Police shall also cause all warrants of arrest to be executed. Also consider: Eliminating this altogether
				PURPOSE	Change all references of Police Court to Magistrate Court.
N 7	XII	1	E. Burke	ELECTIONS FOR APPROVAL OF FRANCHISES	No franchise shall be granted, extended, or renewed by the City without the approval of a majority of the qualified electors residing within its corporate limits voting thereon at a Primary , General, or Special Election; the Council shall submit any matter for approval or disapproval to such election at any Primary or General Election, or shall call a Special Election for such purpose IN ACCORDANCE WITH STATE LAW at any time upon thirty (30) days' notice; and the Council shall require, before calling any such election, that the estimated expense thereof (to be determined by the Council) shall be first deposited by the applicant for such franchise with the City Clerk.
				PURPOSE	Thirty days' notice is not adequate time to call a Special Election and meeting other related timelines. Removes the possibility of holding a franchise election during the Primary Election due to partisanship complications with Primary Elections.
N 8	XVI	Am. 2	D'Andrea Jacobson	Amendment No. 2 VOTE REQUIRED FOR CERTAIN TYPES OF FACILITIES COSTING IN EXCESS OF ONE MILLION DOLLARS	Notwithstanding any other provisions of the Charter, with the exceptions of utilities, public safety <u>(INCLUDING MAGISTRATE COURTS)</u> and street facilities, after the effective date of this Amendment the City shall not expend funds totaling more than one million dollars for the purchase and/or construction of municipal facilities, including but not limited to libraries, civic centers, or swimming pools, without the prior approval of a majority of the qualified electors of the City voting at an election for that purpose. Said one million dollar limit shall be adjusted annually by the consumer price index as of July 1 of each year.
				PURPOSE	In Amendment No. 2, define public safety facilities in a manner that would include Magistrate Courts, and reflects the current CPI to account for inflation.

N 9	VI	1	Wagemaker Wendel	FISCAL <u>Option 1</u> The provisions of the Constitution and the Laws of the State as the same now exist or hereafter may be amended governing The budget, taxation, financial, and fiscal powers of the City <u>ARE A MATTER OF LOCAL CONCERN. shall apply to the governing and conduct of same in the City. THE COUNCIL MAY BY ORDINANCE PROVIDE A SYSTEM FOR THE ASSESSMENT, LEVY AND COLLECTION OF ALL CITY TAXES, NOT INCONSISTENT WITH THE PROVISIONS OF THIS CHARTER.</u> <u>Option 2</u> The provisions of the Constitution and the Laws of the State as the same now exist or hereafter may be amended governing the budget, taxation, financial, and fiscal powers of the City shall apply to the governing and conduct of same in the City. <u>THE COUNCIL MAY BY ORDINANCE PROVIDE A SYSTEM FOR THE ASSESSMENT, LEVY AND COLLECTION OF ALL CITY TAXES, NOT INCONSISTENT WITH THE PROVISIONS OF THIS CHARTER.</u>
PURPOSE				This is an effort to bring the City Charter more in line with recent legislative changes to the Model City Tax Code, including the incorporation of recent legislative emphasis on tax simplification. The proposed changes also more clearly define the abilities of Council to self-administer the already adopted tax code.
N 10	VIII	9	D'Andrea Goodrich	LEASES OF CITY PROPERTIES The Council may lease any <u>COMMERCIAL</u> land, <u>COMMERCIAL</u> buildings, or <u>COMMERCIAL</u> equipment now or hereafter owned by the City on such terms and conditions as the Council may prescribe. All leases shall be made to the highest responsible bidder after publication of notice thereof for at least one time per week for two weeks, stating explicitly the time and conditions of the proposed lease. However, the Council may, in its discretion, reject any and all bids.
			McIntire	<u>SHOULD THERE BE NO BIDS, OR SHOULD THE COUNCIL CHOOSE TO REJECT ALL BIDS, THE CITY MAY ENTER INTO A LEASE AGREEMENT FOR AN ACCEPTABLE OFFER, BASED ON A DOCUMENTED DETERMINATION OF MARKET VALUE, WITHOUT FURTHER ADVERTISING DURING THE SIX MONTH PERIOD FOLLOWING THE DATE OF THE RECEIPT OF NO BIDS OR THE REJECTION OF ALL BIDS.</u>
PURPOSE				Allow leases of City property used for residential purposes to be leased by the City Manager for a commercially acceptable rate without going through the notification and bidding process.
N 11	VIII	10	D'Andrea	SALE OF CITY PROPERTY The Council may sell such portions of the real and personal property of the City not needed or not likely to be needed within a reasonable future time. Each sale shall be made on such conditions as the Council may prescribe to the highest responsible bidder after published notice of the sale in accordance with the following schedule: <ol style="list-style-type: none"> 1. Personal property valued in excess of \$500.00 shall be sold after published notice of the sale for at least once not less than five (5) days prior to opening of bids. 2. Real property shall be sold after published notice of the sale for at least one time per week for three weeks prior to opening of bids.

