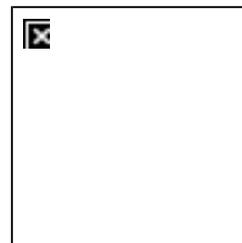


15. A.

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
 From: Karl Eberhard, Comm Design & Redevelopment Mgr
 Date: 12/20/2013
 Meeting Date: 01/07/2014



TITLE:

Consideration of items related to formation of the “FLAGSTAFF DOWNTOWN BUSINESS IMPROVEMENT AND REVITALIZATION DISTRICT”:

- 1) Presentation of the Certificate of Receipt of Petitions; and
- 2) Consideration and Authorization for the City Manager to execute a certain document: "*Petitions for adoption of a resolution declaring the intention to form the Flagstaff Downtown Business Improvement and Revitalization District;*" and
- 3) Consideration and Adoption of Resolution No. 2014-03: A resolution of the City Council of the City of Flagstaff, Arizona, declaring its intention to form the "*Flagstaff Downtown Business Improvement and Revitalization District,*" a Special Taxing District, and providing for a Public Hearing prior to formation of the District to consider any objections of property owners.

RECOMMENDED ACTION:

- 1) Authorize the City Manager to execute a certain document titled "*Petitions for adoption of a resolution declaring the intention to form the Flagstaff Downtown Business Improvement and Revitalization District;*" and
- 2) Read Resolution No. 2014-03 by title only; and
- 3) City Clerk reads Resolution No. 2014-03 by title only (if approved above); and
- 4) Adopt Resolution No. 2014-03.

Policy Decision or Reason for Action:

Consideration of this action has been requested by Downtown property owners on the basis that the creation of this mechanism by the City Council will empower the property owners to effectively manage the district for greater economic stability and growth.

Financial Impact:

The action currently before the City Council: Limited, however, administrative expenses related to providing a City Clerk and Treasurer for the district. And, possible future impacts.

Connection to Council Goal:

Effective governance.

Has There Been Previous Council Decision on This:

Resolution No. 2008-05 adopting the Downtown Flagstaff Management Plan

Options and Alternatives:

- 1) Authorize execution of the petition for formation, and adopt the resolution initiating district formation process (Recommended).
- 2) Do not authorize execution of the petition for formation, and adopt the resolution initiating district formation process.
- 3) Do not authorize execution of the petition for formation, do not adopt resolution initiating district formation process, and provide additional or alternative direction regarding district management or formation.
- 4) Do not authorize execution of the petition for formation, do not adopt resolution initiating district formation process.

Background/History:

General Background:

Like any other part of a City, downtowns need basic City services such as street maintenance, public safety, and other standard City services. However, downtowns, especially successful downtowns have more intense needs of those services and furthermore they require additional or specialized services. These needs are quite varied, ranging from frequent public trash collection to special infrastructure and maintenance to marketing and event management.

Cities and downtowns sometimes struggle with the provision of these services. On one hand, cities are obliged to provide services in an equitable manner, being fair to all taxpayers and all districts of the city. On the other hand, downtowns are often the principle draw of a city and collect a significant portion of the taxes, especially when measured on a per square foot basis. Subject to broader political underpinnings, the struggle comes from seeking the right balance between these two valid positions.

In looking at downtowns across America, and Arizona as well, the most successful are those that receive the specialized services. Successful downtowns typically have district marketing, retail promotion, special event planning, downtown advocacy, downtown landscaping and beautification, environmental management (litter, graffiti, etc.), safety and security, business attraction, retention and expansion, business assistance, project planning and facilitation, and strategic planning.

Regardless of which of these services are provided, there is one trait in common among successful downtowns: There is some form of self-governance organization that collectively manages the district and works toward the equitable provision of needed services. The forms of such organizations are as varied as the services required, ranging from advocacy groups to redevelopment authorities to special taxing districts.

