

FINAL AGENDA

REGULAR COUNCIL MEETING
TUESDAY
FEBRUARY 21, 2017

COUNCIL CHAMBERS
211 WEST ASPEN AVENUE
4:30 P.M. AND 6:00 P.M.

4:30 P.M. MEETING

Individual Items on the 4:30 p.m. meeting agenda may be postponed to the 6:00 p.m. meeting.

1. **CALL TO ORDER**

NOTICE OF OPTION TO RECESS INTO EXECUTIVE SESSION

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that, at this regular meeting, the City Council may vote to go into executive session, which will not be open to the public, for legal advice and discussion with the City's attorneys for legal advice on any item listed on the following agenda, pursuant to A.R.S. §38-431.03(A)(3).

2. **ROLL CALL**

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

MAYOR EVANS
VICE MAYOR WHELAN
COUNCILMEMBER BAROTZ
COUNCILMEMBER MCCARTHY

COUNCILMEMBER ODEGAARD
COUNCILMEMBER OVERTON
COUNCILMEMBER PUTZOVA

3. **PLEDGE OF ALLEGIANCE AND MISSION STATEMENT**

MISSION STATEMENT

The mission of the City of Flagstaff is to protect and enhance the quality of life for all.

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

- A. **Consideration and Approval of Minutes:** City Council Regular Council Meeting of January 17, 2017, and February 7, 2017.

5. **PUBLIC PARTICIPATION**

Public Participation enables the public to address the Council about an item that is not on the agenda. Comments relating to items that are on the agenda will be taken at the time that the item is discussed. If you wish to address the Council at tonight's meeting, please complete a comment card and submit it to the recording clerk as soon as possible. Your name will be called when it is your turn to speak. You may address the Council up to three times throughout the meeting, including comments made during Public Participation. Please limit your remarks to three minutes per item to allow everyone an opportunity to speak. At the discretion of the Chair, ten or more persons present at the meeting and wishing to speak may appoint a representative who may have no more than fifteen minutes to speak.

6. **PROCLAMATIONS AND RECOGNITIONS**

7. **APPOINTMENTS**

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that the City Council may vote to go into executive session, which will not be open to the public, for the purpose of discussing or considering employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee, or employee of any public body...., pursuant to A.R.S. §38-431.03(A)(1).

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

RECOMMENDED ACTION:

Make three appointments to terms expiring January 2020.

B. **Consideration of Appointments:** Disability Awareness Commission.

RECOMMENDED ACTION:

Make four appointments to terms expiring March 2020.

C. **Consideration of Appointments:** Parks and Recreation Commission.

RECOMMENDED ACTION:

Make one appointment to a term expiring August, 2018.

8. **LIQUOR LICENSE PUBLIC HEARINGS**

A. **Consideration and Action on Liquor License Application:** Stephen Buysse, "Famous Pizza & Beer", 104 E. Route 66, Series 12 (restaurant), New License.

RECOMMENDED ACTION:

Hold the Public Hearing; absent any valid concerns received from the public hearing, staff recommends the Council forward a recommendation for approval to the State.

- B. Consideration and Action on Liquor License Application:** Jeffrey Miller, "Collins Irish Pub & Eatery", 2 N. Leroux St., Series 06 (bar - all spirituous liquor), Person and Location Transfer.

RECOMMENDED ACTION:

Hold the Public Hearing; absent any valid concerns received from the public hearing, staff recommends the Council forward a recommendation for approval to the State.

- C. Consideration and Action on Liquor License Application:** Mark Russell, "Oregano's Pizza Bistro", 980 Country Club Drive, Series 12 (restaurant), New License.

RECOMMENDED ACTION:

Hold the Public Hearing; absent any valid concerns received from the public hearing, staff recommends the Council forward a recommendation for approval to the State.

9. CONSENT ITEMS

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

- A. Consideration and Approval of Street Closure(s):** Flagstaff Earth Day 2017

RECOMMENDED ACTION:

Approve the street closure at Aspen Avenue between San Francisco Street and Leroux Street on Saturday, April 22, 2017, from 7:00 a.m. to 4:00 p.m.

- B. Consideration and Approval of Purchase Agreement:** Purchase and Sale Agreement between the City of Flagstaff and FMH Enterprises, LLC for right-of-way acquisition along Humphreys Street (across from Wheeler Park, adjacent to future Marriott Residence Inn).

RECOMMENDED ACTION:

Approve the Purchase Agreement.

10. ROUTINE ITEMS

RECESS

6:00 P.M. MEETING

RECONVENE

NOTICE OF OPTION TO RECESS INTO EXECUTIVE SESSION

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11. ROLL CALL

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

MAYOR EVANS

VICE MAYOR WHELAN

COUNCILMEMBER BAROTZ

COUNCILMEMBER MCCARTHY

COUNCILMEMBER ODEGAARD

COUNCILMEMBER OVERTON

COUNCILMEMBER PUTZOVA

12. PUBLIC PARTICIPATION

13. CARRY OVER ITEMS FROM THE 4:30 P.M. AGENDA

14. PUBLIC HEARING ITEMS

15. REGULAR AGENDA

- A. Discussion/Action:** Current Issues Before Arizona Legislature and Federal Issues

16. DISCUSSION ITEMS

- A.** Overview of City of Flagstaff Housing Programs and Services

17. COUNCIL LIAISON REPORTS

18. FUTURE AGENDA ITEM REQUESTS

After discussion and upon agreement by a majority of all members of the Council, an item will be moved to a regularly-scheduled Council meeting.

- A. Future Agenda Item Request (F.A.I.R.):** A request by Councilmember Putzova to place on a future agenda a discussion on the use of reclaimed water for non-recreational purposes.

- B. **Future Agenda Item Request (F.A.I.R.):** A request by Vice Mayor Whelan to place on a future agenda discussion of the use and design of Wheeler Park.

19. **INFORMATIONAL ITEMS AND REPORTS FROM COUNCIL AND STAFF, FUTURE AGENDA ITEM REQUESTS**

20. **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 _____, 2017.

Elizabeth A. Burke, MMC, City Clerk

4. A.

CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Elizabeth A. Burke, City Clerk
Date: 02/17/2017
Meeting Date: 02/21/2017



TITLE

Consideration and Approval of Minutes: City Council Regular Council Meeting of January 17, 2017, and February 7, 2017.

RECOMMENDED ACTION:

Amend/approve the minutes of the City Council Regular Council Meeting of January 17, 2017, and February 7, 2017.

EXECUTIVE SUMMARY:

Minutes of City Council meetings are a requirement of Arizona Revised Statutes and, additionally, provide a method of informing the public of discussions and actions being taken by the City Council.

INFORMATION:

COUNCIL GOAL

8. Improve effectiveness of notification, communication, and engagement with residents, neighborhoods and businesses and about City services, programs, policies, projects and development

Attachments: [01.17.2017.CCRM.Minutes](#)
[02.07.2017.CCRM.Minutes](#)

CITY COUNCIL REGULAR MEETING
TUESDAY, JANUARY 17, 2017
COUNCIL CHAMBERS
211 WEST ASPEN
4:00 P.M. AND 6:00 P.M.

1. **CALL TO ORDER**

Mayor Evans called the meeting of January 17, 2017, to order at 4:00 p.m.

NOTICE OF OPTION TO RECESS INTO EXECUTIVE SESSION

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that, at this regular meeting, the City Council may vote to go into executive session, which will not be open to the public, for legal advice and discussion with the City's attorneys for legal advice on any item listed on the following agenda, pursuant to A.R.S. §38-431.03(A)(3).

2. **ROLL CALL**

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

PRESENT:

ABSENT:

MAYOR EVANS
VICE MAYOR WHELAN
COUNCILMEMBER BAROTZ
COUNCILMEMBER MCCARTHY
COUNCILMEMBER ODEGAARD
COUNCILMEMBER OVERTON
COUNCILMEMBER PUTZOVA

NONE

Others present: City Manager Josh Copley and City Attorney Sterling Solomon.

3. **PLEDGE OF ALLEGIANCE AND MISSION STATEMENT**

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

MISSION STATEMENT

The mission of the City of Flagstaff is to protect and enhance the quality of life for all.

4. APPROVAL OF MINUTES FROM PREVIOUS MEETINGS

None

5. PUBLIC PARTICIPATION

Public Participation enables the public to address the Council about an item that is not on the agenda. Comments relating to items that are on the agenda will be taken at the time that the item is discussed. If you wish to address the Council at tonight's meeting, please complete a comment card and submit it to the recording clerk as soon as possible. Your name will be called when it is your turn to speak. You may address the Council up to three times throughout the meeting, including comments made during Public Participation. Please limit your remarks to three minutes per item to allow everyone an opportunity to speak. At the discretion of the Chair, ten or more persons present at the meeting and wishing to speak may appoint a representative who may have no more than fifteen minutes to speak.

None

6. PROCLAMATIONS AND RECOGNITIONS**7. APPOINTMENTS**

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that the City Council may vote to go into executive session, which will not be open to the public, for the purpose of discussing or considering employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee, or employee of any public body..., pursuant to A.R.S. §38-431.03(A)(1).

- A. Consideration of Appointments:** Planning and Zoning Commission.
Make two appointments to terms expiring December 2019.

Dr. Alex Martinez came forward to introduce himself, noting that he had applied for the Planning and Zoning Commission.

Moved by Councilmember Jim McCarthy, **seconded by** Vice Mayor Jamie Whelan to appoint Margo Wheeler to the Planning and Zoning Commission, term to expire December 2017.

Vote: 7 - 0 - Unanimously

Moved by Councilmember Charlie Odegaard, **seconded by** Councilmember Jim McCarthy to appoint Dr. Alex Martinez to the Planning and Zoning Commission, term to expire December 2019.

Vote: 7 - 0 - Unanimously

- B. Consideration of Appointments:** Water Commission

Moved by Councilmember Celia Barotz, **seconded by** Vice Mayor Jamie Whelan to appoint Ben Ruddell to the Water Commission, term to expire December 2019.

Vote: 7 - 0 - Unanimously

Moved by Mayor Coral J. Evans, **seconded by** Councilmember Charlie Odegaard to appoint Malcolm Alter to the Water Commission, term to expire December 2019.

Brief discussion was held on whether past employees of the City should be appointed to commissions.

Vote: 5 - 2

NAY: Councilmember Celia Barotz
Councilmember Scott Overton

C. Consideration of Appointments: Audit Committee

Moved by Councilmember Jim McCarthy, **seconded by** Councilmember Charlie Odegaard to appoint Margaret Penado to the Audit Commission, for an indefinite term.

Vote: 7 - 0 - Unanimously

8. LIQUOR LICENSE PUBLIC HEARINGS

A. Consideration and Action on Liquor License Application: Javier Melendez, "Tacos Los Altos West Side", 2500 S. Woodlands Village, Ste. 1, Series 12 (restaurant), New License.

Mayor Evans opened the public hearing on the liquor license application for Tacos Los Altos West Side. There being no public input, the public hearing was closed.

Moved by Mayor Coral J. Evans, **seconded by** Councilmember Scott Overton to forward a recommendation to the State for approval of the liquor license application.

Vote: 7 - 0 - Unanimously

9. CONSENT ITEMS

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

A. Consideration and Approval of Contract: Approve the construction contract with Capital Improvements, LLC. in the amount of \$2,590,575.00 for the Zuni Drive Improvements Project

Senior Project Manager Randy Groth reviewed the project. Councilmember Overton said that he had significant concern regarding past experiences with the proposed contractor. He asked staff what they had in place to hold this, and all contractors, to the timelines/expenses.

Mr. Groth said that they have guidelines articulated in the Maricopa Association of Governments (MAG) and Engineering Standards to follow the process and administer projects. He said that he worked with this contractor previously under a different name and they had a good project, on time and within budget.

Councilmember Overton asked that they keep the Council apprised of the status of the

project; he did not want to see similar problems as experienced on West/Arrowhead.

Councilmember Putzova asked staff to elaborate on how they could end up with such a range in the bid amounts. Mr. Groth said that when they saw such a large discrepancy he and Patrick Brown from Purchasing contacted the contractor. The Capital Improvements Engineer did an analysis of the bid tabulation sheet and found some efficiencies that others did not have, such as a very minimal mobilization costs. He said that they all believe this is a valid price.

Councilmember Odegaard asked if there was a possibility of change orders bringing the total amount higher than the second lowest bidder. Mr. Groth said that he has done this with the City for 13 years and 20 years elsewhere. They have every intention of staying within the contract amount. He said that as project manager it is his responsibility to ensure that it does not get to that point. Mr. Landsiedel added that it is the burden of the contractor to prove that a change order is needed.

Moved by Councilmember Jim McCarthy, **seconded by** Vice Mayor Jamie Whelan to approve the construction contract with Capital Improvements, LLC in the amount of \$2,590,575.00 and a contract time of 235 calendar days; approve Change Order Authority to the City Manager in the amount of \$239,000.00 (10% of the contract amount, less allowance); and authorize the City Manager to execute the necessary documents.

Vote: 7 - 0 - Unanimously

B. Consideration and Approval of Cooperative Contract: Pinal County RFP-142220 Cooperative Agreement with Point and Pay, City of Flagstaff Log number 2017-45

Moved by Councilmember Jim McCarthy, **seconded by** Councilmember Celia Barotz to approve the cooperative agreement for payment processing services for various City of Flagstaff locations (which may include additional locations at a later date) through the separately procured agreement between Pinal County and Point & Pay.

Vice Mayor Whelan said that knew they were going to discuss the issue of working with Wells Fargo due to their involvement in the Dakota Access Pipeline, and wondered if this contract would be impacted by that issue. She asked if they considered using Square or other types of services. Ms. Corder said that anyone can use that and it then becomes a security issue.

Vote: 7 - 0 - Unanimously

10. ROUTINE ITEMS

A. Consideration and Approval of Contract: Arts, Science, and Cultural Services Contract with Flagstaff Arts Council

Councilmember Overton said that he liked the new separation for administration fee. Mr. Eberhard said that the Legal Department has reviewed the contract and they were all pleased with the ability to do that. He noted that this approval would be for five years with three one-year extensions.

Moved by Councilmember Charlie Odegaard, **seconded by** Vice Mayor Jamie Whelan to approve the Service Agreement between the City of Flagstaff and the Flagstaff Arts Council; and approve and authorize the City Manager to execute the contract on behalf of the City

Vote: 7 - 0 - Unanimously

B. Consideration and Approval of Construction Contract: Rio de Flag Water Reclamation Plant, Aeration Blower Replacement Project

Project Manager Justin Emerick gave a brief review of the project which included:

RIO DE FLAG

BACKGROUND

Aeration blowers are required for wastewater treatment process

Original equipment is 24 years old

Existing constant speed vs. new adjustable speed

BID RESULTS

ENERGY SAVINGS & REBATES

Projected Energy Savings - \$126,000/ year

Payback Period Less Than 7.8 years

APS Rebates - \$113,450

Moved by Councilmember Scott Overton, **seconded by** Councilmember Charlie Odegaard to approve the construction contract with Mortenson Construction for the purchase and installation of new blower equipment at the Rio de Flag Water Reclamation Plant, for a total contract amount not to exceed \$1,102,000.00 and a 240 calendar day contract time; approve Change Order Authority to the City Manager in the amount of \$105,200.00 (10% of contract amount, less allowance; and authorize the City manager to execute the necessary documents

Vote: 7 - 0 - Unanimously

C. Consideration and Adoption of Resolution No. 2017-05: A resolution of the City Council of the City of Flagstaff authorizing signatures for checks and payment vouchers (**Authority to Sign Checks**)

Moved by Councilmember Eva Putzova, **seconded by** Councilmember Charlie Odegaard to read Resolution No. 2071-05 by title only.

Vote: 7 - 0 - Unanimously

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF AUTHORIZING SIGNATURES FOR CHECKS AND PAYMENT VOUCHERS, REPEALING PRIOR RESOLUTION, AND ESTABLISHING AN EFFECTIVE DATE

Moved by Councilmember Eva Putzova, **seconded by** Councilmember Charlie Odegaard to adopt Resolution No. 2017-05.

Vote: 7 - 0 - Unanimously

D. Consideration of Approval: Amendments to the City Council Rules of Procedure

City Clerk Elizabeth Burke reviewed the proposed changes to the Rules of Procedure, as previously discussed by the Council. Consensus of the Council was to keep Option One with regard to maintaining the Future Agenda Item Requests (F.A.I.R.) on the agenda. It was agreed, although not made part of the motion, that in order to move a F.A.I.R. item up on the calendar, it would require the agreement of four Councilmembers.

Moved by Councilmember Eva Putzova, **seconded by** Councilmember Charlie Odegaard to approve the changes proposed, which included: 1) changing the start time for Regular Meetings from 4:00 p.m. to 4:30 p.m.; 2) having the fourth Tuesday in a five-Tuesday month be used for a Special Work Session, possibly out in the community; 3) provide five minutes for speakers using the assistance of a translator; 4) changing the time from 10:00 p.m. to 9:30 p.m. for new agenda items requiring a vote to continue; 5) including a standing item on Regular Meetings for Council Liaison Reports; and 6) changing back to the old procedure for public hearings.

Vote: 7 - 0 - Unanimously

Moved by Councilmember Eva Putzova, **seconded by** Councilmember Charlie Odegaard to approve Change No. 5, which changed the number of Councilmembers required to move a F.A.I.R. item forward from 4 to 2, with Option One - that F.A.I.R. items remain on the agenda for transparency.

Vote: 6 - 1

NAY: Councilmember Scott Overton

E. Consideration of Creation of a Commission on Women's Issues.

Mayor Evans explained that she had asked the previous Council to move this item forward and while she believes it is still important, she would like to start the process by first asking the Diversity Commission to host a community forum to address women's issues, with appropriation facilitation, and then determine the best way to establish a Commission on Women's Issues.

Consensus of Council was to move forward in this direction.

F. Consideration and Possible Adoption of Council's 2017 Intergovernmental Priorities

City Manager Josh Copley reviewed the proposed 2017 Intergovernmental Priorities which had been developed based on past discussion with the Council. Brief discussion was held.

Moved by Vice Mayor Jamie Whelan, **seconded by** Councilmember Jim McCarthy to adopt the Council's 2017 Intergovernmental Priorities, including the discussion held this evening, as finalized in Exhibit A, attached hereto and made a part hereof.

Vote: 7 - 0 - Unanimously

RECESS

The 4:00 p.m. portion of the January 17, 2017, Council meeting recessed at 5:24 p.m.