The Council shall have the right to reject any and all bids.

McIntire **SHOULD THERE BE NO BIDS THE CITY MAY ENTER INTO A SALES AGREEMENT FOR AN ACCEPTABLE OFFER, BASED ON A RECENT AND VALID APPRAISAL, WITHOUT FURTHER ADVERTISING DURING THE TWO YEAR PERIOD FOLLOWING THE DATE OF THE RECEIPT OF NO BIDS. SALE OR TRADE OF REAL PROPERTY WITH ANOTHER PUBLIC ENTITY MAY BE ACCOMPLISHED WITHOUT PUUBLISHED NOTIFICATION AND A BID PROCESS.**

3. The City Manager may sell or otherwise dispose of any personal property having a value of \$500.00 or less without published notice, but written advice of such sale or disposal shall be given to the Council.
4. The Council may also in its discretion subdivide and plat City property which it determines to sell, providing restrictions relative to its use and dedicate streets and alleys as determined necessary for the use of the public.

PURPOSE Raise the limit on the value of personal property that the City Manager may sell or dispose of. It is currently \$500.

N 12 XI 4 Jacobson **APPOINTMENT OF JUDGES PRO TEMPORE**

THE PRESIDING JUDGE OF THE MUNICIPAL COURT MAY, WITH BUDGETARY APPROVAL OF THE CITY MANAGER, APPOINT SUCH JUDGES PRO TEMPORE AS ARE REQUIRED BY THE MUNICIPAL COURT AND SHALL OVERSEE THE COURT ADMINISTRATIVE STAFF..... Further language to be developed by Legal.

PURPOSE Allows the Presiding Judge to appoint Judges Pro Tempore and oversee court administrative staff

N 13 VI 4 Goodrich **~~CASH BASIS FUND SET UP; TRANSFER OF SUMS FROM CASH BASIS FUND TO OTHER FUNDS~~**

~~The Council may, by ordinance, create and maintain a permanent revolving fund to be known as the Cash Basis Fund, for the purpose of putting the payment of the running expenses of the City on a cash basis. For this purpose, the Council may provide that from the money received from other sources, a sum equal to not less than two and one-half (2 1/2) cents on each one hundred dollars (\$100.00) of the assessed value of said property shall be placed in such fund, until the accumulated amount of such fund shall be sufficient to meet all legal demands against the Treasury for the first four (4) months, or other necessary period, of the succeeding fiscal year. The Council shall have power to transfer from the Cash Basis Fund to any other fund or funds such sum or sums as may be required for the purpose of placing such fund or funds, as nearly as possible, on a cash basis. It shall be the duty of the Council to provide that all money so transferred from the Cash Basis Fund shall be returned thereto before the end of the fiscal year.~~

PURPOSE Not used

Memorandum

7.