The management of downtown Flagstaff has historically been on an ad hoc basis – an ongoing struggle to adjust the balance. Individual successes, and the sustainability of successes, have been dependent on the ability and willingness of stakeholders to devote time to the cause, and also dependent on the ability and willingness of the City to devote resources. Great successes such as the downtown redevelopment of 1993, in the absence of a management vision, lacked a sustainable strategy for the ongoing maintenance. While the Downtown Business Alliance has been an effective force in the ad hoc management of downtown, the membership based nature of the organization is itself unsustainable - still reliant on the ability and willingness of volunteers, each of whom has a principal business other than downtown advocacy or management. Even the short tenure of the Flagstaff Mainstreet Program was ad hoc because the funding mechanism still relied on striking a balance with other City resources. The result of this trait, ad hoc management, has been that the partnership of downtown stakeholders and the City, a partnership that should be very strong, remains

challenging for all concerned.

With a vision of a successful downtown that equitably and sustainably receives the services needed, downtown stakeholders and the City have spent the better part of the last eight years researching, debating, negotiating, documenting, and finding consensus on how this vision might be accomplished. Now before the City Council is the result of this work; a proposal to create a formal downtown district capable of meeting the needs of all of the stakeholders, including the City of Flagstaff.

Brief History

While there were efforts to develop a downtown management plan before, the current efforts began in 2008. On February 5, 2008, the City Council adopted Resolution No. 2008-05: A resolution adopting the Downtown Flagstaff Management Plan (Attached – “2008 Resolution”). The resolution directs staff on a number of matters such as forming a downtown advisory committee, conducting a parking study, seeking proposals for the rehabilitation of the Lumberyard, constructing a parking lot on Phoenix Avenue, preparing a proposal for a residential parking permit program, and engaging the County in discussions and solutions to issues affecting downtown. Council also directed that a more robust and inclusive outreach and stakeholder engagement process be employed to develop a more comprehensive downtown management plan that addressed parking, maintenance, and economic vitality issues. The actions currently before the City Council are the result of that more robust and inclusive outreach and stakeholder engagement process.

Early on in this process, it was recognized that in order to provide services above and beyond that of the rest of the City, and specialized, the solution needed to include a degree of separation between downtown and the City as a whole. Coupled with that, for equitability, the solution needed to include an ongoing funding source that was not dependent on the City – other taxpayers. To be sustainable, to have separation from the dedication of volunteers, City staff, and broad political underpinnings, self-governance was necessary. And finally, to have constancy over time, independent of the fluctuations of volunteer efforts, and to end the pattern of ad hoc management, a dedicated district manager was determined to be critical. The mechanism that is capable of providing this was determined to be some form of formal district and thus district formation was determined to be the essential need.

Since adoption of Resolution 2008-05, the development of a comprehensive plan for downtown management has had three distinct phases briefly summarized as follows:

Initially, with City staff facilitating, tens of downtown stakeholders, neighboring district representatives, as well as a number of City and County stakeholders began an in depth planning process. This effort included focus groups to tackle district formation, boundaries, management, parking, maintenance, capital improvements, marketing and events, and zoning code issues. While this was implemented exactly as directed by the City Council, this approach had three strategic flaws. For a district with no management plan at all to tackle all issues simultaneously was simply overwhelming. Second, finding consensus on so many issues at one time proved more difficult than ad hoc management. The group found that strong opinions regarding any one issue undermined, and potentially threatened, the essential need of forming a district to manage downtown. Finally, in the context of the challenging partnership between downtown and the City, right or wrong, City leadership was suspect to many stakeholders and determined to be a negative influence on the overall success.