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

The Regular Meeting of January 17, 2017, was reconvened at 6:03 p.m.

NOTICE OF OPTION TO RECESS INTO EXECUTIVE SESSION

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11. ROLL CALL

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

PRESENT:

MAYOR EVANS
VICE MAYOR WHELAN
COUNCILMEMBER BAROTZ
COUNCILMEMBER MCCARTHY
COUNCILMEMBER ODEGAARD
COUNCILMEMBER OVERTON
COUNCILMEMBER PUTZOVA

ABSENT:

NONE

Others present: City Manager Josh Copley and City Attorney Sterling Solomon.

12. PUBLIC PARTICIPATION

None

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

None

14. PUBLIC HEARING ITEMS

- A. Public Hearing, Consideration and Adoption of Resolution No. 2017-04:** A resolution of the Flagstaff City Council amending the Flagstaff Regional Plan 2030 by amending Chapter 3 to change criteria under Major Plan Amendment Category 5 (Urban/Suburban/Rural) and establishing an effective date

Mayor Evans opened the Public Hearing.

Comprehensive Planning Manager Sara Dechter reviewed the proposed change to Chapter 3 which addressed the following:

MINOR AMENDMENTS TO THE FLAGSTAFF REGIONAL PLAN

Chapter 3: How This Plan Works

BRIEF BACKGROUND

MAJOR AMENDMENTS

PRESENTATION OUTLINE

EXAMPLES

Ms. Dechter reviewed different examples. She said that staff still believes that removing the acreage requirement makes it clearer. After further discussion Mayor Evans closed the public hearing.

Moved by Councilmember Scott Overton, **seconded by** Councilmember Eva Putzova to read Resolution No. 2017-04 by title only.

Vote: 7 - 0 - Unanimously

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA AMENDING THE FLAGSTAFF REGIONAL PLAN 2030 BY AMENDING CHAPTER 3 TO MODIFY THE DESCRIPTION OF CRITERIA FOR MAJOR PLAN AMENDMENTS CATEGORY 5 (URBAN/SUBURBAN/RURAL), AND ESTABLISHING AN EFFECTIVE DATE

Moved by Councilmember Scott Overton, **seconded by** Councilmember Eva Putzova to adopt Resolution No. 2017-04.

Vote: 7 - 0 - Unanimously

15. **REGULAR AGENDA**

A. **Ordinance Changes, Adoption of Fees, and Financing Relative to ParkFlag as follows**

Community Design and Redevelopment Manager Karl Eberhard briefly reviewed these items, as they have been discussed previously.

Management Services Director Rick Tadder said that as part of these items they are asking for authorization to go into debt for the project.

- i. **Consideration and Possible Adoption of Resolution No. 2017-02:** A resolution of the Flagstaff City Council declaring as a public record that certain document filed with the City Clerk and entitled "January 2017 Amendments to the Flagstaff Traffic Code."

Moved by Councilmember Eva Putzova, **seconded by** Vice Mayor Jamie Whelan to read Resolution No. 2017-02 by title only.

Vote: 7 - 0 - Unanimously

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND ENTITLED "JANUARY 2017 AMENDMENTS TO THE FLAGSTAFF TRAFFIC CODE"

- ii. **Consideration and Possible Adoption of Ordinance No. 2017-01:** An ordinance of the Flagstaff City Council amending the Flagstaff City Code, Title 9, *Traffic*, Sections 9-01-001-0003, *Stopping, standing and parking restrictions*; 9-01-001-0014, *Office of Parking Manager Created*; 9-01-001-0015, *Comprehensive parking management program special revenue fund created*, by adopting by reference that certain document entitled the "January 2017 Amendments to Flagstaff Traffic Code;" providing for penalties, repeal of conflicting ordinances; severability; and establish an effective date.

Moved by Councilmember Eva Putzova, **seconded by** Councilmember Charlie Odegaard to read Ordinance No. 2017-01 by title only for the first time.

Vote: 7 - 0 - Unanimously

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AMENDING THE FLAGSTAFF CITY CODE, TITLE 9 TRAFFIC SECTIONS 9-01-001-0003 STOPPING STANDING AND PARKING RESTRICTIONS, 9-01-001-0014 OFFICE OF PARKING MANAGER CREATED, 9-01-001-0015 COMPREHENSIVE PARKING MANAGEMENT PROGRAM SPECIAL REVENUE FUND CREATED BY ADOPTING BY REFERENCE THAT CERTAIN DOCUMENT ENTITLED "JANUARY 2017 AMENDMENTS TO FLAGSTAFF TRAFFIC CODE; PROVIDING FOR PENALTIES, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE

- iii. **Consideration and Possible Adoption of Resolution No. 2017-03:** A resolution of the Flagstaff City Council setting rates and adopting a fee schedule for Pay-to-Park and permit parking.

Moved by Councilmember Eva Putzova, **seconded by** Councilmember Charlie Odegaard to read Resolution No. 2017-03 by title only.

Vote: 7 - 0 - Unanimously

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, SETTING RATES AND ADOPTING A FEE SCHEDULE FOR PAY-TO-PARK AND PERMIT PARKING

- iv. **Consideration and Adoption of Ordinance No. 2017-02:** An ordinance of the Council of the City of Flagstaff, Coconino County, Arizona, approving the form and authorizing the execution and delivery of a non-bank-qualified, appropriation-based tax-exempt Master Equipment Lease-Purchase Agreement for certain equipment; delegating authority to the Management Services Director of the City to determine certain matters and terms with respect to the foregoing and authorizing the taking of all other actions necessary to the consummation of the transaction contemplated by this ordinance.

Moved by Councilmember Scott Overton, **seconded by** Councilmember Eva Putzova to read Ordinance No. 2017-02 by title only for the first time.

Vote: 7 - 0 - Unanimously

AN ORDINANCE OF THE COUNCIL OF CITY OF FLAGSTAFF, COCONINO COUNTY, ARIZONA, APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF A NON-BANK-QUALIFIED, APPROPRIATION-BASED TAX-EXEMPT MASTER EQUIPMENT LEASE-PURCHASE AGREEMENT FOR CERTAIN EQUIPMENT; DELEGATING AUTHORITY TO THE MANAGEMENT SERVICES DIRECTOR OF THE CITY TO DETERMINE CERTAIN MATTERS AND TERMS WITH RESPECT TO THE FOREGOING AND AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS ORDINANCE

16. DISCUSSION ITEMS

A. Discussion on Minimum Wage

The following individuals spoke in favor of calling a Special Election for May 2017:

- Liliana Pressley
- Merle Henderson
- Kim Kalas
- Kathleen Petty w/Ilene Cuthrell (sister)
- Alli Gomez
- Anthea Hajjar
- Joy Staveley
- Carl Jeffers
- Alexander Anderson
- Dino Dullbison, representing Flagstaff Area Lodging Association (FALA)
- Demetri Conway
- Laurie Bosse
- Monica Atttridge
- Richard Hargrove
- Stuart McDaniel
- Elisa (Lisa) Muscarella
- Cindy May
- Jacquie Kellogg

Comments received included: •What is the point of increasing minimum wage if they are not going to have jobs?

- Her colleagues are being fired and hours are being cut
- Her child requires 24/7 care; she's not able to eat by herself, walk, or speak
- Those that work with her children deserve a lot of money, but there's no funding
- Their funding will be removed from town
- Article in newspaper discussing economic improvement / minimum wage was counterproductive
- City has chosen to pull its members in the Chamber; concerning; wonders if one hand doesn't know what the other hand is doing, or if there is a reason for that he does not understand
- Distressed with what Prop 414 is doing to town
- Prop 414 has put at risk the most vulnerable of souls – negative impact to nonprofits
- Ugliness and lack of compassion expressed
- All of them want a living wage, but most of the businesses/employees have said that 414 is

not the answer

- She is not against having workers paid more, but the infrastructure is not there; the government gives them a certain amount of money
- Was not able to vote as she lives in Mountainaire, but she works and spends her money in Flagstaff
- Works for nonprofit; if it goes to \$12/hour they will have to close their doors
- Those receiving services will lose their homes, friends, community, staff and have to leave town
- Call for a Special Election; she volunteered to gather signatures
- The labor unions across Phoenix helped move forward Prop 414; there is nothing illegal about hiring people to gather signatures; they had a very short time frame
- Employees are losing jobs, hours, benefits.
- Her daughter is 59 and served by Hozhoni which is funded by the state, reimbursed at 72%.
- If Prop 414 goes into effect, there will be collateral damage
- Supported state minimum wage
- In 2008 found it necessary to get a part-time job at minimum wage; still has that job. With new City minimum wage they will have brand new hires making what he makes; it not fair
- How many of the 54% of voters that supported Prop 414 knew what they were voting for
- Urges the Council to find a way to support the nonprofits so they do not have to move away
- FALA supports the new initiative; Prop 414 is detrimental; they have already seen businesses close
- He immigrated in 1969 and eventually managed to acquire a hotel and progress himself.
- Supports staying with the state minimum wage, plus a CPI index increase
- The landowners will raise the rent
- Supports higher wages; need to take a pause with the state increase and see how it works out
- She resents people saying they are pitting the disabled against the low-income; they are not doing anything but stating facts
- Wages have already been raised through Prop 206
- They can partner with the community, but there is no way to raise the money the nonprofits need - \$45 to \$5 million a year
- Their industrywide job loss (nonprofits) in Flagstaff is 835 jobs.
- She is upset with being called a liar; she is willing to sit down anytime and have a frank discussion about the facts
- Does not understand why having a special election, where over 8,800 signatures were obtained, is any different than what they just did with Prop 414
- This is another initiative; how much time has to pass for it to be "democratic"?
- When the will of the majority overrides the needs of the minority, bad things happen
- Set up a social services division of the City of Flagstaff and the City can reimburse the difference
- They lobby for additional funding from the state all the time
- The Chamber was initially part of the lawsuit with Prop 206, but they withdrew
- Pitting one against the other is not helpful; boycotting small businesses is not helpful
- Worked five years for 40 hours a week for free with her business; looking to open a new restaurant and concerned that she is doing the right thing
- Had two local coffee businesses wanting to come in, but as soon as Prop 414 passed, they were turned down
- Cannot vote in election, but is a business owner. Understands the minimum wage issues and cost of living
- She lived in a tent with her two children before becoming a business owner
- Over 14,000 voted for Prop 414, but a good majority were NAU students
- Once the compounding effect of Prop 206 and 414 were understood, they got over 8,800

signatures asking for a special election

•Ignorance is not a defense, but what has come to light has made people become more aware.

The following individuals spoke against calling a Special Election and have Prop 414 stand:

- John Viktora
- S.U.R.G.
- Kim Yuhl
- Way Yuhl
- Dr. Robert Neustadt
- Brian Whitley
- Maria Becerra
- Frankie Beesley
- Sean Parson
- Caitlyn Hamza
- Elizabeth Douglass-Gallagher
- Christopher Rhode
- Kevin White
- Dr. George McGuire, PhD
- Gerando Alvarado
- Lizeth Rojas
- Marilyn Weissman
- Emily Davalos
- Marcus Ford
- Sandra Lubarsky
- Uncle Don B. Fanning
- Sallie Kladnik
- Debra Block
- Luis Fernandez
- Jenny Gildersleeve
- Dulce Madrid
- Andy Fernandez
- Jackie O'Clair Comments received included: •Difficult place to be – dilemma
- A special election is an anti-democratic request
- 75% of registered voters voted in the last election
- The initiative supporters hired a Phoenix firm and paid circulators; wrong to pay circulators
- People have already spoken
- Flagstaff is second, only behind New York City, in cost of living
- Is a small business owner and citizen; disheartened and appaled at the attempt to nullify Prop 414
- A vote for a special election says that if they have the money, they can buy an election
- She helps small business grow for a living; they have seen their online revenue increase
- There is hope; move forward with the new law
- They respect what the majority voted for and they need to move forward
- What is the motivation to vote at all if an election can be bought
- This is about doing the greater good for the greater number of people; need to raise minimum wage to be a living wage
- If people start earning more money they will spend that money and that will create more jobs
- With regard to nonprofits, suggest everyone put their energy in to finding ways to protect them; find funds for them
- Here to defend the right she has a worker to earn more

- Rent in Flagstaff is high; goes up every year
- Started working ten years ago in customer service at \$4.50/hour plus tips; now she makes \$4.55/hour plus tips; can't even think of taking a vacation
- Not asking for a favor; they work very hard at what they do and that makes the community strong
- Strongly supports Prop 414
- Over 50% of the voters that voted supported Prop 414
- Turnout is usually around 25% for special elections
- While the language of the new initiative does not say it, it is a repeal of the current law voted in by Prop 414
- Student at NAU and currently is a student worker
- NAU decided to keep their student workers at \$8.05 while the rest in the state goes up
- 78% of the students at NAU are below the poverty line
- NAU is run by student workers
- Many people who would like to show their support for 414 were unable to attend meeting because they are working
- Is a registered Republican; he voted against Prop 414, but any efforts to repeal or replace it would be a dangerous effort
- The election has been concluded; this debate should have been held prior to the election
- Putting it on the election in 2018 would be dangerous
- Most economic theories show that increases in minimum wage over long term are good for the economy; lost jobs do not usually happen
- It is obvious that Prop 414 has placed a great burden on the nonprofits and their services; that is a separate issue from the intent of Prop 414
- It behooves Council to step in and make sure those services continue
- There are children going to school without breakfast; parents working three jobs
- Implore the Council to put their heads together with community groups for social justice
- There are at least 500 families that are undocumented; hopes that Prop 414 remains in place
- People are excited about the increase in their wages, but more importantly, they are excited about the protect that Prop 414 provides
- There are actually people earning less than minimum wage, not being paid overtime, sick leave or any other benefit
- Companies do not want to increase; some of the hotel rooms might be \$400/night; that should be enough to give an increase in wages
- The work they do in hotels, no one else is going to do
- Chamber in Arizona and Flagstaff want to keep wages low
- \$12/hour is still living in poverty
- Nonprofits are a statewide problem; if Governor can't provide funds then they need a different Governor
- Some say this issue is tearing the community apart; he thinks it is bringing them together
- Lives and shops downtown; wants to know that the small business owners that she supports also support their workers
- Has done some research and talked with colleagues; most shows that increases in minimum wage had no impact on the businesses
- She understood what she was voting for

The following individuals spoke in favor of the Council adopting an ordinance to amend Prop 414, to slow down the process:

- Al White
- Armando Bernasconi
- Gus Miller

- Paul Deasy

Comments received included: •Could further the cause of 414 by modifying it

- Do not believe the intention of 414 was to close any business

- Extend the time limit for 414 to go into effect

- 414 was meant to help people out of poverty – remove the \$2/hour jump

- Supports amending current law

- Developmentally disabled will have to leave Flagstaff

- Part of Bridging Flagstaff

- They want to hold up the vote of the people, but help ease it in over time so it does not have a negative impact on businesses

- Some of them were involved with the Living Wage Coalition, but stepped out before they had even settled on the \$15/hour over five years

- They were talking with Elevate Flagstaff, but was surprised to see what was filed with the City

- The Bridging Flagstaff proposal furthers the purpose of the law, respecting the \$15/hour at five years, but eases the timeline.

In addition, comment cards were received from the following individuals supporting a Special Election:

- John M. Windfeldt

- Virginia Valadez

- Chad W. Mienar

- Brian Nance

- Nellie Lavin

- Richard Rogers

- Jason Distig

- Debbie Rogers

- Elisa (Lisa) Muscarella

- Jamie Thousand

- Rolanda A. Joe

- Mandy Brokaw

- Raelynn R. James

- Kathryn Peterson

- Peter S. Muscarella

Comment cards were received from the following individuals against a Special Election and maintaining Prop 414 as is:

- Jeanne M. Mack

- Dulce Madrid

- Paul Lenze

- Michael Chizhov

- Hailey Reeves

- Kelsey Morales

- Jody Clements

- Rom Coles

- Leslie Grabel

- Marianna Coles Curtos

- Mary E. Witlacil

- Dawn Dyer

- Elea Ziegelbaum

- Nina Porter
- Angelo Beys
- Leah Claus
- Sallie Kladnik
- Therese Umholtz
- Katy Harding
- Elaina M. Thompson
- Anthony Rodriguez
- Madison Ledgenwood
- Stacey Hamburg
- Luis Fernandez
- Evan Hawbaker
- Jack Meyer
- Kevin Shaw
- Kenneth A. Cruz
- Asholey Sargent
- Laura Longoria Anias
- Sierra Jones
- Reyna Y. Cardenas Carrasco
- Joanna Jaeger
- Richard Carl Frische
- Joseph Ukockis
- Mara Pfeffer
- Tyler Barnard
- Emily Melhorn
- Julianna Zangari
- Elizabeth Douglass-Gallagher
- Maria Leiva
- Silvia Esquivel
- Maria Ayala
- Lupe
- Brian Marbury
- Lois Hirst
- Devin Hubbard
- Paul Snyder
- Steve Hirst
- Jacob Erickson
- Yvonne Campbell
- Bernard Michels
- Nathanial D. Clinch
- Alejandra Espinosa
- Cassi L. Reynolds
- Sharon Baudelaire
- Dustin Wenger
- Kimberley Curtis
- Alejandra Becerra
- Carhlie Silver
- Selestyna Manning
- Lindsay
- Janna Campbell
- Kevin White

Councilmember Putzova said that they did not know until late summer that Prop 206 was going to pass as it was challenged by business interests.

Councilmember Odegaard said that he was sure that all of the Flagstaff residents could realize that the Council was in a tough position, and what they can do is very limited. He does realize that the City received over 8,800 signatures and it will have to go on the ballot in 2018, or before. He would not be in favor of postponing it until the 2018 election. He has also heard that Bridging Flagstaff has been trying to find a compromise. It is not fair to dismiss the concerns of businesses and the nonprofits. He thanked everyone for coming to the meeting and sending their e-mails. He said that they should have had this discussion six months ago.

Councilmember McCarthy said that he agreed that it was not a good idea to wait until November of 2018, but having it in May would be inappropriate. He thinks there are many in the community that would like to have some other option.

Vice Mayor Whelan thanked everyone for their input. She said that they have a lot to ponder and agreed that they would come up with a solution. She said that she would like to have a better understanding of why so many changes were made in the Elevate Flagstaff document after they all met.

Councilmember Overton said that they certainly have some opinions. They had a voter initiative petition submitted, and they should go through the process.