CITY OF FLAGSTAFF

To: The Honorable Mayor and Council
From: Dan Folke, Planning Director
Date: 10/21/2014
Meeting Date: 10/28/2014



TITLE:

Introduction of Draft Relocation Ordinance which would require a Relocation Impact Report and Relocation Assistance Benefits to residents displaced by a request to amend the zoning map (rezoning)

DESIRED OUTCOME:

Receive presentation on draft ordinance to include a review of the policy framework, City Council discussion from the April work session, and the approach and content of the ordinance. Staff will provide a summary of the initial discussion at the Planning and Zoning Commission meeting of Oct. 22. The work session is an opportunity for City Council to ask questions and provide direction to staff. Council may take public comment and consider the proposed schedule for first and second reading of the ordinance.

INFORMATION:

COUNCIL GOALS:

1. Retain, expand, and diversify economic base
2. Effective governance

Staff has attached a memorandum with background on the proposed ordinance and a summary of its contents. Below are a list of Regional Plan policies that contribute to the discussion.

REGIONAL PLAN:

Goal LU.1. Invest in existing neighborhoods and activity centers for the purpose of developing complete, and connected places.

Policy LU.1.12. Seek fair and proper relocation of existing residents and businesses in areas affected by redevelopment and reinvestment, where necessary.

Policy LU.1.11. Ensure that there is collaboration between a developer, residents, and property owners in existing neighborhoods where redevelopment and reinvestment is proposed so that they are included, engaged, and informed.

Goal NH.1. Foster and maintain healthy and diverse urban, suburban, and rural neighborhoods in the Flagstaff region.

Policy NH.1.8. Prioritize the stabilization of a neighborhood's identity and maintain cultural diversity as new development occurs.

Goal NH.3. Make available a variety of housing types at different price points, to provide housing

opportunity for all economic sectors.

Policy NH.3.1. Provide a variety of housing types throughout the City and region, including purchase and rental options, to expand the choices available to meet the financial and lifestyle needs of our diverse population.

Policy NH.3.3. Increase the availability of affordable housing for very low-income persons, through innovative and effective funding mechanisms.

Policy NH.3.5. Encourage and incentivize affordable housing.

Goal NH.4. All housing is safe and sanitary.

Policy NH.4.1. Expand the availability of affordable housing throughout the region by preserving existing housing, including housing for very low-income persons.

Policy NH.4.2. Reduce substandard housing units by conserving and rehabilitating existing housing stock to minimize impacts on existing residents.

Policy NH.4.7. Enforce compliance with fair housing laws.

Goal NH.6. Neighborhood conservation efforts of revitalization, redevelopment, and infill are compatible with and enhance our overall community character.

Policy NH.6.1. Promote quality redevelopment and infill projects that are contextual with surrounding neighborhoods. When planning for redevelopment, the needs of existing residents should be addressed as early as possible in the development process.

Attachments: Draft Ordinance 2014-29
 Council relocation memo
 Welsh letter

ORDINANCE NO. 2014-29

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AMENDING THE FLAGSTAFF CITY CODE, TITLE 10: *FLAGSTAFF ZONING CODE*, CHAPTER 20: *ADMINISTRATION, PROCEDURES & ENFORCEMENT*, DIVISION 50: *AMENDMENTS TO THE ZONING CODE TEXT AND THE ZONING MAP PROCEDURES*, ADDING THIS SECTION RELATING TO DISPLACEMENT OF TENANTS, PROVIDING FOR PENALTY, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, Article XIII, Section 8 of the Flagstaff City Charter gives the City Council the plenary power to enact and make all proper and necessary ordinances to carry out and give effect to the implied and express powers granted in the Charter and thereby protect and safeguard the rights, interests, safety, morality, health and welfare of the City and its inhabitants; and

WHEREAS, the State of Arizona authorized, pursuant to Arizona Revised Statutes Section 9-462.01, the legislative body of any municipality to regulate the use of land in order to conserve and promote the public health, safety and general welfare; and

WHEREAS, the City Council intends to supplement the requirements of state law for the purpose of mitigating adverse impacts due to the displacement of tenants in conjunction with a Zoning Map amendment to another use; and

WHEREAS, the City Council requires information from proposed developers or property owners about the assistance a developer may provide to displaced households that have reduced relocation options; and

WHEREAS, the City Council finds that enacting this tenant-displacement ordinance protects the rights, interests, safety and welfare of the inhabitants of the City.