In June 2010, the effort took a different direction to address the strategic flaws. The overall effort was reduced to the essential goal of forming a district that had the authority and capacity to address all of the issues downtown. It was consciously decided that the whole spectrum of planning and problem solving would not be addressed as a part of the initial effort. After basic formation, the district could then identify and address issues according to their own priorities and values without undue influence. To further the sense of separation from the City, using funds from multiple agencies, a dedicated

manager was hired to lead the effort. Finally, the downtown stakeholders took on the strategic planning of the process of formation. This included reducing the outreach and stakeholder engagement process to critical players. While this approach significantly boosted consensus among critical stakeholders, formation did not result with the effort still too closely tied to the City and yet at the same time still missing critical legal steps and components.

The final phase, begun in December of 2012, has been characterized by exceptional leadership by downtown stakeholders. In addition to strategic planning, they have assumed the day-to-day management and other needs of forming the district. The City engaged a truly independent district formation consultant to serve as their on-call resource. And, working in partnership with City staff, all of the legal needs have been met including the General Plan, petitions, and various other documents, steps, and procedures that are required by Arizona law.

District Boundaries:

A key component of gaining stakeholder consensus was determining the boundaries of the district. As noted, the initial effort was broad and was open to a multi-zoned district bounded by Columbus Avenue, Butler Avenue, somewhere west of City Hall and Elden Street. After considerable community discussion, and for a wide variety of reasons, the final district boundaries include 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 (Map attached - "Map"). By stakeholder consensus, personal property and building floor levels above the second story were excluded from the district. This area includes land owned not only by private property owners, but also land owned by the City, County, and the Hopi Economic Development Corporation.

Technical Background:

Revitalization Districts:

Arizona Revised Statutes (ARS) provide for thirty-nine possible special taxing district types. In researching the appropriate district type, the consensus is that the "Revitalization District", governed by ARS §§ 48-6801 - 48-6819, is the best fit for the goals of the stakeholders, including the City of Flagstaff. In making this analysis, the process for district establishment and the authorities of the different district types had to be measured for suitability. Even so, to make this district type work for us, in 2011 the City of Flagstaff (working with Scottsdale) pursued certain legislative changes (S1203 - Importantly, what size community could use this tool; Also, miscellaneous clarifications).

Revitalization Districts are special taxing districts that have the authority to design, plan, improve, construct and maintain infrastructure improvements. The term "infrastructure" is defined by law, and includes a wide variety of improvements. The districts also have the authority to provide enhanced municipal services. The term "enhanced municipal services" is defined by law and means services that are in addition to or exceed the level of services provided outside the district. The district may engage in other activities permitted by law. If the City Council chooses to proceed, this would be the first revitalization district formed under this law.

The district will be responsible for managing its own finances. Properties within the district may be subject to the levy of taxes or assessments. A district election is required to approve ad valorem taxes, issuance of bonds, and special assessments to repay bonds. The district may adopt fees and charges. The district may receive grants and enter into various kinds of agreements. A City, County, or Tribe may financially participate in the district.

Except initially, the district will be governed by an elected board of directors and appoint its own officers (See City Role). The district will be subject to open meeting and public records laws. With all debts repaid, the district may be dissolved if it is no longer useful or if the property owners want to dissolve the district, subject to certain conditions as described in the Arizona statutes. After ten

years, if the district does not have any outstanding obligations, it must be dissolved unless the City, by resolution, extends the period by an additional ten years.

City Role:

The City Council through the resolution of 2008, and through many formal and informal updates through the years, as well as City management and staff, have been very supportive of the stakeholders efforts for form a self-governing downtown management district, as a means to an economically stronger downtown and a stronger partnership. This support has been evidenced by the continuous dedication of financial and human resources, and exceptional efforts to “get to ‘yes’”.

The City has a required role in that by ARS, the formation of the district, or not, is a function of the City Council. Further, in the event the district formation is challenged in a judicial action, the City may be named as a defendant.

The initial board of directors, consisting of three (3) property owners serving a one year term, will be appointed by the City Council. To accommodate the City Council choosing to proceed and the schedule necessary to initiate the special tax in 2015, the City is currently soliciting applications for Board Members and has tentatively scheduled that matter for City Council consideration on February 4, 2014. The City Clerk and City Treasurer (Management Services Director) will serve as the District Clerk and District Treasurer, respectively, until replacements are appointed by the District Board.