Mayor Evans said that they are not yet to a point of taking action. The purpose for tonight's agenda item was to hear from the community.

Brief discussion was held on the ability of questions asked by Council to be made public. Mr. Solomon said that it would depend on the question. Councilmember Barotz said that she did not want to compromise the Council's ability to get legal advice.

Councilmember Putzova reminded everyone that Prop 206 and 414 both passed; it is law and it goes into effect on July. The City is obligated to implement it before then. Mr. Copley said that they will begin the discussion of the budgetary impact at the budget retreat on Thursday.

Vice Mayor Evans said that, on behalf of the Council, they understand the level of fear in the community and the need for them to come up with a solution. She said that she wanted to correct one thing stated this evening. She said that 27,623 people voted on this issue, with 54% (or over 14,000 voters) in favor.

Moved by Councilmember Scott Overton, **seconded by** Councilmember Celia Barotz to finish the meeting as they were close to the end, but it was after the 9:30 p.m. deadline which required a vote to continue.

Vote: 7 - 0 - Unanimously

17. FUTURE AGENDA ITEM REQUESTS

After discussion and upon agreement by a majority of all members of the Council, an item will be moved to a regularly-scheduled Council meeting.

- A. **Future Agenda Item Request (F.A.I.R.):** A request by Councilmember Barotz to place on a future agenda consideration of Potable Water Rates for Businesses.

Councilmember Barotz said that the Council had recently reviewed the water rates, but she did not feel comfortable with that discussion and she did not get an accurate picture. She would like the council to revisit the issue of a tiered structure for businesses. Consensus of Council was to move this discussion forward.

- B. **Future Agenda Item Request (F.A.I.R.):** A request by Mayor Evans to place on a future agenda discussion of the Fair Chance Business Pledge.

Mayor Evans said that this request had to do with the re-entry population and making sure those individuals have not been cut out of the process. Consensus of Council as to move this item forward.

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

Councilmember Barotz voiced concern with cancelling of meetings and then trying to reschedule them. She asked that in the future such discussion take place at the dais rather than through e-mail.

Mr. Copley said that staff was offering to have a work session/special meeting on February 14, in lieu of one of the days of the retreat.

Vice Mayor Whelan reported that she was headed to Sedona later in the week for a Northern Arizona Municipal Water Users Association (NAMWUA) meeting.

Councilmember Odegaard said, with regard to the trash left in the forest by sledders, that the City should be a partner and provide dumpsters. He believed that people would do the right thing if the opportunity was there.

Mayor Evans said, in follow-up to Councilmember Odegaard's comments, that she would like to be able to ticket people that leave their trash.

It was also noted that a written request had been submitted asking for an update on the Wildwood Hills flooding issue.

19. **ADJOURNMENT**

The Regular Meeting of the Flagstaff City Council held January 17, 2017, adjourned at 10:28 p.m.

MAYOR

CITY CLERK**CERTIFICATION**

I, ELIZABETH A. BURKE, do hereby certify that I am the City Clerk of the City of Flagstaff, County of Coconino, State of Arizona, and that the above Minutes are a true and correct summary of the Meeting of the Council of the City of Flagstaff held on January 17, 2017. I further certify that the Meeting was duly called and held and that a quorum was present.

DATED this 21st day of February, 2017.

CITY CLERK

CITY COUNCIL REGULAR MEETING
TUESDAY, FEBRUARY 7, 2017
COUNCIL CHAMBERS
211 WEST ASPEN
4:30 P.M. AND 6:00 P.M.

1. **CALL TO ORDER**

Mayor Evans called the meeting of the Flagstaff City Council held February 7, 2017, to order at 4:30 p.m.

NOTICE OF OPTION TO RECESS INTO EXECUTIVE SESSION

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that, at this regular meeting, the City Council may vote to go into executive session, which will not be open to the public, for legal advice and discussion with the City's attorneys for legal advice on any item listed on the following agenda, pursuant to A.R.S. §38-431.03(A)(3).

2. **ROLL CALL**

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

PRESENT:

ABSENT:

MAYOR EVANS
VICE MAYOR WHELAN
COUNCILMEMBER BAROTZ
COUNCILMEMBER MCCARTHY
COUNCILMEMBER ODEGAARD
COUNCILMEMBER OVERTON
COUNCILMEMBER PUTZOVA

NONE

Others present: City Manager Josh Copley and City Attorney Sterling Solomon.

3. **PLEDGE OF ALLEGIANCE AND MISSION STATEMENT**

The audience and City Council recited the Pledge of Allegiance and Councilmember Putzova read the Mission Statement of the City of Flagstaff.

MISSION STATEMENT

The mission of the City of Flagstaff is to protect and enhance the quality of life for all.

4. APPROVAL OF MINUTES FROM PREVIOUS MEETINGS

- A. Consideration and Approval of Minutes:** City Council Regular Council Meeting of December 6, 2016; the Joint Work Session of December 12, 2016; the Special Council Meeting (Executive Session) of December 13, 2016; the Work Session of December 13, 2016; and the Regular Council Meeting of December 20, 2016.

Moved by Councilmember Scott Overton, **seconded by** Councilmember Jim McCarthy to approve the minutes of the City Council Regular Council Meeting of December 6, 2016; the Joint Work Session of December 12, 2016; the Special Council Meeting (Executive Session) of December 13, 2016; the Work Session of December 13, 2016; and the Regular Council Meeting of December 20, 2016.

Vote: 7 - 0 - Unanimously

5. PUBLIC PARTICIPATION

Public Participation enables the public to address the Council about an item that is not on the agenda. Comments relating to items that are on the agenda will be taken at the time that the item is discussed. If you wish to address the Council at tonight's meeting, please complete a comment card and submit it to the recording clerk as soon as possible. Your name will be called when it is your turn to speak. You may address the Council up to three times throughout the meeting, including comments made during Public Participation. Please limit your remarks to three minutes per item to allow everyone an opportunity to speak. At the discretion of the Chair, ten or more persons present at the meeting and wishing to speak may appoint a representative who may have no more than fifteen minutes to speak.

Paul Deasy addressed Council urging them to take an immediate and direct vote on amendments to Proposition 414.

6. PROCLAMATIONS AND RECOGNITIONS

None

7. APPOINTMENTS

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that the City Council may vote to go into executive session, which will not be open to the public, for the purpose of discussing or considering employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee, or employee of any public body...., pursuant to A.R.S. §38-431.03(A)(1).

None

8. LIQUOR LICENSE PUBLIC HEARINGS

None

9. CONSENT ITEMS

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

Moved by Councilmember Jim McCarthy, **seconded by** Councilmember Eva Putzova to approve items 9A, 9D and 9E.

Vote: 7 - 0 - Unanimously

- A. Consideration and Approval of Contract:** Approval of an Intergovernmental Agreement (IGA) between the City of Flagstaff and the City of Winslow for the use of the Materials Recovery Facility (MRF) for recycling collection services.
Approve the Intergovernmental Agreement (IGA) between the City of Flagstaff and the City of Winslow allowing the City of Winslow to utilize the Material Recovery Facility (MRF) for recycling collection services.

- B. Consideration and Approval of Contract:** Service Agreement for Refuse and Recycling Collection (Service Agreement) between the City of Flagstaff and Arizona Board of Regents for and on behalf of Northern Arizona University (NAU).

Public Works Director Andy Bertelsen stated that the City has been providing solid waste services to NAU since 1995. This contract is based on a 2005 agreement with NAU and the pricing has been renegotiated. He stated that the tonnage received from NAU assists the City in getting closer to the minimum tonnage amount required by Norton as NAU is one of the best recyclers in the community.

Councilmember Barotz asked if there are other commercial customers that do not pay 100% of the cost. Mr. Bertelsen stated that there are other bulk contracts in the community and the City now offers a competitive multi-residential rate as well. The discounts are possible because the City is able to get more tonnage with one commercial pull rather than single residential pulls.

Councilmember Barotz pointed out that the CPI was removed from the contract and expressed concern about not being able to collect any increase in the fees. Mr. Bertelsen offered that the feedback that was received from the larger customers was issues with the CPI. Councilmember Putzova offered similar concerns with the removal of the CPI. Deputy City Manager Shane Dille offered that there was a recent legislative change that opened up the solid waste market and the City is no longer the only operation in town. This contract is important to City operations and it helps with the contractual obligations with Norton. Regardless of who picks up the trash most ends up at the City landfill so it is important to maintain the City accounts and manage the solid waste internally.

Moved by Vice Mayor Jamie Whelan, **seconded by** Councilmember Charlie Odegard to approve the Service Agreement between the City of Flagstaff and the Arizona Board of Regents for and on behalf of Northern Arizona University.

Vote: 7 - 0 - Unanimously

- C. **Consideration and Approval of Cooperative Contract:** Purchase of Toter, Inc.'s residential trash and recycle containers utilizing the City of Tucson Cooperative Contract (Contract No. 120576-01).

Councilmember McCarthy asked if the plan is to replace good trash containers or if it is a phased approach with replacing containers after they are lost or damaged. Mr. Bertelsen explained that it is both; there is already a replacement plan in place for all trash and recycling containers. As there are new developments coming in there is a need for more containers to service those areas. Additionally, the City wants to increase overall recycling and changing the containers to blue makes them more distinguishable and blue is the universal color for recycling. Councilmember McCarthy stated that new developments and damaged containers make sense for replacement but he feels that replacing useable containers is a waste of money. Mr. Bertelsen offered that containers can be refurbished and used throughout the community and they will get put to use if there is still life to them.

Moved by Councilmember Charlie Odegaard, **seconded by** Councilmember Scott Overton to approve the purchase of 1,248 residential trash and recycle containers from Toter Inc. utilizing the City of Tucson Cooperative Contract (Contract No. 120576-01) for a total dollar amount of \$67,280.

Vote: 7 - 0 - Unanimously

- D. **Consideration and Approval of Final Plat:** Request from Miramonte Arizona, LLC, for the subdivision of approximately 0.28 acres into four single-family residential lots located at 623 W Santa Fe Avenue, within the Single-family Residential Neighborhood (R1N) Zone. ***(Final Plat of Walnut Cottages by Miramonte)***

Staff recommends the City Council approve the final plat and authorize the Mayor to sign both the final plat and City/Subdivider Agreement when notified by staff that all conditions have been met and documents are ready for recordation.

- E. **Consideration and Approval of a Preliminary Plat** for Tract A of the Presidio in the Pines consisting of 42 single-family residential townhome lots on approximately 4.8 acres located at 2884 W Presidio Drive within the Highway Commercial (HC) zone. Request by Mogollon Engineering and Surveying, Inc., on behalf of Miramonte Presidio LLC.

The Planning and Zoning Commission recommends approving the preliminary plat subject to the three conditions listed in the attached Conditional Use Permit (PZ-15-00170-02).

10. **ROUTINE ITEMS**

- A. **Consideration and Approval of Contract Modification:** Modification One to Flagstaff Watershed Protection Project (FWPP): Supplemental Project Agreement (SPA) (13-PA-11030420-013) with the US Forest Service (USFS).

Flagstaff Watershed Protection Project Manager Paul Summerfelt stated that this is a modification to a Supplemental Project Agreement that allows for work in Dry Lake Hills area. It is required work for layout and marking of the entire area before a contract can be issued for thinning to be done.

Moved by Councilmember Charlie Odegaard, **seconded by** Councilmember Scott Overton to approve Modification #1 to Flagstaff Watershed Protection Project (FWPP) Supplemental Project Agreement (SPA) 13-PA-11030420-013 with the US Forest Service (USFS).

Vote: 7 - 0 - Unanimously

B. Consideration and Approval of Contract: Lockett Road Corridor Study Project.

Development Engineering Project Manager Amy Hagin explained that the study is to provide long term solutions to the corridor along Lockett Road. It will provide technical and illustrative plans that incorporate streetscape enhancements, bicycle and pedestrian safety, public transit facilities, multi-modal transportation, and residential property impacts.

Vice Mayor Whelan stated that the study only addresses a piece of Lockett Road rather than the entire piece; she asked why the the entire roadway is not being included. City Engineer Rick Barrett offered that budget is a big factor in why it is only a section of Lockett Road. He offered that this section was highlighted as it interacts with Bushmaster Park and there is other interest and projects from FMPO and NAIPTA in the area as well. Vice Mayor Whelan suggested that the entire roadway be included in the study. Mr. Copley offered that the scope of the project also limits the project and if the scope is expanded there may be some procurement issues that would need to be addressed.

Mayor Evans offered that she would like to make sure that the consultant communicates and engages with the residents as well as the people that utilize the road. She does not want to repeat the issues that were created with the Fourth Street study. She asked for information on how that engagement strategy will be conducted. There was lack of political will to move forward with the recommendations of the Fourth Street study. The vendor did not engage all shareholders, the neighborhood came out and developed a plan but the people who use the street who were not included and did not want to see the recommendations implemented. The community engagement is vital so when the study comes to Council there are not groups campaigning against it.

Councilmember Odegaard stated that the Fourth Street study was around \$280,000 and it was never used; he is hesitant to spend money on a study that may not get used.

Councilmember Barotz stated that a lot was learned with the Fourth Street study and engaging Council throughout the process of this study would be helpful and allow feedback at certain points along the way. If the study could get to Council with community support that would be the best situation. Mayor Evans added that the consultant should be able to answer what is tolerable to the neighborhood, what is politically tolerable and what is financially tolerable.

Councilmember McCarthy asked if it would it be possible to approve the contract and have staff provide an amendment to include the other pieces of Lockett Road. Senior Procurement Specialist Patrick Brown offered that the contract can be approved and a change order can be issued with a 25% scope change as is allowed by Arizona Revised Statutes but that is contingent on the budget and funding available. Mr. Solomon explained that there could be legal issues related to procurement even if the change order does not exceed 25%.

Moved by Councilmember Eva Putzova, **seconded by** Councilmember Scott Overton to approve the contract with Kimley-Horn and Associates, Inc. for professional services to conduct a study of the Lockett Road corridor for a total contract amount of \$99,972 and authorize the City Manager to execute the necessary documents.

Vote: 5 - 2

NAY: Councilmember Charlie Odegaard
Vice Mayor Jamie Whelan

C. Consideration and Approval of Contract: Modification to Intergovernmental Agreement (IGA) Between The State of Arizona Department of Revenue and City of Flagstaff (***related to State Administration of Local Sales Tax***).

Interim Revenue Director Sandy Corder explained that the modification is to clarify and modify the agreement between the State and the City.

Councilmember Putzova stated that the State has a lot of leverage over the City by requiring their handling of sales tax collection. She asked what could happen if the agreement is not approved. Ms. Corder explained that the agreement allows the State to answer questions from tax payers about the Model City Tax Code; if the agreement is not approved it could delay the revenues the City receives.

Councilmember Overton offered that as a business owner he can see the value in having to only file one return. It is all still the City's monies and he wants to be confident that Flagstaff is receiving those monies in a timely fashion and in the same thresholds as before. The City needs to be proactive in how it responds to its tax payers and offer resources to answer questions since it is in the interest of the City that they file accurate and timely returns. He hopes that the City is a partner to the business community in easing this transition. Ms. Corder agreed and stated that staff is available and on the phone daily providing support.

Moved by Councilmember Jim McCarthy, **seconded by** Councilmember Scott Overton to approve Modification to IGA with Arizona Department of Revenue effective July 1, 2016.

Vote: 7 - 0 - Unanimously

D. Consideration and Approval of Contract: Approve the construction contract with Spectra Electrical Services, Inc. in the amount of \$580,136.00 for the replacement of the main electrical power distribution equipment for the Lake Mary Water Treatment Plant.

Water Production Manager Thomas Bolyen stated that the contract will allow for a much needed electrical upgrade at the Lake Mary Water Treatment Plant. The current system was installed in 1961; the replacement would bring the system up to current codes and standards and make the plant more reliable in the future.

Moved by Councilmember Charlie Odegaard, **seconded by** Vice Mayor Jamie Whelan to approve the construction contract with Spectra Electrical Services, Inc. in the amount of \$580,136.00 and a contract period of 182 calendar days; approve Change Order Authority to the City Manager in the amount of \$53,013.60 (10% of the contract amount, less allowance); and authorize the City Manager to execute the necessary documents.

Vote: 7 - 0 - Unanimously

RECESS

Mayor Evans recessed the 4:30 p.m. portion of the Regular Meeting of February 7, 2017, at 5:40 p.m.

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

Mayor Evans reconvened the 6:00 p.m. portion of the Regular Meeting of February 7, 2017, at 6:00 p.m.

NOTICE OF OPTION TO RECESS INTO EXECUTIVE SESSION

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that, at this regular meeting, the City Council may vote to go into executive session, which will not be open to the public, for legal advice and discussion with the City's attorneys for legal advice on any item listed on the following agenda, pursuant to A.R.S. §38-431.03(A)(3).

11. ROLL CALL

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

PRESENT:**ABSENT:**

MAYOR EVANS
VICE MAYOR WHELAN
COUNCILMEMBER BAROTZ
COUNCILMEMBER MCCARTHY
COUNCILMEMBER ODEGAARD
COUNCILMEMBER OVERTON
COUNCILMEMBER PUTZOVA

NONE

Others present: City Manager Josh Copley and City Attorney Sterling Solomon.

12. PUBLIC PARTICIPATION

The following individuals addressed Council regarding Proposition 414:

- John Victora
- Susanne Kovacs
- Gabor Kovacs
- Kristen Cornette

The following comments were received:

- If a May election is done, NAU students will not be here and an entire group of people will be disenfranchised.
- There is an effort to control income, there should be an equal effort to control housing costs.
- A special election is needed sooner rather than later.
- Many families will be negatively impacted by Proposition 414 and waiting for a

November 2018 election will be detrimental.

- Councilmember Putzova should recuse herself from any discussion or decisions regarding Proposition 414 as a conflict of interest.
- The Council has a duty to acknowledge the citizen initiative and conduct a special election to its regard.

Written comment cards regarding Proposition 414 were submitted by the following:

- David Dobrick
- Valarie Langin
- Anthea Hajjar

Councilmember Putzova responded to the comments against her stating that she does have an interest in Proposition 414 but there is not a pecuniary interest that would require her to declare a conflict. She offered that living wage is the core of the platform in which she was elected to Council. There are many in the community that believe that Flagstaff wages do not allow for them to live above poverty.