ENACTMENTS:

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

SECTION 1. General. The Flagstaff City Code, Title 10, *Flagstaff Zoning Code*, is hereby amended as set forth below:

Insert the following new text into section 10-80.20.030 "C" Definitions:

Comparable Housing: Decent, safe and sanitary housing that is functionally equivalent to the displaced dwelling including square footage and number of bedrooms, adequate in size to accommodate occupants in a location generally not less desirable in relation to utilities, commercial and public facilities, with reasonable access to the person's place of employment on a site that is typical in size for residential development and within the financial means of the displaced person.

Insert the following new text into Subsection C of Section 10-20.50.040 Amendments to the Zoning Code Text and The Zoning Map:

6. Relocation Impact Report (RIR)

a. Applicability.

- (1) Division 10-20.50 that will result in the closure of a manufactured home park or multi-family residential property and which displaces residents will require submittal and approval of a Relocation Impact Report (RIR) in accordance with the provisions of this Section. Except as otherwise provided, this Section shall apply to all existing and/or future manufactured home parks and multi-family residential buildings.
- (2) This Section shall not apply to:
 - (a) A resident-owned mobile-home park or multi-family condominium or
 - (b) Real property owned by the potentially displaced resident; or
 - (c) A manufactured home park or multi-family-residential building where the applicant has entered into a written agreement with 100 percent of the households providing for a mutually satisfactory relocation plan. The applicant will provide copies of the written agreements executed by all parties.
 - (d) A proposed redevelopment project that includes comparable housing units that will be offered first to current households and provides interim comparable housing during construction.

b. Application

The applicant will complete an RIR, file it with the Community Development Division and the Division will process it in conjunction with a request to amend the Zoning Map in compliance with this Section. The RIR may be provided with the initial submittal or during completeness review. However, the RIR must be provided prior to beginning substantive review of the requested Zoning Map amendment. The application package shall include all information specified in this section and any supplemental information required by the Director in order to conduct a thorough review of the applicant's proposal regarding relocation assistance. Final acceptance of the RIR will be considered at a public hearing and determined by the City Council in conjunction with, and as a part of the application for Zoning Map amendment. The review

of the RIR by Council, therefore, will be based on the findings required for a Zoning Map amendment established in Section 10-20.50.040.F.

c. Neighborhood Meeting

In addition to a required neighborhood meeting for Zoning Map amendment applications (Section 10-20.30.060), and prior to submitting a RIR the applicant will hold a neighborhood meeting to specifically present, answer questions and take public comment on the proposed RIR. If ten (10) or fewer households are displaced, the RIR neighborhood meeting may be combined with the neighborhood meeting required for the map amendment. If eleven (11) or more households are displaced a separate meeting is required. The applicant will document the relocation meeting proceedings and provide a report consistent with the requirements found in Section 10-20.30.060.F. The Director may require additional neighborhood meetings.

d. Required Notification

The following notification requirements are in addition to any state and local notification requirements relating to the change in use of a manufactured home park or multi-family residential property due to redevelopment that results in the displacement of residents. All required notifications shall be provided in English and Spanish.

- (1) Prior to the first public hearing and after the RIR neighborhood meeting has been held the applicant shall provide written notification to each existing household on the subject property consistent with the requirements found in Section 10-20.30.080 (Notice of Public Hearings). In addition to the content requirements found in 10-20.30.080.A.1 the notification shall include a copy of the proposed RIR and a copy of this Section of the Zoning Code, Section 10-20.50.040.C.6 (Relocation Impact Report). If the property that may be rezoned is for sale or in escrow, the property owner shall place a "for sale" sign in a conspicuous location to allow prospective new residents to be aware of the potential sale of the property.
- (2) After a RIR is filed with the Director, all prospective new residents of the subject property will be notified that such an application has been filed and that any new resident entering the subject property after the filing of the RIR may not be eligible to receive any relocation assistance benefits offered. Such written notification will be provided by the applicant to the prospective resident prior to the purchase of a manufactured home and/or execution of a rental agreement or commencement of the resident's occupancy, whichever occurs first. A copy of such notice will be submitted to the City.
- (3) Applicant must provide notice at least 180 days prior to the date the mobile home owners and residents of the manufactured home