After formation, the roles and responsibilities of the City with regard to the provision of basic City services is unchanged. The City is still expected to maintain the streets, remove snow, pick up the trash, maintain landscaping, and so forth. At some point, the district may request and negotiate to assume these functions on a fee-for-service basis, but that is a future discussion (if at all). As well, the roles and responsibilities of the City with regard to right-of-ways are unchanged.

In addition to our general interest in the economic well-being of downtown, and in addition to public right-of-ways, the City owns individual parcels of land within the district (currently eleven parcels) and will thus continue to have a vital interest in district activities. Finally, ARS provides that cities may elect to participate financially in Revitalization Districts.

General Plan:

A General Plan (Attached – “General Plan”) was filed with the City Clerk’s Office on November 18, 2013. In keeping with the current formation strategy (keep it simple), the General Plan includes exactly what is required by ARS (and no more), and calls for the district to exercise all powers permitted by law.

Petitions:

Depending on perspective, and it’s only a matter of semantics, the stakeholders have either been circulating two petitions with two parts, or they have been circulating four petitions.

The first two parts (or petitions), titled *“Petitions for Adoption of a Resolution Declaring the Intention to Form the Flagstaff Downtown Business Improvement and Revitalization District”* seek the support of property owners for district formation in two ways. The first (part) is a simple count of property owners and the second (part) seeks support based on net assessed value. To be considered by the City Council, it was necessary for 51% of the owners, by both count and net assessed value, to affirmatively sign these petitions.

In December 2013, the City Clerk’s office received petitions requesting formation of a district. In order to determine sufficiency, the City Clerk compared the petitions to the most recent assessment

roll provided by the Coconino County Assessor's Office. The City also reviewed other documents to confirm that the persons signing petitions have authority to do so. The City Clerk has reviewed the petitions submitted, and certified that the petitions are sufficient (Attached – "Certificate"). A tally is attached and reflects that without the City executing the petitions, the petitions received representing 57% of the property owners and 67% of the net assessed value. If the City executes the petitions, 65% of property owners will have signed the petitions. Note that the City "net assessed value" is not considered because the City does not pay property taxes, so the tally remains at 67%.

The second two parts (or petitions) that the stakeholders have been circulating are not a part of any current and future City actions. (Per the requirements of ARS, these petitions seek authorization to hold an election (upon district formation) to authorize a special tax assessment that exceeds a certain amount specified in ARS).

Next Steps Required for Formation:

If the City Council adopts the current resolution, from the County Tax Assessors Roll, the City Clerk will provide mailed notices to all of the property owners in the proposed district. These notices will advise property owners of the adoption of Resolution No. 2014-03, procedures for filing written objections, and of the pending Public Hearing. To accommodate the City Council choosing to proceed and the schedule necessary to initiate the special tax in 2015, the following (abbreviated) schedule is anticipated:

January 7, 2014:	Council considers resolution of intent to form (Resolution 2014-03).
January 15, 2014:	Mailed and advertised Notice to Property Owners.
January 21, 2014:	City Council interviews board of directors applicants.
February 3, 2014:	5:00 p.m. deadline for filing written objections.
February 4, 2014:	Public hearing on written objections; and
	Council considers resolution forming the district and appointing the initial board of directors; and
	Council considers Memorandum of Understanding.
February 14, 2014:	Resolution forming district is recorded.
	EXCEPT AS NOTED, CITY ROLE IS COMPLETED
February 15, 2014:	Notify Arizona Department of Revenue and County regarding boundaries of new special taxing district.
On or about March 5, 2014:	Last day to file judicial appeal.