Bryan Burton addressed the Council with concerns surround the lack of enforcement of the City's Winter Parking Ordinance within the Ponderosa Trails community.

13. CARRY OVER ITEMS FROM THE 4:30 P.M. AGENDA

None

14. PUBLIC HEARING ITEMS

None

15. REGULAR AGENDA

A. Ordinance Changes, Adoption of Fees, and Financing Relative to ParkFlag as follows

- i. **Consideration and Possible Adoption of Resolution No. 2017-02:** A resolution of the Flagstaff City Council declaring as a public record that certain document filed with the City Clerk and entitled "January 2017 Amendments to the Flagstaff Traffic Code."

Moved by Councilmember Eva Putzova, **seconded by** Councilmember Jim McCarthy to adopt Resolution No. 2017-02.

Vote: 7 - 0 - Unanimously

- ii. **Consideration and Possible Adoption of Ordinance No. 2017-01:** An ordinance of the Flagstaff City Council amending the Flagstaff City Code, Title 9, *Traffic*, Sections 9-01-001-0003, *Stopping, standing and parking restrictions*; 9-01-001-0014, *Office of Parking Manager Created*; 9-01-001-0015, *Comprehensive parking management program special revenue fund created*, by adopting by reference that certain document entitled the "January 2017 Amendments to Flagstaff Traffic Code;" providing for penalties, repeal of conflicting ordinances; severability; and establish an effective date.

Moved by Councilmember Eva Putzova, **seconded by** Councilmember Jim McCarthy to read Ordinance No. 2017-01 by title only for the final time.

Vote: 7 - 0 - Unanimously

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AMENDING THE FLAGSTAFF CITY CODE, TITLE 9 TRAFFIC SECTIONS 9-01-001-0003 STOPPING STANDING AND PARKING RESTRICTIONS, 9-01-001-0014 OFFICE OF PARKING MANAGER CREATED, 9-01-001-0015 COMPREHENSIVE PARKING MANAGEMENT PROGRAM SPECIAL REVENUE FUND CREATED, BY ADOPTING BY REFERENCE THAT CERTAIN DOCUMENT ENTITLED "JANUARY 2017 AMENDMENTS TO FLAGSTAFF TRAFFIC CODE"; PROVIDING FOR PENALTIES, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE

Moved by Councilmember Eva Putzova, **seconded by** Councilmember Jim McCarthy to adopt Ordinance No. 2017-01.

Vote: 7 - 0 - Unanimously

- iii. **Consideration and Possible Adoption of Resolution No. 2017-03:** A resolution of the Flagstaff City Council setting rates and adopting a fee schedule for Pay-to-Park and permit parking.

Moved by Councilmember Jim McCarthy, **seconded by** Councilmember Eva Putzova to adopt Resolution No. 2017-03.

Vote: 7 - 0 - Unanimously

- iv. **Consideration and Adoption of Ordinance No. 2017-02:** An ordinance of the Council of the City of Flagstaff, Coconino County, Arizona, approving the form and authorizing the execution and delivery of a non-bank-qualified, appropriation-based tax-exempt Master Equipment Lease-Purchase Agreement for certain equipment; delegating authority to the Management Services Director of the City to determine certain matters and terms with respect to the foregoing and authorizing the taking of all other actions necessary to the consummation of the transaction contemplated by this ordinance.

Moved by Councilmember Eva Putzova, **seconded by** Councilmember Jim McCarthy to read Ordinance No. 2017-02 by title only for the final time.

Vote: 7 - 0 - Unanimously

AN ORDINANCE OF THE COUNCIL OF CITY OF FLAGSTAFF, COCONINO COUNTY, ARIZONA, APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF A NON-BANK-QUALIFIED, APPROPRIATION-BASED TAX-EXEMPT MASTER EQUIPMENT LEASE-PURCHASE AGREEMENT FOR CERTAIN EQUIPMENT; DELEGATING AUTHORITY TO THE MANAGEMENT SERVICES DIRECTOR OF THE CITY TO DETERMINE CERTAIN MATTERS AND TERMS WITH RESPECT TO THE FOREGOING AND AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS ORDINANCE

Moved by Councilmember Eva Putzova, **seconded by** Councilmember Jim McCarthy to adopt Ordinance No. 2017-02.

Vote: 7 - 0 - Unanimously

B. Discussion/Action: Current Issues Before Arizona Legislature and Federal Issues.

Mr. Copley stated that staff continues to follow the bills relevant to Flagstaff and will report on those as they move through the process. Interim Assistant to the City Manager Gail Jackson explained that there is not much to report. Ms Jackson stated that Richard Travis has indicated that there has been a lot of discussion on the GPLET issue and it looks promising. SB1097 proposes to take \$4 million from lottery funds and divert it to issues surrounding homelessness. She added that it is getting late in the session for any sales tax reform efforts.

Mayor Evans asked what the federal budget is looking like for the Veterans Administration; Flagstaff needs to be ranked and she is curious if they will be fully funding all the items on the list. Ms. Jackson stated that she will get with Bob Holmes on the issue and offered that he is currently working on getting a meeting with the Veterans Administration.

16. DISCUSSION ITEMS

None

17. FUTURE AGENDA ITEM REQUESTS

After discussion and upon agreement by a majority of all members of the Council, an item will be moved to a regularly-scheduled Council meeting.

A. Future Agenda Item Request (F.A.I.R.): A request by Mayor Evans to place on a future agenda consideration of Signs in the City Right of Way.

Mayor Evans offered that during the last election she found out that people who rent their homes were wanting to put signs out for candidates and they were threatened by their landlords to remove those signs or they will terminate their lease. City property belongs to the community and if people are not allowed to put signs up at their homes because they rent then they should be allowed to put those signs in the right of way. She indicated that she understands that this would open up the right of ways to all signs but it would allow people to put up signs that they otherwise are unable to. She would like to have a conversation about what this could look like and options for solutions.

Councilmember Putzova agreed and suggested putting time frames or setting a block of dates when signs could be placed in those areas.

Two Councilmembers were in favor of moving the item forward for discussion.

B. Future Agenda Item Request (F.A.I.R.): A request by Councilmember Barotz to place on a future agenda discussion of whether there are ways to improve how Council appoints new members to City boards/commissions.

Councilmember Barotz requested to have a discussion about the City board and commission appointment process. She would like to hear how other Councilmembers

think the process works or does not work. Many applicants do not understand what the process is and how it works. Additionally she would like to talk about why nominations are not discussed and when Councilmembers have a concern with a nomination it is looked at as an attack on the applicant and the Councilmember making the nomination. She would like to see if there is a better way of doing things and asked for ideas from staff on how to change the process so it feels better to the community.

Councilmembers McCarthy and Odegaard offered their support of the item moving forward for discussion.

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

Councilmember Putzova invited the public to attend a listening/learning session hosted by Indigenous Circle and the City of Flagstaff; the topic is the elderly and healthcare issues.

The session will be held at Flagstaff High School at 5:30 p.m. on Wednesday, February 8, 2017.

Councilmember Barotz reported that she attended her first FMPO Board meeting; it was very interesting and she looks forward to improving the effectiveness of the organization.

Vice Mayor Whelan stated that she took time to see the Coconino County Recovery Court; she commended their service and their level of success. She stated that it was a positive experience if the Council is able, she would like to give them as much support as possible.

She also requested a discussion on Wheeler Park and the parking. She suggested having NAU come in and give ideas. She offered that some design changes to increase parking could be considered as well as looking at the uses of the park. Mayor Evans stated that there was an NAU class that looked at a redesign of Wheeler Park and making it more useable throughout the year. She suggested engaging the Parks and Recreation Commission and NAU on how to maximize the use and the parking, what that would that look like and how much would it cost.

Councilmember Odegaard stated that staff parking is an issue as well. He stated that the Girl Scouts are in the community selling cookies.

Councilmember McCarthy stated that he came to Council to attack problems, not to attack people and he hopes people in the public would take the same approach.

Mr. Copley stated that there will be a meeting next Tuesday, February 14, 2017, at 6:00 p.m. for Council to discuss options relative to minimum wage.

Mayor Evans acknowledged the letter received by the Ponderosa Trails Homeowners Association; she knows that winter parking is a big issue throughout the community. One of the biggest issues is that the plows cannot plow safely and adequately when cars are parked in the street.

She also offered that she is posting her meeting schedule on the City website on the Mayor and Council page. This will give the public an idea of what she is doing and who she is meeting with; if there are any suggestions or ideas please let her know.

19. ADJOURNMENT

The Regular Meeting of the Flagstaff City Council held February 7, 2017, adjourned at 6:42 p.m.

MAYOR

CITY CLERK**CERTIFICATION**

I, ELIZABETH A. BURKE, do hereby certify that I am the City Clerk of the City of Flagstaff, County of Coconino, State of Arizona, and that the above Minutes are a true and correct summary of the Meeting of the Council of the City of Flagstaff held on February 7, 2017. I further certify that the Meeting was duly called and held and that a quorum was present.

DATED this 21st day of February, 2017.

CITY CLERK

CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Stacy Saltzburg, Deputy City Clerk
Date: 02/15/2017
Meeting Date: 02/21/2017



TITLE:

Consideration of Appointments: Tourism Commission.

RECOMMENDED ACTION:

Make three appointments to terms expiring January 2020.

Executive Summary:

The mission of the Tourism Commission is to develop, promote, and maintain Flagstaff as a year-round visitor destination with professional visitor services that will benefit the community economically, environmentally, and socially. The Tourism Commission makes recommendations to the Council concerning expenditure of the tourism portion of the Bed, Board and Booze ("BBB") tax, a 2% local transaction privilege tax. The Tourism Commission consists of seven citizens serving three-year terms. There are currently three seats available. It is important to fill vacancies on Boards and Commissions quickly so as to allow the Commission to continue meeting on a regular basis.

There are five applications on file for consideration by the Council, they are as follows:

Lynda Fleischer (current commissioner)
Abraham Hiel (new applicant)
Joe O'Donnell (new applicant)
Caleb Schiff (current commissioner)
Susan Shields (current commissioner)

In an effort to reduce exposure to personal information the applicant roster and applications will be submitted to the City Council separately.

COUNCIL APPOINTMENT ASSIGNMENT: Councilmember Barotz, Councilmember Putzova, Councilmember Odegard

Financial Impact:

These are voluntary positions and there is no budgetary impact to the City of Flagstaff.

Policy Impact:

None

Connection to Council Goal and/or Regional Plan:

There is no Council goal that specifically addresses appointments to Boards and Commissions; however, boards and commissions do provide input and recommendations based on City Council goals that may pertain to the board or commission work plan.

Has There Been Previous Council Decision on This:

The City Council recently took action to eliminate the specialty designations associated with the Tourism Commission.

Options and Alternatives:

- 1) Appoint three Commissioners: By appointing members at this time, the Tourism Commission will be at full membership, allowing the group to meet and provide recommendations to the City Council.
- 2) Table the action to allow for further discussion or expand the list of candidates.

Community Benefits and Considerations:

The City's boards, commissions, and committees were created to foster public participation and input and to encourage Flagstaff citizens to take an active role in city government.

Community Involvement:

INFORM: The vacancies are posted on the City's website and individual recruitment and mention of the opening by Commission members and City staff has occurred, informing others of this vacancy through word of mouth.

Attachments: Tourism Commission Authority

CHAPTER 2-13 TOURISM COMMISSION

SECTIONS:

- 2-13-001-0001 CREATION OF THE COMMISSION:
- 2-13-001-0002 COMPOSITION AND TERM OF OFFICE:
- 2-13-001-0003 COMPENSATION OF COMMISSION MEMBERS:
- 2-13-001-0004 ORGANIZATION:
- 2-13-001-0005 MEETINGS:
- 2-13-001-0006 DUTIES:

2-13-001-0001 CREATION OF THE COMMISSION:

There is hereby established a City Tourism Commission. There shall be seven (7) voting members of said Commission who shall meet as hereinafter provided to consider and recommend programs for the expenditure of the tourism portion of the Bed, Board and Booze Tax allocated under Chapter 3-06, Hospitality Industry Tax Revenues.

“Tourism” means the guidance, management, marketing, accommodation, promotion and encouragement of tourists (same meaning as set forth in Section 3-06-001-0001). (Ord. No. 1579, Enacted, 08/02/88; Ord. 2001-27, Amended, 11/20/2001; Ord. 2014-28, Amended, 11/18/2014; Ord. 2015-22, Amended, 01/05/2016)

2-13-001-0002 COMPOSITION AND TERM OF OFFICE:

The composition of the membership shall consist of:

- A. Seven (7) members to be appointed by the City Council. Each member shall serve for three (3) years, on a staggered term basis.
- B. The City Manager or the Manager’s designee shall be an ex officio member of the Commission. The member shall have no voting privileges.

The City Manager shall be responsible for staff support of the Tourism Commission.

The Council shall fill vacancies for the unexpired term of any of the members of the Commission.

A member’s term in office shall commence with the first regular Commission meeting following the appointment and terminate with the regular Commission meeting at which the successor takes office. No voting member of the Commission may be appointed to more than two (2) consecutive full terms. (Ord. No. 1579, Enacted, 08/02/88; Ord. No. 1674, Amended, 09/18/90; Ord. 2001-27, Amended, 11/20/2001; Ord. No. 2006-09, Amended 04/10/2006; Ord. 2014-28, Amended, 11/18/2014; Ord. 2015-22, Amended, 01/05/2016)

2-13-001-0003 COMPENSATION OF COMMISSION MEMBERS:

Members of the Commission shall serve without compensation.

(Ord. No. 1579, Enacted, 08/02/88)

2-13-001-0004 ORGANIZATION:

The Commission shall elect a Chairperson from among its members. The term of the Chairperson shall be one year with eligibility for reelection. Commission members may not serve more than two (2) consecutive terms as Chairperson. The Council representative shall not be eligible for the Chair.

(Ord. No. 1579, Enacted, 08/02/88)

2-13-001-0005 MEETINGS:

A. The Commission shall hold at least one (1) regular meeting per month, which shall at all times be open to the public. The time and place of said meeting shall be posted in accordance with the applicable Arizona State Statutes.

A quorum consisting of a minimum of four (4) voting members shall be required to conduct business.

B. The Chairperson of the Commission shall meet with the Chairpersons of the Economic Development Commission and the Beautification Commission at least once per month. The purpose of the meeting is for coordination of the three (3) commissions only. The intent is not to create another commission. The meeting shall at all times be open to the public. The time and place of said meeting shall be posted in accordance with applicable Arizona State Statutes.

C. If a member is absent for three (3) meetings within a twelve (12) month period, excused or unexcused, that member may be replaced by the City Council. (Ord. No. 1579, Enacted, 08/02/88; Ord. 2001-27, Amended, 11/20/2001; Ord. 2014-28, Amended, 11/18/2014)

2-13-001-0006 DUTIES:

The duties of the Commission shall be to:

A. Prepare a Five (5) Year Master Plan. The Five (5) Year Plan shall be used as a guideline for future programs. Said Plan shall be presented to the Council prior to April 1st of each year.

B. Develop and present to City Council an Annual Plan outlining the Commission's program recommendations for the upcoming fiscal year. Said plan shall be presented to the Council prior to April 1st of each year.

C. Make recommendations to the City Council concerning the annual budgetary allocation of the tourism portion of the Bed, Board and Booze Tax to include, but not be limited to:

1. Providing funding to the qualified, established public or private agency to administer, on a contract basis, tourism programs as required.
2. Developing and implementing a marketing plan. Major elements of the marketing plan will include, but not be limited to, developing a specific image for Flagstaff, identifying target market segments, and implementing a promotional plan directed to target market segments.
3. Establishing visitor information center(s) to include, but not be limited to, a high profile location, easy visitor access, adequate staffing, a toll-free telephone number for visitor information, and develop other facilities as needed to benefit visitors and the community.

4. Establishing an educational program to include, but not be limited to, scholarships for hospitality education at Northern Arizona University.

5. Promoting activities that enhance the community's image and the overall quality of life.

6. Retaining of appropriate staff to implement approved programs.

D. Perform any additional duties as determined by the City Council related to tourism activities. (Ord. No. 1579, Enacted, 08/02/88; Ord. 2015-22, Amended, 01/05/2016)

7. B.

CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Stacy Saltzburg, Deputy City Clerk
Date: 02/15/2017
Meeting Date: 02/21/2017



TITLE:

Consideration of Appointments: Disability Awareness Commission.

RECOMMENDED ACTION:

Make four appointments to terms expiring March 2020.

Executive Summary:

The Disability Awareness Commission consists of seven citizens serving three year terms. The commission's goals are to expand educational opportunities; improve access to housing, buildings, and transportation; have greater participation in recreational, social, and cultural activities; encourage greater opportunity for employment; and expand and strengthen rehabilitative programs and facilities. There are currently four seats available. It is important to fill vacancies on Boards and Commissions quickly so as to allow the Commission to continue meeting on a regular basis.

There are eight applications on file for consideration by the Council, they are as follows:

- Melinda DeBoer-Ayrey (new applicant)
- Sarah Hunter (new applicant)
- Nadia Ivanova-Pfenning (new applicant)
- Christina Leland (current commissioner)
- James Martinez (current commissioner)
- Suzanne Motsinger (new applicant)
- Kevin Parkes (new applicant)
- Russell Randall (current commissioner)

In an effort to reduce exposure to personal information the applicant roster and applications will be submitted to the City Council separately.

COUNCIL APPOINTMENT ASSIGNMENT: Councilmember Odegard, Councilmember Putzova, Councilmember Barotz and Vice Mayor Whelan.

Financial Impact:

These are voluntary positions and there is no budgetary impact to the City of Flagstaff.

Policy Impact:

None

Connection to Council Goal and/or Regional Plan:

There is no Council goal that specifically addresses appointments to Boards and Commissions; however, boards and commissions do provide input and recommendations based on City Council goals that may pertain to the board or commission work plan.

Has There Been Previous Council Decision on This:

None

Options and Alternatives:

1) Appoint four Commissioners: by appointing members at this time, the Disability Awareness Commission will be at full membership, allowing the group to continue meeting to provide recommendations to the City Council.

2) Table the action to allow for further discussion or expand the list of candidates.

Community Benefits and Considerations:

The City's boards, commissions, and committees were created to foster public participation and input and to encourage Flagstaff citizens to take an active role in city government.

Community Involvement:

INFORM: Board members and City staff have informed the community of these vacancies through word of mouth in addition to the posting on the City's website.