park or multi-family residential complex are required to vacate the premises, applicant shall provide written notification of termination of tenancy, delivered by hand or mailed by registered or certified mail, to all residents. This notice may be combined, when applicable, with the notice required by Arizona Revised Statutes Section 33-1476.01, as may be amended.

e. Relocation Impact Report

(1) Purpose

The purpose of the Relocation Impact Report (RIR) is to identify households that are disadvantaged and have reduced housing options due to income, age, disability, or other circumstance, assess the needs of displaced residents, provide details on relocation assistance offered by the applicant, and identify the assistance available to households by the *Arizona Mobile Home Parks Residential Landlord and Tenant Act*.

(2) Relocation Specialist

The applicant shall select a Relocation Specialist, who is able to communicate with all potentially displaced persons, to prepare a RIR relating to the proposed change of use and impact on displaced households.

(3) Required Content of Report

The RIR shall contain, but need not be limited to the following information:

- (a) A legal description of the subject property.
- (b) The name and contact information of the Relocation Specialist and date of RIR preparation.
- (c) The status of the property and applicant; for example whether the property is for sale, under contract, in escrow; whether the applicant is the property owner, contract purchaser, or other authorized agent.
- (d) A description of the project of the proposed Zoning Map amendment and the proposed schedule for the change of use or closure.
- (e) A vicinity map that identifies the subject property within the surrounding neighborhood; a site plan that includes the location of structures, access points, surrounding streets, easements, utilities and other onsite features and amenities; and a detailed description of the condition of the subject property.

- (f) The number of manufactured home spaces or dwelling units on the subject property and the current lease or rental rate for each space or dwelling unit, including all utilities separately billed by the property to the residents and any utilities that may be included in the lease or rental rate for the space or unit.
- (g) Identify needs for physical accommodations such as ADA bathroom, ADA ramp, assistive/service animals and similar accommodations required by a resident.
- (h) The location of comparable housing, whether manufactured home or dwelling unit, including the properties name, number of spaces or dwelling units, number of vacancies, lease rates and terms, proximity to the subject property (current residence), policies regarding age or other restrictions imposed upon the residents of the comparable property, restrictions on the type of manufactured homes accepted on the property and amenities offered. The proximity to services such as public transit stops, FULTS, grocery stores, daycare, schools and medical facilities. All information is required to be current as of the date of the RIR preparation.
- (i) For manufactured homes owned by the mobile-home park tenant only:
 - For each manufactured home within the subject property, the space number, date of manufacture, type, width and size in square feet, and number of bedrooms.
 - A determination of the total number of manufactured homes to be relocated to a comparable manufactured home park. This shall include manufactured homes that qualify for relocation under the *Arizona Mobile Home Parks Residential Landlord and Tenant Act*. An explanation shall be provided for determinations not to relocate a manufactured home or to relocate to a different type of dwelling unit.
 - A determination of which manufactured homes cannot be relocated and will therefore be considered abandoned and eligible for the abandonment fee as determined by the *Arizona Mobile Home Parks Residential Landlord and Tenant Act*. The basis for a conclusion that a manufactured home and all associated fixed

property cannot be relocated to a reasonably comparable manufactured home park.