Key Considerations:

The process of developing this proposal over the last eight years has already improved the partnership between the City and downtown. While there have been some difficult conversations, through a common vision and thoughtfulness, now before the City Council is a proposal that is mutually proposed and mutually beneficial. Staff believes that forming this district introduces equity to the partnership by defining roles, responsibilities, and expectations and sets the stage for a stronger partnership from here forward. How better to effectively govern than to collaboratively vision and develop solutions, and to partner with stakeholders?

At this time the stakeholders propose solely to form the district. Next, they will complete various tasks

associated with forming the district. These include holding a district election to authorize and then initiating the special tax assessment through coordination with the County Tax Assessor. The district will also need to prepare by-laws and other operational documents such as procedures for meetings and actions, accounting and so forth. They intend to engage a district manager who may assist with the formation tasks and who will provide day-to-day district management and initiate a planning process for the downtown issues that were not addressed during this formation period.

Planning for enhanced municipal services would be at the pleasure of the district board in terms of what gets planned, the priority, process, solutions, and so forth. It is believed that the City as a district property owner, as a partner, and as the current purveyor of services, would have a key role in this process. The City should also expect that solutions to complex issues such as parking or event management require City involvement. This suggests that as these items are addressed, future negotiations and agreements with the district should be anticipated.

Per ARS, a required component of a Revitalization District is a capital improvement project. Such a project must be a high priority in order to maintain the integrity of the district formation. The stakeholders have a variety of identified needs such as repairing the pavers, repairing the tree rings, repainting the street poles, new benches, and others.

These materials are intended to give the City Council necessary background and general information for decision making relative to the whole endeavor. However, the current action, consideration of Resolution No. 2014-03: A resolution of the City Council of the City of Flagstaff, Arizona, declaring its intention to form the *"Flagstaff Downtown Business Improvement and Revitalization District," a Special Taxing District, and providing for a Public Hearing prior to formation of the District to consider any objections of property owners.* (Attached – "2014 Resolution") only starts the process outlined above under "Next Steps Required for Formation". The current action does NOT form the district.

Finally, regarding the *"Petitions for Adoption of a Resolution Declaring the Intention to Form the Flagstaff Downtown Business Improvement and Revitalization"*:

The City of Flagstaff is currently the property owner of eleven properties within the boundaries of the proposed district. If the City Council desires, like other property owners, the City of Flagstaff is entitled to execute (sign) the petition that initiates the formal district formation process (Attached – "Petition"). Note that signing the petition does NOT form the district. Signing the petition only signifies that in the role of property owner, the City Council requests that the formation process be initiated.

Coconino County is very much in the same position as the City in this matter. While they are counted as a "no" vote in the petitions (petition not executed), on December 12, 2014, Matt Ryan, Chair of the Board of Supervisors, provided a letter (Attached – "County Letter") indicating the County's intent to participate in the District and to provide financial support as if they were subject to assessment (subject to certain legal limitations).

Expanded Financial Considerations:

A substantial amount of staff time and some funding has been expended over the last eight years to get to this point. These expenses have been drawn against the BBB - Economic Development and BBB - Beautification funds.

The actions currently before the City Council have limited direct cost implications for the City. The City will incur administrative expenses related to providing a City Clerk and Treasurer for the district until replacements are approved by the governing board of the district.

However, staff anticipates that should the City Council choose to proceed with the district formation,

there will be a request from the downtown property owners for initial funding and ongoing funding for the district. Staff will provide more information and recommendations for funding, probably in the form of a Memorandum of Understanding to be considered on February 4, 2014.

Community Benefits and Considerations:

In itself, downtown is a significant component of the City's sales tax (7.5%), BBB Tax (15%), and property tax revenues. The total assessed value of downtown is approximately \$54 million, slightly less than all of Flagstaff's principle tax payers *combined*. Flagstaff's principal tax payers include APS, W L Gore, Fidelity National Title Insurance, Qwest, Nestle-Purina, the Flagstaff Mall, Walgreens, Consolidated Investments, Hopi Tribe Economic Development Corp., and SACO Management.