Attachments: DAC Authority

**CHAPTER 2-18
COMMISSION ON DISABILITY AWARENESS**

SECTIONS:

2-18-001-0001 COMMISSION ESTABLISHED, DUTIES

2-18-001-0002 MEMBERS AND TERMS:

2-18-001-0003 ORGANIZATION:

2-18-001-0001 COMMISSION ESTABLISHED, DUTIES

There is hereby established the Commission on Disability Awareness. It shall be the Commission's duty to advise the City Council on all issues affecting the City of Flagstaff in relation to individuals with disabilities and shall include, but not be limited to:

- A. Review of City compliance with the Americans with Disabilities Acts and the Arizonans with Disabilities Acts.
- B. Review of City programs, activities, services and procedures to ensure all citizens are afforded equitable access to same.
- C. Develop and transmit recommendations to the City Council to assist the City Council in developing policies to respond to the concerns and needs of those with disabilities.
- D. Provide a public forum for identifying and discussing issues of interest relating to individuals who are disabled, physically or mentally, and to act as an information and referral group to assist individuals, organizations, and employers in efforts to aid members of the community toward greater independence and community interactions.
- E. Increase community awareness of the real contributions made by citizens of the community who are disabled and to provide recognition for employers, employees, students, teachers, parents, and professionals who further the goals of disability awareness and inclusion. (Ord. 1780, 11/17/92)

(Ord. No. 1780, Enacted, 11/17/92)

2-18-001-0002 MEMBERS AND TERMS:

The Commission shall consist of seven (7) members who shall be appointed by the City Council based upon the recommendations of the Committee/Commission. The Commission and the City Council will make every effort to recruit and appoint those individuals most directly involved and concerned with the obligations of the Americans with Disabilities Act. Commission members shall serve staggered, three (3) year terms.

In the event a member's term expires, that member shall continue to serve until reappointed or replaced by the City Council. (Ord. No. 1780, Enacted, 11/17/92; Ord. No. 1833, Amended, 05/03/94; Ord. No. 2007-31,

Amended 07/23/2007; Ord. 2014-28, Amended, 11/18/2014)

2-18-001-0003 ORGANIZATION:

A Chairperson and other Commission officers shall be selected by a majority vote of those members present at a meeting called for that purpose for a term of one (1) year. The Commission shall meet at such times, dates and locations as determined by the members except that the Chairperson may call a special meeting with not less than twenty-four (24) hours' notice. All other rules of procedure shall be established by the members so long as said rules are consistent with State law, the City Charter, the Board and Commission Members' Rules and Operations Manual, and the ordinance codified in this section.

A Commission member who is absent from three (3) consecutive regular meetings may have their remaining term terminated by a vote of the City Council upon recommendation of the Commission. (Ord. No. 1780, Enacted, 11/17/92; Ord. No. 2007-37, Amended 07/24/2007; Ord. 2014-28, Amended, 11/18/2014)

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Stacy Saltzburg, Deputy City Clerk
Date: 02/15/2017
Meeting Date: 02/21/2017



TITLE:

Consideration of Appointments: Parks and Recreation Commission.

RECOMMENDED ACTION:

Make one appointment to a term expiring August, 2018.

Executive Summary:

The Parks and Recreation Commission consists of seven (7) citizen members. The Parks and Recreation Commission makes recommendations to the Council regarding City parks and recreational programs, the annual budget and capital improvements for the Parks and Recreation Divisions. There is currently one seat available. It is important to fill vacancies on Boards and Commissions quickly so as to allow the Commission to continue meeting on a regular basis.

There are two applications on file for consideration by the Council, they are as follows:

Tim Behrens (new applicant)
Cody Gerhart (new applicant)

In an effort to reduce exposure to personal information the commission roster, applicant roster and applications will be submitted to the City Council separately.

COUNCIL APPOINTMENT ASSIGNMENT: Vice Mayor Whelan.

Financial Impact:

These are voluntary positions and there is no budgetary impact to the City of Flagstaff.

Policy Impact:

None

Connection to Council Goal and/or Regional Plan:

There is no Council goal that specifically addresses appointments to Boards and Commissions; however, boards and commissions do provide input and recommendations based on City Council goals that may pertain to the board or commission work plan.

Has There Been Previous Council Decision on This:

None

Options and Alternatives:

1) Appoint one Commissioner: By appointing a member at this time, the commission will be at full membership and able to continue to meet and provide recommendations to the City Council.

2) Table the action to allow for further discussion or expand the list of candidates.

Community Benefits and Considerations:

The City's boards, commissions, and committees were created to foster public participation and input and to encourage Flagstaff citizens to take an active role in city government.

Community Involvement:

INFORM: The vacancies are posted on the City's website and individual recruitment and mention of the openings by Board members and City staff has occurred, informing others of these vacancies through word of mouth.

Attachments: P&R Authority

**CHAPTER 2-03
PARKS AND RECREATION COMMISSION**

SECTIONS:

- 2-03-001-0001 COMMISSION CREATED; MEMBERS:
- 2-03-001-0002 TERMS; VACANCIES; COMPENSATION:
- 2-03-001-0003 ORGANIZATION AND RULES:
- 2-03-001-0004 POWERS AND DUTIES:

2-03-001-0001 COMMISSION CREATED; MEMBERS:

There is hereby created a Parks and Recreation Commission for the City, consisting of seven (7) members appointed by the City Council. (Ord. No. 2007-11, Amended 02/06/2007; Ord. 2014-28, Amended, 11/18/2014)

2-03-001-0002 TERMS; VACANCIES; COMPENSATION:

Terms of the appointed members shall be for three (3) years.

The Council shall fill vacancies for the unexpired term of any of the members of the Commission and no member of the Commission shall receive compensation for services thereon. (Ord. 1475, 2-3-87)

2-03-001-0003 ORGANIZATION AND RULES:

Upon the taking effect of this Chapter, and when appointed, the members shall meet and organize and elect a Chairman to serve for one year with a new Chairman being elected each succeeding year. The Commission may adopt by-laws, procedures and standards for the operation of the Commission not inconsistent with the provisions of this Chapter. A quorum shall consist of four (4) voting members. The Commission shall meet not less than four (4) times each year.

(Ord. No. 2007-11, Amended 02/06/2007)

2-03-001-0004 POWERS AND DUTIES:

A. The duties of the Commission shall be to advise the Council, through periodic written reports to the Council, recommending policy direction on City lands, structures and facilities that are set aside or should be set aside or dedicated to recreational purposes, including but not limited to parks, swimming pools, playgrounds, playing and sports fields and golf courses. The scope of the activities of the Commission shall also include but not be limited to advising and recommending policy direction in activities involving recreational and cultural pursuits of the elderly and the young and to otherwise employ in constructive and wholesome manner leisure time of the citizens.

B. The City Council may consider the advice and recommendation of the Commission and thereafter give direction through the City Manager to implement the recreational program as they see fit.

C. The Commission shall review and make recommendation on the annual budget of the Parks Section and

Recreation Section prior to the submittal thereof to the City Manager.

D. With respect to the parks and recreation portion of the Bed, Board and Booze Tax allocated under Chapter 3-06, Hospitality Industry Tax Revenues, the Commission shall make recommendations to the Council concerning the annual budgetary allocation of the parks and recreation portion of this tax, to include but not be limited to:

1. Developing parks and recreation facilities, and programs as needed to benefit the community and its visitors.
2. Funding for the Flagstaff urban trails system development and maintenance.
3. Developing, acquiring and distributing material to promote parks and recreation.
4. Retaining of appropriate staff to implement approved programs.

E. For purposes of subsection (D) of this section, "parks and recreation" means the development and management of public parks, recreational facilities, and programs which are available to the residents and visitors including funding the Flagstaff urban trail system. (Same meaning as set forth in Section 3-06-001-0001.) (Ord. 865, 12-12-72; Ord. 1335, 10-16-84; Ord. 2015-22, Amended, 01/05/2016)

8. A.

CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Stacy Saltzburg, Deputy City Clerk
Date: 02/15/2017
Meeting Date: 02/21/2017



TITLE:

Consideration and Action on Liquor License Application: Stephen Buysse, "Famous Pizza & Beer", 104 E. Route 66, Series 12 (restaurant), New License.

RECOMMENDED ACTION:

Hold the Public Hearing; absent any valid concerns received from the public hearing, staff recommends the Council forward a recommendation for approval to the State.

Executive Summary:

The liquor license process begins at the State level and applications are then forwarded to the respective municipality for posting of the property and holding a public hearing, after which the Council recommendation is forwarded back to the State. A Series 12 license allows the holder of a restaurant license to sell and serve spirituous liquor solely for consumption on the premises of an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food.

Famous Pizza & Beer is a new restaurant in Flagstaff and if approved, it will be the 89th active series 12 license in Flagstaff.

The property has been posted as required, and the Police and Community Development divisions have reviewed the application with no concerns noted. Please note that with the administration of sales tax being transferred to the State of Arizona the Sales Tax division will not be able to report on the status of liquor license applicants; the City is attempting to obtain software that will give access to records.

Financial Impact:

There is no budgetary impact to the City of Flagstaff as this is a recommendation to the State.

Policy Impact:

Not applicable.

Connection to Council Goal and/or Regional Plan:

Liquor licenses are a regulatory action and there is no Council goal that applies.

Has There Been Previous Council Decision on This:

Not applicable.

Key Considerations:

Because the application is for a new license, consideration may be given to both the location and the applicant's personal qualifications.

The deadline for issuing a recommendation on this application is February 24, 2017.

Community Benefits and Considerations:

This business will contribute to the tax base of the community.

Community Involvement:

The application was properly posted on February 1, 2017. No written protests have been received to date.

Attachments:

Famous - Letter to Applicant
Hearing Procedures
Series 12 Description
Famous - PD Memo
Famous - Code Memo
Famous - Map

OFFICE OF THE CITY CLERK

February 10, 2017

Famous Beer & Pizza
Attn: Stephen Buysse
65 Apache Trail
Sedona, AZ 86336

Dear Mr. Buysse:

Your application for a new Series 12 liquor license for Famous Pizza & Beer at 104 E. Route 66, was posted on February 1, 2017. The City Council will consider the application at a public hearing during their regularly scheduled City Council Meeting on **Tuesday, February 21, 2017 which begins at 4:30 p.m.**

It is important that you or your representative attend this Council Meeting and be prepared to answer any questions that the City Council may have. Failure to be available for questions could result in a recommendation for denial of your application. We suggest that you contact your legal counsel or the Department of Liquor Licenses and Control at 602-542-5141 to determine the criteria for your license. To help you understand how the public hearing process will be conducted, we are enclosing a copy of the City's liquor license application hearing procedures.

The twenty-day posting period for your liquor license application is set to expire on February 21, 2017 and the application may be removed from the premises at that time.

If you have any questions, please feel free to call me at 928-213-2077.

Sincerely,

Stacy Saltzburg, CMC
Deputy City Clerk

Enclosure



City of Flagstaff

Liquor License Application Hearing Procedures

1. When the matter is reached at the Council meeting, the presiding officer will open the public hearing on the item.
2. The presiding officer will request that the Applicant come forward to address the Council regarding the application in a presentation not exceeding ten (10) minutes. Council may question the Applicant regarding the testimony or other evidence provided by the Applicant.
3. The presiding officer will then ask whether City staff have information to present to the Council regarding the application. Staff should come forward at this point and present information to the Council in a presentation not exceeding ten (10) minutes. Council may question City staff regarding the testimony or other evidence provided by City staff.
4. Other parties, if any, may then testify, limited to three (3) minutes per person. Council may question these parties regarding the testimony they present to the Council.
5. The Applicant may make a concise closing statement to the Council, limited to five (5) minutes. During this statement, Council may ask additional questions of the Applicant.
6. City staff may make a concise closing statement to the Council, limited to five (5) minutes. During this statement, Council may ask additional questions of City Staff.
7. The presiding officer will then close the public hearing.
8. The Council will then, by motion, vote to forward the application to the State with a recommendation of approval, disapproval, or shall vote to forward with no recommendation.

R19-1-702. Determining Whether to Grant a License for a Certain Location

- A. To determine whether public convenience requires and the best interest of the community will be substantially served by issuing or transferring a license at a particular unlicensed location, local governing authorities and the Board may consider the following criteria:
1. Petitions and testimony from individuals who favor or oppose issuance of a license and who reside in, own, or lease property within one mile of the proposed premises;
 2. Number and types of licenses within one mile of the proposed premises;
 3. Evidence that all necessary licenses and permits for which the applicant is eligible at the time of application have been obtained from the state and all other governing bodies;
 4. Residential and commercial population of the community and its likelihood of increasing, decreasing, or remaining static;
 5. Residential and commercial population density within one mile of the proposed premises;
 6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers;
 7. Effect on vehicular traffic within one mile of the proposed premises;
 8. Compatibility of the proposed business with other activity within one mile of the proposed premises;
 9. Effect or impact on the activities of businesses or the residential neighborhood that might be affected by granting a license at the proposed premises;
 10. History for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant received a detailed report of the violations and criminal activity at least 20 days before the hearing by the Board;
 11. Comparison of the hours of operation at the proposed premises to the hours of operation of existing businesses within one mile of the proposed premises; and
 12. Proximity of the proposed premises to licensed childcare facilities as defined by A.R.S. § 36-881.
- B. This Section is authorized by A.R.S. § 4-201(I).

License Types: Series 12 Restaurant License

Non-transferable

On-sale retail privileges

Note: Terms in **BOLD CAPITALS** are defined in the [glossary](#).

PURPOSE:

Allows the holder of a restaurant license to sell and serve spirituous liquor solely for consumption on the premises of an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food.

ADDITIONAL RIGHTS AND RESPONSIBILITIES:

An applicant for a restaurant license must file a copy of its restaurant menu and Restaurant Operation Plan with the application. The Plan must include listings of all restaurant equipment and service items, the restaurant seating capacity, and other information requested by the department to substantiate that the restaurant will operate in compliance with Title 4.

The licensee must notify the Department, in advance, of any proposed changes in the seating capacity of the restaurant or dimensions of a restaurant facility.

A restaurant licensee must maintain complete restaurant services continually during the hours of selling and serving of spirituous liquor, until at least 10:00 p.m. daily, if any spirituous liquor is to be sold and served up to 2:00 a.m.

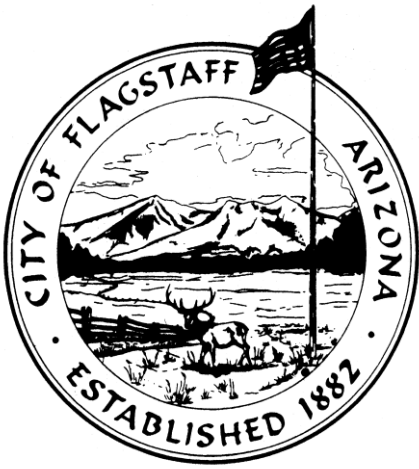
On any original applications, new managers and/or the person responsible for the day-to-day operations must attend a basic and management training class.

A licensee acting as a **RETAIL AGENT**, authorized to purchase and accept **DELIVERY** of spirituous liquor by other licensees, must receive a certificate of registration from the Department.

A **PREGNANCY WARNING SIGN** for pregnant women consuming spirituous liquor must be posted within twenty (20) feet of the cash register or behind the bar.

A log must be kept by the licensee of all persons employed at the premises including each employee's name, date and place of birth, address and responsibilities.

Bar, beer and wine bar, and restaurant licensees must pay an annual surcharge of \$20.00. The money collected from these licensees will be used by the Department for an auditor to review compliance by restaurants with the restaurant licensing provisions of ARS 4-205.02.



FLAGSTAFF POLICE DEPARTMENT

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ADMIN FAX (928) 213-3372

TDD 1-800-842-4681



Chief of Police
Kevin D. Treadway

MEMORANDUM

Memo# 17-008-01

TO Chief Kevin Treadway

FROM Sgt. Gregory Jay

DATE February 7, 2017

REF LIQUOR LICENSE APPLICATION – SERIES 12- FOR “Famous Pizza & Beer”

On February 7, 2017, I initiated an investigation into an application for a series 12 (restaurant) liquor license filed by Stephen James Buysse (Agent, Controlling Person) and Kimberly Lynne Buysse (Controlling Person) owners of a new restaurant called Famous Pizza and Beer. Famous Pizza and Beer is located at 104 E Route 66. This is an application for the new series 12 license #12033417.

I conducted a query through local systems and public access on Stephen and Kimberly Buysse. No derogatory records were found. I spoke with Stephen who stated he has not been arrested in the last five years. Stephen and Kimberly have attended the mandatory liquor law training course and plan on taking a new training course in two weeks. Once they've completed the new training course proof will be provided to the state. Patrick and Kimberly currently own and operate two other Famous Pizza restaurants located in Sedona. I located two administrative violations issued to Famous Pizza on September 29, 2015. One violation was for no manager's agreement form on file and knowledge of liquor laws and rules. The fine was paid. The location will undergo remodeling and is tentatively scheduled to open in late April 2017.

As a result of this investigation, I can find no reason to oppose this series 12 liquor license application.

Recommendation to Council would be for approval.