- An explanation of any relocation assistance that the applicant intends to provide for the estimated cost of relocating manufactured homes to available spaces. The explanation shall include whether the applicant intends to pay for the costs of physically moving or replacing exterior improvements to the manufactured home and movable improvements such as porches, steps, accessible ramps, carports, accessory structures, skirting and tie-downs. The explanation shall identify benefits provided by the *Arizona Mobile Home Parks Residential Landlord and Tenant Act* and those provided directly by the applicant. The explanation of assistance shall also include proposed costs, if any, for packing, moving, and unpacking of all personal property. The schedule for providing relocation assistance benefits and the name, address and contact information of the manufactured home mover.

(j) For multifamily residential only:

- For each multi-family residential unit, the unit number, size in square feet, and number of bedrooms.
- The total number of households to be relocated to a comparable housing unit and the basis on which such determination is made.
- An explanation of any relocation assistance that the applicant intends to provide for the estimated cost of relocating households identified to available dwelling units in comparable housing. The explanation of assistance shall also include proposed costs, if any, for packing, moving, and unpacking of all personal property.

(k) A list of any additional proposed assistance to adequately mitigate the adverse impacts of displacement upon each household. Additional measures may include rent differential, transportation costs and other expenses caused by the relocation.

(l) The applicant may provide information for consideration that the relocation assistance is not economically feasible. If an applicant does not intend to provide relocation

assistance, the applicant shall include appropriate financial documentation demonstrating economic hardship.

f. Required Finding

The RIR is treated as any other part of an application for Zoning Map amendment and is approved at the same time and under the same findings as the remainder of the application Section 10-20.50.040.F. No separate finding on acceptance of the RIR is required.

g. Relocation Assistance Verification

The City will provide a list of qualified agents to serve as a compliance officer to confirm and document that all relocation assistance has been provided and completed as accepted by the City Council. Relocation assistance shall be completed prior to the issuance of demolition, grading or building permits. The applicant will be responsible for all costs associated with the compliance officer.

h. Conditions of Approval

In accepting a RIR, the Council may impose conditions in conjunction with the Zoning Map amendment.

SECTION 2. Penalties.

Any person found in violation of this ordinance shall be guilty of a civil infraction and shall be fined a sum not to exceed five hundred dollars (\$500.00). Any violation which is continuing in nature shall constitute a separate offense on each successive date the violation continues, unless otherwise provided.

SECTION 3. Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this ordinance or any part of the code adopted herein by reference are hereby repealed.

SECTION 4. Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 5. Clerical Corrections.

The City Clerk is hereby authorized to correct typographical and grammatical errors, as well as errors of wording and punctuation, as necessary related to this ordinance as amended herein, and to make formatting changes needed for purposes of clarity and form, or consistency within thirty (30) days following adoption by the City Council.

SECTION 6. Effective Date.

This ordinance shall become effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this _____ day of _____, 2014.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY



COMMUNITY DEVELOPMENT

MEMORANDUM

Date: October 23, 2014

To: Mayor and City Council

From: Dan Folke, Planning Director

Subject: Proposed Code Amendment: Relocation Impact Report & Relocation Assistance

In April staff presented information at a City Council work session on the topic of resident displacement and relocation due to redevelopment of a property. The presentation provided an overview of who is impacted by displacement, parameters in which to frame the issue, a summary of existing state programs, an overview of the Flagstaff rezoning process, review of Regional Plan policies, model relocation ordinances, and finally three options to consider.

City Council had a good discussion and provided some guidance on an approach to consider. The draft ordinance is a combination of Option 1 and Option 2 presented at the work session. This approach will require a relocation impact report (RIR) in conjunction with a request to rezone property that will result in the displacement of residents of a manufactured home park or multiple family building. The applicant is responsible to assess the needs of each household and propose the level of relocation assistance, whether they own a mobile home (Tier 2) or are tenants (Tier 3). The new language includes the components required in the RIR and City Council will accept or reject the proposed relocation assistance by applying the criteria required for map amendment (rezoning) as part of the overall rezone proposal.

The amendment was introduced at the October 22 Planning and Zoning Commission. Public comment was received and included a letter from one property owner. The letter is included in the meeting materials.