But the economic impact of downtown is far greater than the taxes generated within the district itself. Downtown is the most-visited attraction in the City, visited by more than 70% of our four million visitors. These visitors visit other attractions, stay in hotels, eat in restaurants, and shop in other areas of the City as well, leveraging the impact of downtown on Flagstaff's economy.

The general economic vitality and the visitor experience of the district is not well served by ad hoc downtown management. Further, as the district develops and develops strategic and long range plans, they will address other issues (such as maintenance) that are direct contributors to the economic well being of the district. Thus while forming a district is a mechanism to improve the economic vitality of the district, it also benefits the entire City.

Community Involvement:

Collaborate

As noted, during the first phase of the current effort, stakeholder, community, and partner outreach was extensive. The geographic outreach was from Columbus Avenue to Butler Avenue and from somewhere west of City Hall to Elden Street. The working groups included nearly seventy people and public meetings were noticed by mail to nearly 3,300 property owners. This outreach generally framed the district boundaries and the goals to be achieved.

Having identified the general district boundaries and the included stakeholders, community involvement shifted to working with the stakeholders on a more one-on-one basis. This outreach solidified that the plan should be simple and that district formation was the essential goal. On the basis of the proposed simple plan, much of the outreach to adjoining districts was no longer warranted.

The last phase has been focused on wrapping up the effort, documenting the proposal, and seeking commitment from property owners. Community outreach included the property owners – fifty-four individuals and companies and two government agencies.

In addition to informal updates from stakeholders and management, staff has periodically made in-progress presentations at City Council work sessions and provided memo (CCR) updates from time to time.

Expanded Options and Alternatives:

1. Authorize execution of the petition for formation, and adopt the resolution initiating district formation process (Recommended).
2. Do not authorize execution of the petition for formation, and adopt the resolution initiating district formation process.

3. Do not authorize execution of the petition for formation, do not adopt resolution initiating district formation process, and provide additional or alternative direction regarding district management or formation.

The stakeholders and staff acknowledge that while their actions since have been per the City Council direction provided in Resolution No. 2008-05: A resolution adopting the Downtown Flagstaff Management Plan, the outcome is different than expected. The process did not yield a comprehensive downtown management plan that addressed certain issues. The stakeholders and staff believe that the process was more important than the outcome and that the proposal will yield the desired outcome, albeit by a different path. That being said, if a comprehensive downtown management plan is desired before or in association with a solution such as forming a downtown management district, the City Council should direct staff and the stakeholders accordingly.

Similarly, if the City Council finds the current proposal lacking in some aspect, the City Council should direct staff and the stakeholders accordingly.

4. Do not authorize execution of the petition for formation, do not adopt resolution initiating district formation process.

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- Attachments: [2008 Resolution](#)
 [Map](#)
 [General Plan](#)
 [Certificate](#)
 [2014 Resolution](#)
 [Petitions](#)
 [County Letter](#)
 [Foundational reading](#)
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Form Review

Inbox	Reviewed By	Date
Legal Assistant	Vicki Baker	01/02/2014 09:07 AM
Senior Assistant City Attorney AW	Anja Wendel	01/02/2014 10:25 AM
Economic Vitality Director	Stacey Button	01/02/2014 01:20 PM
DCM - Jerene Watson	Elizabeth A. Burke	01/02/2014 05:07 PM
DCM - Josh Copley	Josh Copley	01/03/2014 10:13 AM
Legal Assistant	Vicki Baker	01/02/2014 09:07 AM
Senior Assistant City Attorney AW	Anja Wendel	01/02/2014 10:25 AM
Economic Vitality Director	Stacey Button	01/02/2014 01:20 PM
DCM - Josh Copley	Josh Copley	01/03/2014 10:13 AM
Form Started By: Karl Eberhard		Started On: 12/20/2013 09:09 AM
Final Approval Date: 01/03/2014		