Planning and Development Services Memorandum

February 2, 2017

TO: Stacy Saltzburg, Deputy City Clerk

THROUGH: Dan Folke, Planning Director *DF*

FROM: Reggie Eccleston, Code Compliance Mgr. *RE*

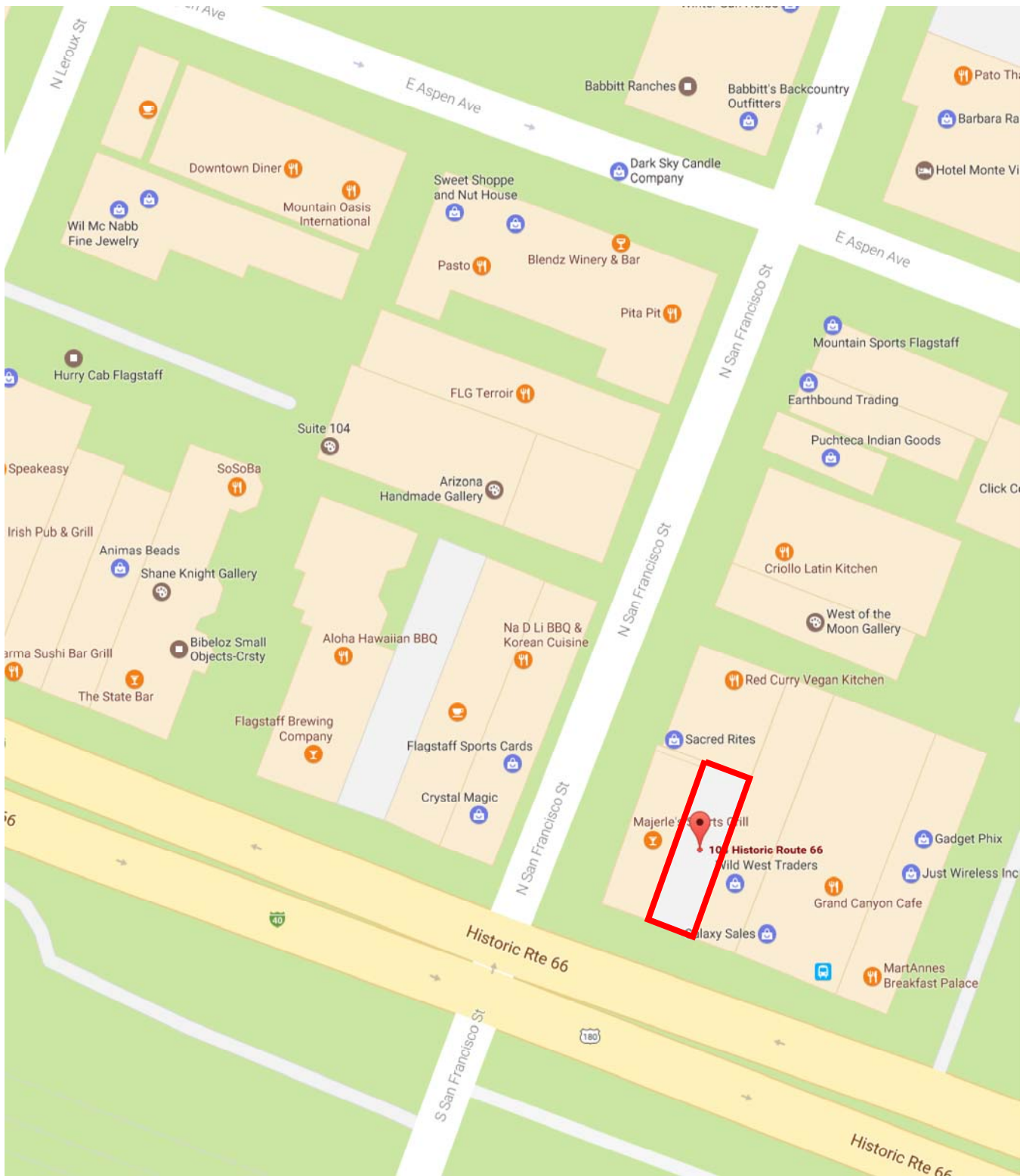
RE: Application for Liquor License #12033417
104 E. Route 66, Flagstaff, Arizona 86001
Assessor's Parcel Number 101-21-011
Stephen Buysse on behalf of Famous Pizza & Beer

This application is a request for a new, Series 12 Restaurant liquor license, by Stephen Buysse on behalf of Famous Pizza & Beer. This restaurant is located within the Central Business district. This district does allow for this use.

There are no active Zoning Code violations associated with the applicant or the property at this time.

This liquor license is recommended for approval.

Google Maps 104 Historic Rte 66



8. B.

CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Stacy Saltzburg, Deputy City Clerk
Date: 02/15/2017
Meeting Date: 02/21/2017



TITLE:

Consideration and Action on Liquor License Application: Jeffrey Miller, "Collins Irish Pub & Eatery", 2 N. Leroux St., Series 06 (bar - all spirituous liquor), Person and Location Transfer.

RECOMMENDED ACTION:

Hold the Public Hearing; absent any valid concerns received from the public hearing, staff recommends the Council forward a recommendation for approval to the State.

Executive Summary:

The liquor license process begins at the State level and applications are then forwarded to the respective municipality for posting of the property and holding a public hearing, after which the Council recommendation is forwarded back to the State. A Series 06 license allows a bar retailer to sell and serve spirituous liquors, primarily by individual portions, to be consumed on the premises and in the original container for consumption on or off the premises

Series 06 (bar- all spirituous liquor) licenses are obtained through the person and/or location transfer of an existing license from another business. This transfer is from Oliver Badgio of Maloney's which was located in Flagstaff. The liquor license was recently sold and must be transferred to the new owner and location. Collins Irish Pub & Eatery is an existing business in Flagstaff and is currently operating under a series 06 license. The second series 06 license will be placed in inactive status and Collins will operate as usual. There are currently 21 series 06 liquor licenses in Flagstaff, one is currently inactive and if approved, this license will also be in inactive status.

The property has been posted as required, and the Police and Community Development divisions have reviewed the application with no concerns noted. Please note that with the administration of sales tax being transferred to the State of Arizona the Sales Tax division will not be able to report on the status of liquor license applicants; the City is attempting to obtain software that will give access to records.

Financial Impact:

There is no budgetary impact to the City of Flagstaff as this is a recommendation to the State.

Policy Impact:

Not applicable.

Liquor licenses are a regulatory action and there is no Council goal that applies.

Not applicable

Because the application is for a person and location transfer, consideration may be given to both the location and the applicant's personal qualifications. The deadline for issuing a recommendation on this application is February 27, 2017.

This business will contribute to the tax base of the community.

The application was properly posted on February 1, 2017. No written protests have been received to date.

Attachments: [Collins - Letter to Applicant](#)
[Hearing Procedures](#)
[Series 06 Description](#)
[Collins - PD Memo](#)
[Collins - Code Memo](#)
[Collins - Map](#)

OFFICE OF THE CITY CLERK

February 10, 2017

Collins Irish Pub & Eatery
Attn: Jeffrey Miller
2 E. Route 66
Flagstaff, AZ 86001

Dear Mr. Miller:

Your application for a Series 06 person/location transfer liquor license for Collins Irish Pub & Eatery at 2 E. Route 66, was posted on February 1, 2017. The City Council will consider the application at a public hearing during their regularly scheduled City Council Meeting on **Tuesday, February 21, 2017 which begins at 4:30 p.m.**

It is important that you or your representative attend this Council Meeting and be prepared to answer any questions that the City Council may have. Failure to be available for questions could result in a recommendation for denial of your application. We suggest that you contact your legal counsel or the Department of Liquor Licenses and Control at 602-542-5141 to determine the criteria for your license. To help you understand how the public hearing process will be conducted, we are enclosing a copy of the City's liquor license application hearing procedures.

The twenty-day posting period for your liquor license application is set to expire on February 21, 2017 and the application may be removed from the premises at that time.

If you have any questions, please feel free to call me at 928-213-2077.

Sincerely,

Stacy Saltzburg
Deputy City Clerk

Enclosure



City of Flagstaff

Liquor License Application Hearing Procedures

1. When the matter is reached at the Council meeting, the presiding officer will open the public hearing on the item.
2. The presiding officer will request that the Applicant come forward to address the Council regarding the application in a presentation not exceeding ten (10) minutes. Council may question the Applicant regarding the testimony or other evidence provided by the Applicant.
3. The presiding officer will then ask whether City staff have information to present to the Council regarding the application. Staff should come forward at this point and present information to the Council in a presentation not exceeding ten (10) minutes. Council may question City staff regarding the testimony or other evidence provided by City staff.
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6. City staff may make a concise closing statement to the Council, limited to five (5) minutes. During this statement, Council may ask additional questions of City Staff.
7. The presiding officer will then close the public hearing.
8. The Council will then, by motion, vote to forward the application to the State with a recommendation of approval, disapproval, or shall vote to forward with no recommendation.

R19-1-702. Determining Whether to Grant a License for a Certain Location

- A. To determine whether public convenience requires and the best interest of the community will be substantially served by issuing or transferring a license at a particular unlicensed location, local governing authorities and the Board may consider the following criteria:
1. Petitions and testimony from individuals who favor or oppose issuance of a license and who reside in, own, or lease property within one mile of the proposed premises;
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 10. History for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant received a detailed report of the violations and criminal activity at least 20 days before the hearing by the Board;
 11. Comparison of the hours of operation at the proposed premises to the hours of operation of existing businesses within one mile of the proposed premises; and
 12. Proximity of the proposed premises to licensed childcare facilities as defined by A.R.S. § 36-881.
- B. This Section is authorized by A.R.S. § 4-201(I).

License Types: Series 06 Bar (all spirituous liquor)

Transferable (From person to person and/or location to location within the same county only)

On & off-sale retail privileges

Note: Terms in **BOLD CAPITALS** are defined in the [glossary](#).

PURPOSE:

Allows a bar retailer to sell and serve spirituous liquors, primarily by individual portions, to be consumed on the premises and in the original container for consumption on or off the premises.

ADDITIONAL RIGHTS AND RESPONSIBILITIES:

A retailer with off-sale privileges may deliver spirituous liquor off of the licensed premises in connection with a retail sale. Payment must be made no later than the time of **DELIVERY**. The retailer must complete a Department approved "Record of Delivery" form for each spirituous liquor retail delivery.

On any original applications, new managers and/or the person responsible for the day-to-day operations must attend a basic and management training class.

A licensee acting as a **RETAIL AGENT**, authorized to purchase and accept delivery of spirituous liquor by other licensees, must receive a certificate of registration from the Department.

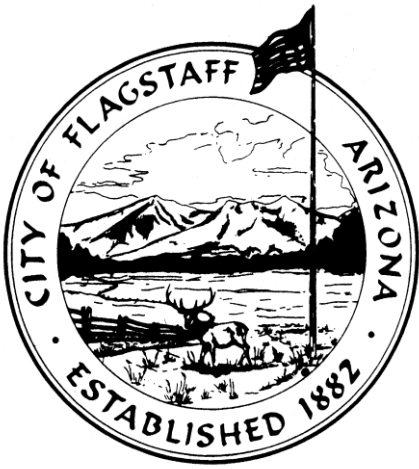
A **PREGNANCY WARNING SIGN** for pregnant women consuming spirituous liquor must be posted within twenty (20) feet of the cash register or behind the bar.

A log must be kept by the licensee of all persons employed at the premises including each employee's name, date and place of birth, address and responsibilities.

Off-sale ("To Go") package sales of spirituous liquor can be made on the bar premises as long as the area of off-sale operation does not utilize a separate entrance and exit from the ones provided for the bar.

A hotel or motel with a Series 06 license may sell spirituous liquor in sealed containers in individual portions to its registered guests at any time by means of a minibar located in the guest rooms of registered guests. The registered guest must be at least twenty-one (21) years of age. Access to the minibar is by a key or magnetic card device and not furnished to a guest between the hours of 2:00 a.m. and 6:00 a.m. Monday through Saturday and 2:00 a.m. and 10:00 a.m. on Sundays.

Bar, beer and wine bar, and restaurant licensees must pay an annual **SURCHARGE** of \$20.00. The money collected from these licensees will be used by the Department for an auditor to review compliance by restaurants with the restaurant licensing provisions of ARS 4-205.02.



FLAGSTAFF POLICE DEPARTMENT

911 SAWMILL RD • FLAGSTAFF, ARIZONA 86001 • (928) 779-3646

ADMIN FAX (928) 213-3372

TDD 1-800-842-4681



Chief of Police
Kevin D. Treadway

MEMORANDUM

Memo # 17-006-01

TO: Chief Kevin Treadway

FROM: Sgt. Gregory Jay

DATE: February 6, 2017

RE: LIQUOR LICENSE APPLICATION – Person to Person and location transfer – Series 6- for Collins Irish Pub & Eatery

On February 6, 2017 I initiated an investigation into an application for a series 6 (bar) liquor license filed by Jeffrey Craig Miller (agent) and Ki Won Choi (controlling person). Ki Won Choi is the owner of Collins Irish Pub and Eatery located at 2 N Leroux in Downtown Flagstaff. This is an application for a series 6 person to person and location transfer for a full bar license #06030025.

I conducted a query through local systems and public access on Jeffrey Craig Miller and Ki Won Choi and found nothing negative. I spoke with Ki Won Choi who stated he would be assisting in the day to day operation of the restaurant and bar. Ki Won Choi has completed the mandatory liquor law training course and has provided proof to the state liquor department. Choi explained Collins Irish Pub and Eatery will function the same and will not change its day to day operations. Choi confirmed he purchased the series 6 license from Oliver Badgio (agent), of Maloney's once located at 101 N Leroux in Flagstaff. Collins Irish Pub & Eatery is currently operating under license #060630007 which expires May 31, 2017. Choi explained the transferred license will be active in 6 months so it will not be reverted back to the state. Choi will rotate the two licenses every six months until he locates a new location to open up another bar. Choi stated the restaurant will operate from 11:00 am to 10:00 pm and the bar will operate from 11:00 am to 2:00 am.

In the past 10 years Collins Irish Pub has received four (4) liquor law violations. The violations were for failure to report acts of violence (March 4, 2009), underage on premises without parent (January 9, 2009), repeated acts of violence (March 9, 2007) and consuming between 2:30 am and 6:00 am (January 12, 2007). These violations have been paid and the proper liquor law training completed for staff.

As a result of this investigation, a recommendation to Council would be for approval.




Planning and Development Services Memorandum

January 23, 2017

TO: Stacy Saltzburg, Deputy City Clerk

THROUGH: Dan Folke, Planning Director

FROM: Reggie Eccleston, Code Compliance Mgr. 

RE: Application for Liquor License #06030025
2 N. Leroux St., Flagstaff, Arizona 86001
Assessor's Parcel Number 100-20-010
Jeffrey Miller on behalf of Collins Irish Pub

This application is a transfer, Series 06 Bar liquor license, by Jeffrey Miller on behalf of Collins Irish Pub. This bar is located within the Central Business district. This district does allow for this use.

There are no active Zoning Code violations associated with the applicant or the property at this time.

This liquor license is recommended for approval.

Google Maps 2 N Leroux St



CITY OF FLAGSTAFF
STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Stacy Saltzburg, Deputy City Clerk
Date: 02/15/2017
Meeting Date: 02/21/2017



TITLE:

Consideration and Action on Liquor License Application: Mark Russell, "Oregano's Pizza Bistro", 980 Country Club Drive, Series 12 (restaurant), New License.

RECOMMENDED ACTION:

Hold the Public Hearing; absent any valid concerns received from the public hearing, staff recommends the Council forward a recommendation for approval to the State.

Executive Summary:

The liquor license process begins at the State level and applications are then forwarded to the respective municipality for posting of the property and holding a public hearing, after which the Council recommendation is forwarded back to the State. A Series 12 license allows the holder of a restaurant license to sell and serve spirituous liquor solely for consumption on the premises of an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food. Oregano's Pizza Bistro currently has a location in Flagstaff, this will be a second and if approved, it will be the 90th active series 12 license in Flagstaff.

The property has been posted as required, and the Police and Community Development divisions have reviewed the application with no concerns noted. Please note that with the administration of sales tax being transferred to the State of Arizona the Sales Tax division will not be able to report on the status of liquor license applicants; the City is attempting to obtain software that will give access to records.

Financial Impact:

There is no budgetary impact to the City of Flagstaff as this is a recommendation to the State.

Not applicable.

Liquor licenses are a regulatory action and there is no Council goal that applies.

Not applicable.

Because the application is for a new license, consideration may be given to both the location and the applicant's personal qualifications.

Community Benefits and Considerations:

This business will contribute to the tax base of the community.

The application was properly posted on February 1, 2017. No written protests have been received to date.

Hearing Procedures

Series 12 Description

Oregano's - PD Memo

Oregano's - Code Memo

Oregano's - Map

OFFICE OF THE CITY CLERK

February 10, 2017

Oregano's Pizza Bistro
Attn: Mark Russell
8300 N. Hayden Rd., Ste. A207
Scottsdale, AZ 85258

Dear Mr. Russell:

Your application for a new Series 12 liquor license for Oregano's Pizza Bistro at 980 Country Club Dr., was posted on February 1, 2017. The City Council will consider the application at a public hearing during their regularly scheduled City Council Meeting on **Tuesday, February 21, 2017 which begins at 4:30 p.m.**

It is important that you or your representative attend this Council Meeting and be prepared to answer any questions that the City Council may have. Failure to be available for questions could result in a recommendation for denial of your application. We suggest that you contact your legal counsel or the Department of Liquor Licenses and Control at 602-542-5141 to determine the criteria for your license. To help you understand how the public hearing process will be conducted, we are enclosing a copy of the City's liquor license application hearing procedures.

The twenty-day posting period for your liquor license application is set to expire on February 21, 2017 and the application may be removed from the premises at that time.

If you have any questions, please feel free to call me at 928-213-2077.

Sincerely,

Stacy Saltzburg, CMC
Deputy City Clerk

Enclosure



City of Flagstaff

Liquor License Application Hearing Procedures

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6. City staff may make a concise closing statement to the Council, limited to five (5) minutes. During this statement, Council may ask additional questions of City Staff.
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R19-1-702. Determining Whether to Grant a License for a Certain Location

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 4. Residential and commercial population of the community and its likelihood of increasing, decreasing, or remaining static;
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 6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers;
 7. Effect on vehicular traffic within one mile of the proposed premises;
 8. Compatibility of the proposed business with other activity within one mile of the proposed premises;
 9. Effect or impact on the activities of businesses or the residential neighborhood that might be affected by granting a license at the proposed premises;
 10. History for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant received a detailed report of the violations and criminal activity at least 20 days before the hearing by the Board;
 11. Comparison of the hours of operation at the proposed premises to the hours of operation of existing businesses within one mile of the proposed premises; and
 12. Proximity of the proposed premises to licensed childcare facilities as defined by A.R.S. § 36-881.
- B. This Section is authorized by A.R.S. § 4-201(I).

License Types: Series 12 Restaurant License

Non-transferable

On-sale retail privileges

Note: Terms in **BOLD CAPITALS** are defined in the [glossary](#).

PURPOSE:

Allows the holder of a restaurant license to sell and serve spirituous liquor solely for consumption on the premises of an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food.

ADDITIONAL RIGHTS AND RESPONSIBILITIES:

An applicant for a restaurant license must file a copy of its restaurant menu and Restaurant Operation Plan with the application. The Plan must include listings of all restaurant equipment and service items, the restaurant seating capacity, and other information requested by the department to substantiate that the restaurant will operate in compliance with Title 4.

The licensee must notify the Department, in advance, of any proposed changes in the seating capacity of the restaurant or dimensions of a restaurant facility.