In summary the attached draft amendment:

- Provides a definition of “Comparable Housing”
- Requires a Relocation Impact Report (RIR) for rezoning requests that will displace residents of a manufactured home park or multi-family residential property
- Identifies exceptions to a RIR
- Establishes timing of completing and distributing the RIR to subject residents
- Requires a separate neighborhood meeting on the RIR
- Requires notification to subject property residents with a copy of the RIR and Relocation Ordinance
- Requires notifications be provided in English and Spanish
- Requires property be posted with a “for sale” sign if applicable
- Requires notification to new residents after the application is filed
- Requires 180 day notification to vacate premises (if rezoning is approved)
- Establishes purpose of the RIR
- Requires a Relocation Specialist
- Establishes content of the RIR
- Requires explanation of relocation assistance
- Allows consideration of economic hardship
- Incorporates rezoning findings for acceptance of the RIR and relocation assistance
- Requires compliance officer to verify relocation assistance has been completed prior to issuance of building permits

The proposed schedule for the amendment is as follows:

- Oct. 22 – Planning & Zoning work session: introduce the proposed amendment
- Oct. 28 – City Council work session: introduce the proposed amendment
- Oct. 29 – Planning & Zoning public hearing and recommendation to City Council
- Nov. 3 – City Council 1st reading of Ordinance
- Nov. 18 – City Council 2nd reading of Ordinance

To the Planning and Zoning Commission:

First, the proposed ordinance as outlined in the news tramples property rights. The tenants in a park will move out whenever it suits them, with little or no notice to the property owner. Current law provides for significant notice and relocation assistance already.

Second, the State of Arizona has law in regard to closure. We do not believe it is constitutional for a lower jurisdiction to override an issue that has law passed at the state level. In California, similar efforts have failed universally, but those failures have cost the city involved and the landowners millions of dollars. This exact scenario played out in Costa Mesa, CA.

Third, the proposed ordinance is a taking.

Fourth, this concept has emotional appeal, but there will be unintended consequences. The residents of Flagstaff and the City want parks and land use planning to have the flexibility to upgrade as the city progresses. Locking in a project like Arrowhead locks in the existence of substandard housing.

Fifth, the requirements for 100% agreement in order to allow a closure to proceed with less review empowers the few, or one resident, to obstruct a otherwise orderly plan. This is a raw transfer of rights and value away from the property owner.

We own two parks in Flagstaff. As far as I know, we had no, zero, inquiries from any tenants involved in the proposed closure for Landmark. We have spaces open in both parks. Granted, some would have had a difficult time because some of the houses were old, but we have open spaces and would have liked to see qualified new residents come in to fill those spaces. It appeared to us that while some residents were unhappy with the closure, others (with attorneys) were seeking to be enriched - trailers that were worth \$2,000 to \$5,000 were seeking \$30,000 payments to move. The tenants have not invested sums in their homes that merit those kinds of payments.

Lastly, it is distressing that no outreach has been made to park owners for input into this process. Since we own two parks and a total of 469 mobile home and RV spaces it would seem logical to create a true workshop environment for any changes that may occur.

The City would be well advised to stand back and look at the big picture present: what kind of housing does the City want to lock in, how much does the City respect owner's rights, and how willing is the City to sow and fertilize the seeds of constitutional taking lawsuits that do not change the outcome for the re-use planning of a given parcel?

Sincerely,

Chris Welsh
LLC Manager
Westglen MHP LLC KC RV Park LLC
parkowner@gmail.com

10/22/2014

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: David McIntire, Asst. to City Manager - Real Estate
Co-Submitter: Amy Hagin, Senior Procurement Specialist
Date: 10/22/2014
Meeting Date: 10/28/2014



TITLE:

Staff is seeking comment and direction regarding potential terms and/or prescriptions of the Council for a Request For Information (RFI) process.

RECOMMENDED ACTION:

Provide direction and guidance prescribing certain parameters, regarding the RFI, to assist staff in developing successful and supportable opportunities.