A restaurant licensee must maintain complete restaurant services continually during the hours of selling and serving of spirituous liquor, until at least 10:00 p.m. daily, if any spirituous liquor is to be sold and served up to 2:00 a.m.

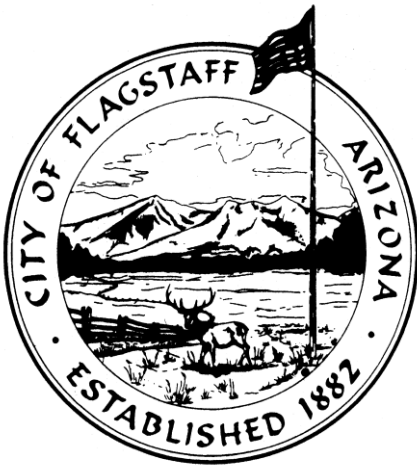
On any original applications, new managers and/or the person responsible for the day-to-day operations must attend a basic and management training class.

A licensee acting as a **RETAIL AGENT**, authorized to purchase and accept **DELIVERY** of spirituous liquor by other licensees, must receive a certificate of registration from the Department.

A **PREGNANCY WARNING SIGN** for pregnant women consuming spirituous liquor must be posted within twenty (20) feet of the cash register or behind the bar.

A log must be kept by the licensee of all persons employed at the premises including each employee's name, date and place of birth, address and responsibilities.

Bar, beer and wine bar, and restaurant licensees must pay an annual surcharge of \$20.00. The money collected from these licensees will be used by the Department for an auditor to review compliance by restaurants with the restaurant licensing provisions of ARS 4-205.02.



FLAGSTAFF POLICE DEPARTMENT

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ADMIN FAX (928) 213-3372

TDD 1-800-842-4681



Chief of Police
Kevin D. Treadway

MEMORANDUM

Memo# 17-007-01

TO: Chief Kevin Treadway

FROM: Sgt. Gregory Jay

DATE: February 6, 2017

RE: LIQUOR LICENSE APPLICATION – SERIES 12 – For “Oregano’s Pizza Bistro”, 980 N Country Club Drive

On February 6, 2017 I initiated an investigation into a series 12 (restaurant) liquor license application filed by Mark Russell (agent) and Frank Sbordone Jr. (controlling person) for a new Oregano’s Pizza Bistro in Flagstaff. Oregano’s Pizza Bistro is located at 980 N Country Club Drive. The license number is #12033420.

I conducted a local records and public access check on Mark Russell and Frank Sbordone Jr. I did not locate any incidents of interest. I also could not locate any pending or past liquor violations filed against Oregano’s in Flagstaff or the other seventeen (17) Oregano’s located around Arizona. The liquor license application did not list any employees who would be on-site and whether or not they had taken the mandatory liquor law training course.

I contacted Frank Sbordone Jr. about the local on site manager. Frank explained they were currently in the process of selecting a manager for the new location. Frank said the business is currently under construction and is tentatively scheduled to open at the end of April 2017.

As a result of this investigation, I can find no reason to oppose this application and recommend approval.




Planning and Development Services Memorandum

February 2, 2017

TO: Stacy Saltzburg, Deputy City Clerk

THROUGH: Dan Folke, Planning Director

FROM: Reggie Eccleston, Code Compliance Mgr. 

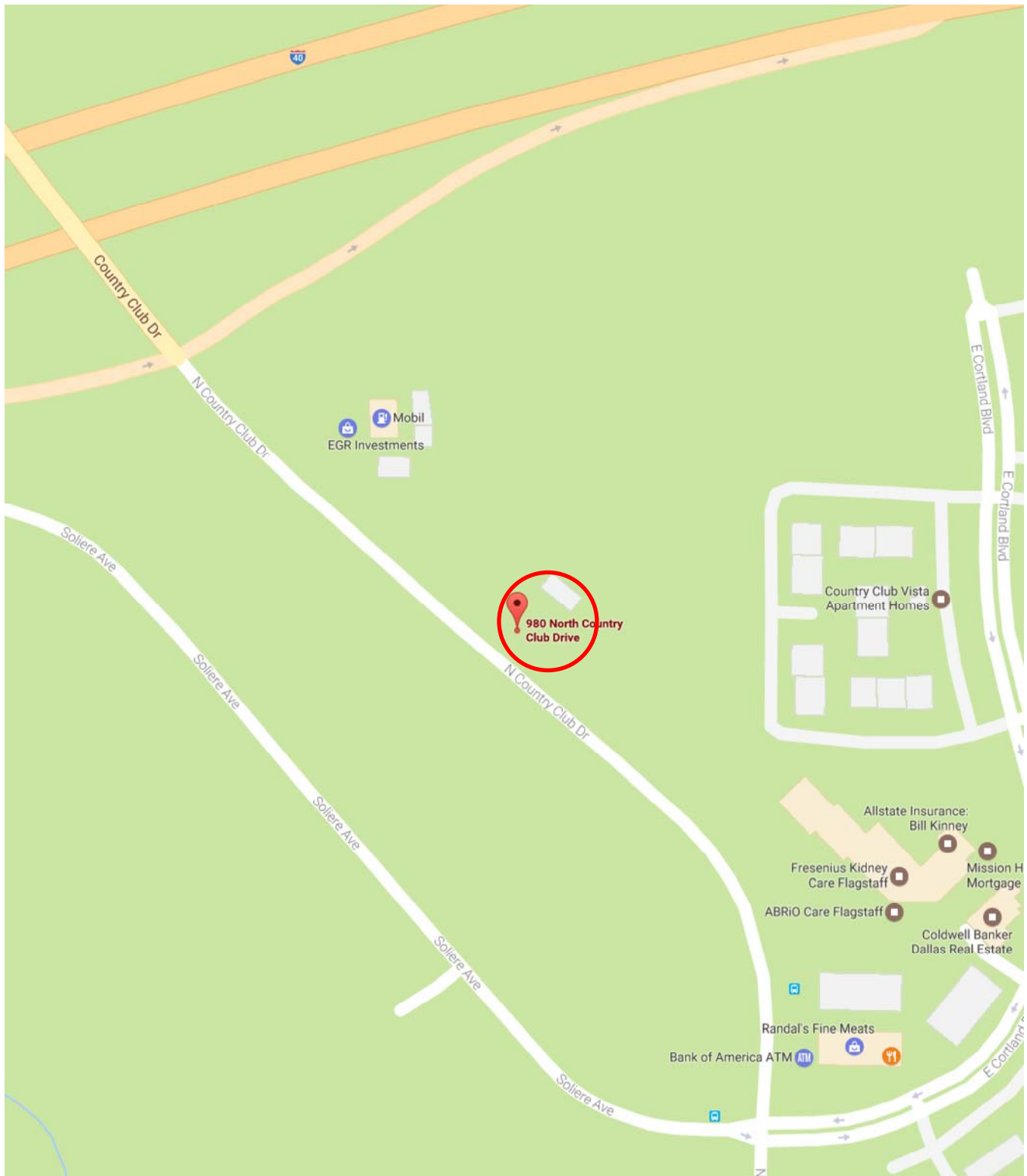
RE: Application for Liquor License #12033420
980 Country Club Drive, Flagstaff, Arizona 86004
Assessor's Parcel Number 113-29-006
Mark Russell on behalf of Oregano's

This application is a request for a new, Series 12 Restaurant liquor license, by Mark Russell on behalf of Oregano's. This restaurant is located within the Highway Commercial district. This district does allow for this use.

There are no active Zoning Code violations associated with the applicant or the property at this time.

This liquor license is recommended for approval.

Google Maps 980 N Country Club Dr



CITY OF FLAGSTAFF
STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Claire Harper, Recreation Supervisor
Date: 02/15/2017
Meeting Date: 02/21/2017



TITLE:

Consideration and Approval of Street Closure(s): Flagstaff Earth Day 2017

RECOMMENDED ACTION:

Approve the street closure at Aspen Avenue between San Francisco Street and Leroux Street on Saturday, April 22, 2017, from 7:00 a.m. to 4:00 p.m.

Executive Summary:

In 2015 the Sustainability Program moved the annual Earth Day celebration from the City Hall lawn to Heritage Square and Aspen Avenue (between San Francisco to Leroux Street) at the request of community members and vendors. Earth Day is a popular event and has worked well the downtown businesses to involve them with the event. Special events, like Earth Day, are important to our community. They bring excitement to our City and enhance our quality of life. If done correctly by addressing parking, trash, noise and congestion, a community event street closure has the potential to enhance business in the surrounding area. The current Special Event Permit Regulations do not allow for a full closure of one-way downtown streets. Deviations from the special event permit packet have been approved by City Council on a case-by-case basis. The Flagstaff Fire Department requires that there be a fire lane and access to all hydrant and water hook-ups on the streets. As a courtesy, the Office of Community Events produces a monthly newsletter for downtown residents and business owners to inform them of the upcoming City Council meetings, street closures and events at Heritage Square. The Sustainability Program will conduct outreach with businesses that will be affected by the street closure.

Financial Impact:

Street closures change traffic patterns for local businesses and may have the potential to affect sales.

Policy Impact:

None

Connection to Council Goal and/or Regional Plan:

REGIONAL PLAN:

Transportation:

Goal T.1. Improve mobility access throughout the region.

Economic Development:

Goal ED.3. Regional economic development partners support the start-up, retention and expansion of existing business enterprises.

Goal ED.6. Tourism will continue to provide a year-round source for the community, while expanding specialized tourist resources and activities.

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

Has There Been Previous Council Decision on This:

City Council has approved this request in previous years.

Options and Alternatives:

A.) Approve the request as submitted.

B.) Deny the request to close the proposed downtown street.

Background/History:

After years of holding the annual Earth Day celebration on the City Hall lawn, community members and vendors requested the sustainability program move the event downtown to give it more of a community feel. As a result, the Sustainability Program and Sustainability Commission have held a successful Earth Day celebration in Heritage Square and on Aspen Avenue (San Francisco Street to Leroux Street) since 2015.

By allowing the Earth Day event as an exception to the Special Event Permit Regulations regarding the full closure of Aspen Avenue (between San Francisco and Leroux Street), the City is providing a safe alternative location for a community event.

Key Considerations:

The current Special Event Permit Regulations do not allow for a full closure of one-way downtown streets. Deviations from the special event permit packet have been approved by City Council on a case-by-case basis. The Flagstaff Fire Department requires that there be a fire lane and access to all hydrant and water hook-ups on the streets.

Community Benefits and Considerations:

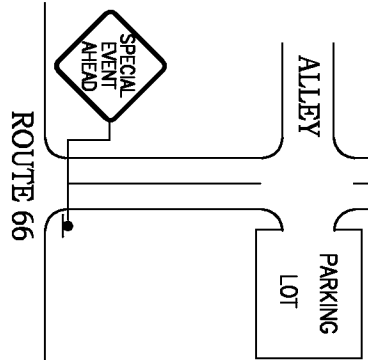
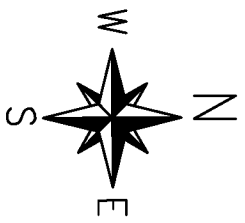
Inform: The Office of Community Events produces a monthly newsletter for downtown businesses and residents. The newsletter contains event information regarding upcoming City Council meetings, Heritage Square activities and street closures.

Involve: The Sustainability Program will conduct outreach with businesses that will be affected by the street closure.

Community Involvement:

The Flagstaff Earth Day celebration draws approximately 1,500 residents and visitors to the downtown area. It generates business for Flagstaff shops and restaurants. The event regularly draws from both the private and public sector and provides activities. Earth Day provides a fun and exciting atmosphere where community members can learn about and participate in different environmentally focused workshops, tables and projects.

Attachments: [Traffic Control Plan](#)



NOTE: NO PARKING SIGNS TO BE SET ON ASPEN AVE. - LEROUX ST. TO SAN FRANCISCO ST. 24 HOURS PRIOR TO EVENT.

LEGEND

- = ARROWBOARD
- = HIGH-LEVEL SIGN STAND
- = VERTICAL PANEL
- = CONE
- = TYPE-1
- = TYPE-2
- = TYPE-3
- = EXISTING

REVISION: **E**

REV DATE: 01/19/17

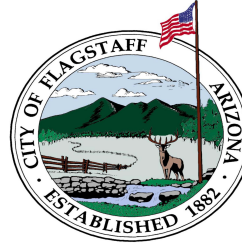
POSTED SPEED LIMIT 25

Action Traffic Control Co., LLC	
DRAWN BY: STEPHEN MILLER, T122194 DATE CREATED: 12/15/14	
General Operations Manager: Rick Conway	
Office: 602-288-6350 TCP Fax: 602-288-6361 Dispatch: 602-288-6363 24 Hours: 602-920-4652	
SIGN SIZE: 48" X 48" 36" X 36" X	
NOTES: PLAN IS NOT TO SCALE This is a vehicular and/or pedestrian plan only. Pedestrian access shall be maintained if possible. All applicable equipment shall have sandbags and flags. This traffic control plan is for day and/or night time use. Business and local traffic shall be maintained when possible. Bump signs shall be placed in front of all steel poles in the roadway. Conflicting existing signs shall be covered for temporary traffic control. Equipment list is approximate, plan is subject to changes made in the field.	
TCP NAME: 121514-001	CONTRACTOR: FLAGSTAFF SUSTAINABILITY
MUNICIPAL: CITY OF FLAGSTAFF	CONTACT NAME: MAGGIE TWOMEY
LOCATION: ASPEN AVE.	CONTRACTOR'S NUMBER: 928-213-2144
TYPE OF SET-UP: ROAD CLOSURE	CONTRACTOR'S FAX:
START DATE: 04/22/17	END DATE: 04/22/17
WORK HOURS: 0800-1400	

9. B.

CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Charity Lee, Real Estate Manager
Date: 02/15/2017
Meeting Date: 02/21/2017



TITLE:

Consideration and Approval of Purchase Agreement: Purchase and Sale Agreement between the City of Flagstaff and FMH Enterprises, LLC for right-of-way acquisition along Humphreys Street (across from Wheeler Park, adjacent to future Marriott Residence Inn).

RECOMMENDED ACTION:

Approve the Purchase Agreement.

Executive Summary:

The purpose of this contract with FMH Enterprises LLC is to acquire real property as public right-of-way on Humphreys Street to allow for the future widening of Humphreys Street between Route 66 and Cherry Avenue.

Financial Impact:

Purchase Price for right-of-way acquisition	\$155,600.00
Less the value of the abandoned right-of way	<u>- \$5,600.00</u>
Purchase price	\$150,000.00

This acquisition was budgeted in FY 2017 and funded through Non-Departmental, account number 001-09-402-1310-1-4431-Land Acquisition Costs.

Policy Impact:

None

Connection to Council Goal and/or Regional Plan:

COUNCIL GOALS:

- 3) Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics
- 6) Provide a well-managed transportation system

REGIONAL PLAN:

Goal T.84 Protect rights-of-way for future transportation corridors.

Has There Been Previous Council Decision on This:

Yes,

Ordinance No. 2016-03 - Authorized the acquisition of real property as public right-of-way for the possible widening of Humphreys Street between Route 66 and Cherry Avenue.

Ordinance 2016-04 - Authorized the abandonment of 64 square feet of public right-of-way at the northwest corner of Aspen Avenue and Beaver Street to FMH Enterprises, LLC

Approval of the Development Agreement dated February 2, 2016, between the City of Flagstaff and FMH Enterprises, LLC.

Options and Alternatives:

Council has the option to review the Agreement and make minor changes, but not change the price agreed to per the Development Agreement as approved on February 2, 2016.

Background/History:

The Arizona Department of Transportation in its Urban Mobility Study indicated that Humphreys Street may be widened in the future. The City has an interest in obtaining the property necessary for the widening of Humphreys at this time before the property is fully developed, rather than allowing the value to escalate in the post-development condition. The Developer and the City reached an agreement to the price of the acquisition which was outlined in the Development Agreement and approved by Council on February 2, 2016. At that time the purchase agreement had not been drafted. Council had requested Staff bring back the purchase agreement for review prior to entering into escrow. Staff is following the direction of Council.

Key Considerations:

The key consideration of this acquisition is the future widening of Humphreys Street.

Community Benefits and Considerations:

Inform

Attachments: [Overview Map](#)
 [Ordinance 2016-04](#)
 [Ordinance 2016-03](#)
 [Development Agreement](#)
 [Purchase Agreement](#)

Purchase Agreement Exhibits

An aerial photograph of a city grid. A blue dot is placed on a street intersection in the center of the image. The text 'Humphreys Street' and 'Right-of-Way Acquisition' is overlaid on the top half of the image.

Humphreys Street Right-of-Way Acquisition

ORDINANCE NO. 2016-04

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF,
ABANDONING WHATEVER RIGHT, TITLE OR INTEREST IT HAS IN AN
APPROXIMATELY 64 SQUARE FOOT PORTION OF PUBLIC RIGHT-OF-WAY
GENERALLY LOCATED AT THE NORTHWEST CORNER OF ASPEN
AVENUE AND BEAVER STREET TO FMH ENTERPRISES, LLC**

RECITALS:

WHEREAS, A.R.S. Sec. 28-7201 *et seq.* provides that a city may dispose of a roadway or a portion thereof when said property or portion thereof is no longer necessary for public use; and

WHEREAS, the City Council has considered the proposed abandonment of the portion of roadway legally described and depicted in Exhibit "A" attached hereto (the "Abandoned Parcel"); and

WHEREAS, the City Council finds that the Abandoned Parcel is no longer necessary for public use as a roadway; and

WHEREAS, pursuant to A.R.S. Sec. 28-7205, title to the Abandoned Parcel will vest in the owner of the land abutting the Abandoned Parcel, FMH Enterprises, LLC;

WHEREAS, as compensation for the Abandoned Parcel, FMH Enterprises, LLC has agreed to either deduct the assessed value of the Abandoned Parcel from the purchase price of property along Humphreys Street that is being sold to the City or, if the City does not purchase the property along Humphreys Street, make payment to the City in the amount of the assessed value;

WHEREAS, the City Council finds that consideration and other public benefit commensurate with the value of the Abandoned Parcel, giving due consideration to its degree of fragmentation and marketability, has been provided to the City by the owner of the abutting property, FMH Enterprises, LLC.

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

SECTION 1. That subject to the reservations below, the Abandoned Parcel is abandoned as a public right-of-way and whatever title the City of Flagstaff has in the Abandoned Parcel vests in the abutting property owner, FMH Enterprises, LLC.