Policy Decision or Reason for Action:

Other Arizona cities are currently in lease agreements with wireless providers for the use of street lights and other structures and facilities in the Right of Way (ROW) as locations for small cell antennae and other communications equipment. The lease agreements not only provide revenue, but also enhance communications services provided in the community. The RFI will allow staff to reach out to potential wireless providers, specifically those licensed by the Federal Communications Commission, to solicit information regarding equipment technical specifications and possible lease terms and revenue generation. Should there be opportunities potentially favorable to the City then staff will bring Master Lease Agreements to City Council for consideration.

Financial Impact:

There is no financial impact of the RFI; however, should opportunities be identified for lease agreements there could be substantial revenue generation for the City over time with limited or no cost. Additionally, often street light poles are replaced by the providers which could provide savings.

Connection to Council Goal and/or Regional Plan:

COUNCIL GOALS:

1. Repair Replace maintain infrastructure (streets & utilities).
11. Effective governance.

REGIONAL PLAN:

CD 1 - Improve the City and County financial systems to provide for needed infrastructure development and rehabilitation, including maintenance and enhancement of existing infrastructure

Previous Council Decision on This:

There has been no previous City Council decision on this issue.

Options and Alternatives:

Council's guidance has a number of options, some of which may include:

- Include facilities only within the ROW or consider City owned facilities both in and out of the ROW.
- Develop an agreement exclusively with one provider or consider agreements with numerous providers based on individual needs and opportunities.
- Restrict the potential providers to specific types of communication equipment or consider all options presented.
- Not release the RFI and not proceed with this strategy.
- Not release the RFI and use a different procurement method.

Key Considerations:

The RFI seeks to assist staff in understanding what opportunities are available and to receive information regarding those potential opportunities rather than having staff release an Invitation For Bids or a Request For Proposals that may be unintentionally limiting.

The RFI may lead to negotiated Master Leases that would be brought to City Council for consideration.

In other communities the Master Leases have provided the general terms and then had supplemental leases specific to each site.

The City would retain the right to approve or deny any specific site or location.

Depending on the requested location and facility, the proper due diligence regarding weight and other specifications would be critical.

Expanded Financial Considerations:

Over time and with each new site the potential long term revenue generation would increase. Lease terms, depending on the community and the type of equipment, have ranged from \$700 per year to over \$20,000 per year.

Community Benefits and Considerations:

The potential lease agreements would generate revenue for the City and could have the additional benefit of increasing the quality of communications services in the community.

Community Involvement:

Consult

Expanded Options and Alternatives:

Attachments: [Wireless RFI powerpoint](#)

Request For Information

Wireless Communications (Small Cell Antenna)
Equipment

Request For Information (RFI)

- Seeking direction regarding the potential lease of City owned properties inclusive of the Right-of-Way locations.
- Use of street light poles and other structures for wireless communications (small cell antenna) equipment so providers can generate revenue and enhance communications services to the public.
- The RFI will be used to generate lease agreements with providers that will come back to City Council for consideration.

Request For Information (RFI)

- Wireless providers have agreements in Arizona cities for the use of street light poles and other properties for wireless communication (small cell antenna) equipment and other equipment.
- Desire is to structured as Master Leases with site specific supplemental agreements.
- The RFI will seek information regarding technical specifications and potential lease terms.

Examples

- Glendale
- Scottsdale
- Casa Grande

Annual fees (revenue to City) range from \$700 per location to \$20,459 per location depending on the community and the type and footprint of the equipment.

Providers

- Soliciting responses from wireless providers in the area
 - Verizon
 - AT&T
 - Cricket
 - Comcast
 - Centurylink
 - Suddenlink
 - Frontier
 - Others identified

Some Options

- Include facilities only in the ROW or consider City owned facilities both in and outside of the ROW
- Develop an agreement exclusively with one partner or consider numerous partnerships
- Restrict potential providers to specific types of communication equipment or consider all options presented

Next Steps

- Council direction tonight
- Release Request For Information (RFI)
- Receive information from potential providers
- If appropriate, bring specific leases to City Council for consideration



Questions??