SECTION 2. That all of the following interests are reserved to the City of Flagstaff and excluded from this abandonment:

2.1 Those easements, if any, running over, on or through the Abandoned Parcel as of the effective date of this abandonment.

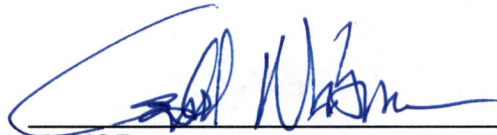
2.2 Such rights and interests, if any, as are required to be reserved by A.R.S. Sec. 28-7210 and A.R.S. Sec. 28-7215.

SECTION 3. The City Clerk is hereby directed to cause this Ordinance to be recorded in the Office of the Coconino County Recorder, but in no event earlier than thirty (30) days following the date that this Ordinance is passed and adopted. The abandonment described in this Ordinance will become effective when the Ordinance is recorded.

SECTION 4: That the City Manager, the City Attorney, the City Clerk, the Finance Director, the Assistant to the City Manager for Real Estate, or their designees or agents, are hereby authorized and directed to take all steps and execute all documents necessary to carry out the purpose and intent of this Ordinance.

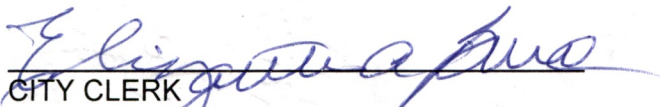
SECTION 5: That if any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the City Code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 2nd day of February, 2016.




MAYOR

ATTEST:



CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY For

EXHIBIT A

The following is a description of a parcel of land, being a portion of Lot 1 of Block 2A of The Townsite of Flagstaff, File 1 Map 1 and Book 1 Page 16, Coconino County Records, situate in the SE¼ section 16, Township 21 North, Range 7 East, G.& S.R.M., Flagstaff, Coconino County, Arizona being more particularly described as follows:

Beginning at the southeast corner of said Lot 1, Block 2A, which is a beginning of a non-tangent curve, concave to the northwest, having a radius of 15.00 feet, and to which a radial line bears South 20°52'32" West;

Thence southerly and westerly along said curve a distance of 23.57 feet through a central angle of 90°02'54" to a south corner of said Lot 1;

Thence North 65°51'05" East along the existing Right-of-Way a distance of 21.22 feet to the Point of Beginning.

Said parcel of land contain 64 sq. ft. of land more or less as shown on Exhibit B which by this reference is made a part hereof

Right-of-Way Abandonment



Expires: 3/31/18

Mogollon Engineering and Surveying, Inc.

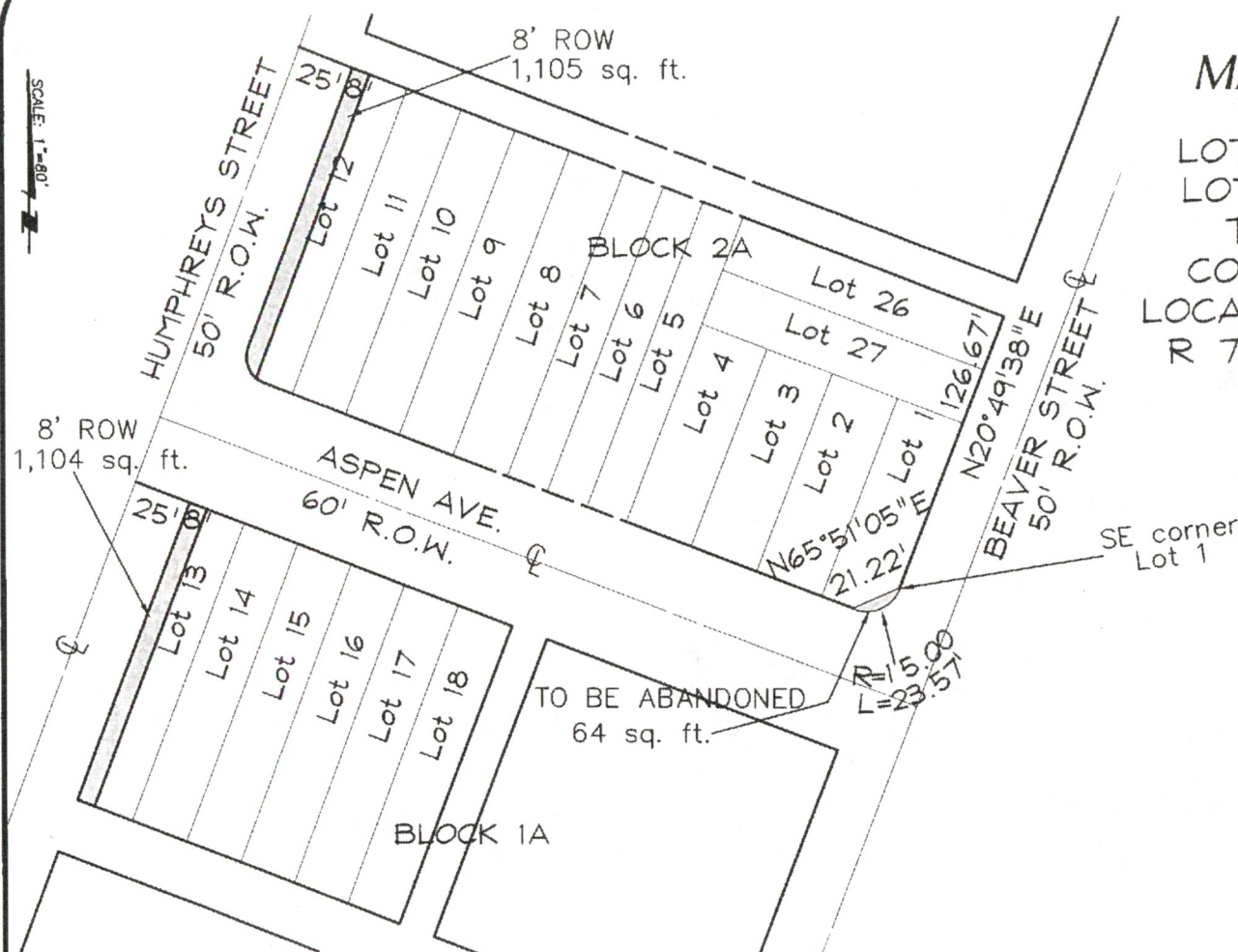
411 W. Santa Fe Ave. Flagstaff, AZ 86001- P.O.-Box 1952 Flagstaff, AZ 86002-mogollon99@aol.com- 928-214-0214

RIGHT-OF-WAY MAP

FOR

MARRIOTT RESIDENCE INN

LOT 1 AND 12 BLOCK 2A AND
LOT 13 BLOCK 1A, FLAGSTAFF
TOWNSITE, FILE 1 MAP 1,
COCONINO COUNTY RECORDS
LOCATED IN SECTION 16, T 21 N,
R 7 E, FLAGSTAFF, COCONINO
COUNTY, ARIZONA



Expires on 3/31/18

Survey was performed in June
of 2015. Information shown
hereon is true and correct to
the best of my knowledge.

HORIZONTAL SCALE: 1"=80'

VERTICAL SCALE:

DESIGNED/DRAWN BY:

PROJECT NO. 14138

DATE: 1/08/16

Mogollon
ENGINEERING
& SURVEYING Inc

411 W. Santa Fe Avenue
Flagstaff, Az. 86001
Phone: 928-214-0214 • Mogollon@aol.com

EXHIBIT B
MARRIOTT RESIDENCE INN
DEDICATION AND ABANDONMENT

ORDINANCE NO. 2016-03

**AN ORDINANCE OF THE FLAGSTAFF CITY COUNCIL AUTHORIZING
THE ACQUISITION OF CERTAIN REAL PROPERTY AS A PUBLIC RIGHT-
OF-WAY FOR THE POSSIBLE WIDENING OF HUMPHREYS STREET
BETWEEN ROUTE 66 AND CHERRY AVENUE**

RECITALS:

WHEREAS, FMH Enterprises, LLC, an Arizona limited liability corporation, is developing approximately 1.5 acres of real property located at 175 W. Aspen Avenue and 100 N. Humphreys Street; and

WHEREAS, the parcels abut Humphreys Street; and

WHEREAS, the Arizona Department of Transportation in its Urban Mobility Study indicates that Humphreys Street may be widened in the future; and

WHEREAS, the City of Flagstaff ("City") has an interest in obtaining the property necessary for the widening of Humphreys at this time before the property is developed, rather than allowing the value to escalate in the post-development condition; and

WHEREAS, the property that may be needed for an expansion of Humphreys Street (the "Future Humphreys Street Right-of-Way") is described in Exhibit "A"; and

WHEREAS, the Developer and the City have reached agreement as to the price of the Future Humphreys Street Right-of-Way; and

WHEREAS, the City has an interest in planning, developing, and maintaining an adequate infrastructure system, including a surface transportation system to meet the needs of the community; and

WHEREAS, Article VII, Section 5, of the Flagstaff City Charter requires the City to acquire real property by ordinance.

ENACTMENTS:

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

SECTION 1: That the City wishes to acquire the property specifically described in Exhibit "A";

SECTION 2: That City staff is hereby authorized to acquire the property described in Exhibit "A," which may potentially be used as right-of-way.

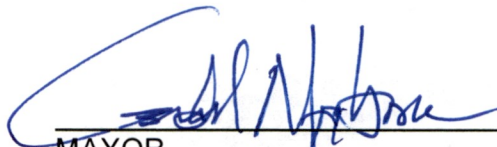
SECTION 3: That the City Council will review and may adopt a development agreement that will set forth additional terms and conditions of the property acquisition.

SECTION 4: That the City Manager, the City Attorney, the City Clerk, the Management Services Director, the Assistant to the City Manager for Real Estate, or their designees or agents, are hereby authorized and directed to take all steps and execute all documents necessary to carry out the purpose and intent of this Ordinance.

SECTION 5: That if any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the City 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.

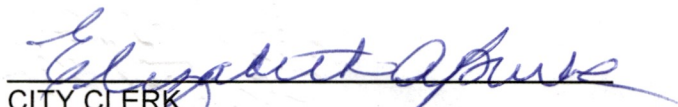
SECTION 6: That this Ordinance shall become effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 2nd day of February, 2016.



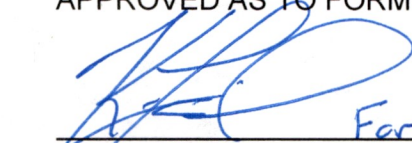
MAYOR

ATTEST:



CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY

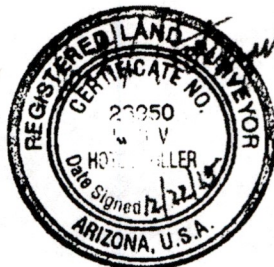
EXHIBIT A

The following is a description of a parcel of land, being a portion of Lot 12 of Block 2A of The Townsite of Flagstaff, File 1 Map 1 and Book 1 Page 16, Coconino County Records, situate in the SE¼ section 16, Township 21 North, Range 7 East, G.& S.R.M., Flagstaff, Coconino County, Arizona being more particularly described as follows:

The westerly 8 feet of said Lot 12

Said parcel of land contain 1,105 sq. ft. of land more or less as shown on Exhibit B which by this reference is made a part hereof

Right-of-Way Dedication



Expires: 3/31/19

Mogollon Engineering and Surveying, Inc.

411 W. Santa Fe Ave. Flagstaff, AZ 86001- P.O.-Box 1952 Flagstaff, AZ 86002-mogollon99@aol.com- 928-214-0214

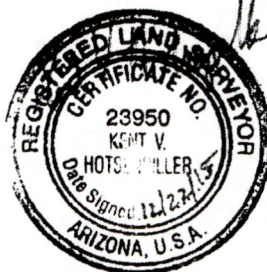
EXHIBIT A

The following is a description of a parcel of land, being a portion of Lot 13 of Block 1A of The Townsite of Flagstaff, File 1 Map 1 and Book 1 Page 16, Coconino County Records, situate in the SE¼ section 16, Township 21 North, Range 7 East, G. & S.R.M., Flagstaff, Coconino County, Arizona being more particularly described as follows:

The westerly 8 feet of said Lot 13

Said parcel of land contain 1,104 sq. ft. of land more or less as shown on Exhibit B which by this reference is made a part hereof

Right-of-Way Dedication



Expires: 3/31/16

Mogollon Engineering and Surveying, Inc.

411 W. Santa Fe Ave. Flagstaff, AZ 86001- P.O.-Box 1952 Flagstaff, AZ 86002-mogollon99@aol.com- 928-214-0214

RIGHT-OF-WAY MAP

FOR

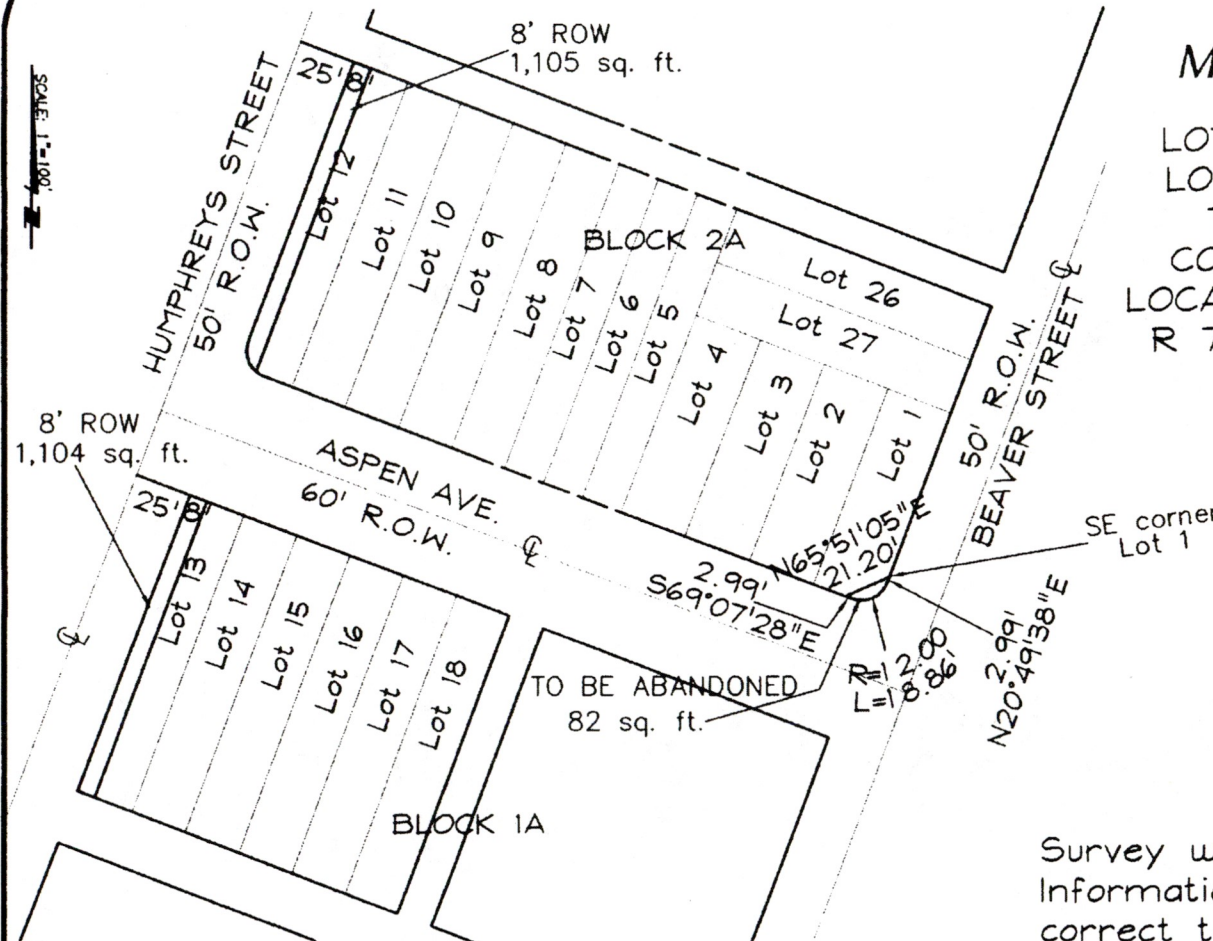
MARRIOTT RESIDENCE INN

LOT 1 AND 12 BLOCK 2A AND
LOT 13 BLOCK 1A, FLAGSTAFF
TOWNSITE, FILE 1 MAP 1,
COCONINO COUNTY RECORDS
LOCATED IN SECTION 16, T 21 N,
R 7 E, FLAGSTAFF, COCONINO
COUNTY, ARIZONA



Expires on 3/31/18

Survey was performed in June of 2015.
Information shown hereon is true and
correct to the best of my knowledge.



HORIZONTAL SCALE: 1"=80'

VERTICAL SCALE:

DESIGNED/DRAWN BY:

PROJECT NO. 14138

DATE: 12/21/15

Mogollon
ENGINEERING
& SURVEYING

411 W. Santa Fe Avenue
Flagstaff, Az. 86001
Phone: 928-214-0214 • MogollonFF@aol.com

EXHIBIT B
MARRIOTT RESIDENCE INN
DEDICATION AND ABANDONMENT

When recorded, mail to:

City Clerk
City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT is made as of this 2nd day of February, 2016, between the City of Flagstaff (the "City"), a municipal corporation organized and existing under the laws of the State of Arizona, and FMH Enterprises, LLC (the "Developer"), an Arizona limited liability company.

RECITALS

- A. Developer is the escrow owner of approximately 1.4 acres of real property located at 100 N. Humphreys St. and 175 W. Aspen Ave., parcel numbers 100-21-007A, 100-19-011A, 100-19-012, 100-19-013A, and 100-19-019, within the City's corporate limits, more specifically described in **Exhibit A** (the "Property").
- B. Developer proposes to develop an extended-stay hotel on the Property as more specifically described in the approved site plan containing City Staff conditions dated December 8, 2015 (the "Project" or the "Site Plan").
- C. The City is interested in obtaining a portion of the Property for possible future right-of-way purposes because the Arizona Department of Transportation indicates a possible widening of Humphreys Street to relieve traffic congestion in this area in its Urban Mobility Study.
- D. The Property is currently zoned Central Business (CB) and Downtown Overlay (DO) Zone and no zone change is needed for development of the property.
- E. The City believes that development of the Property pursuant to this Agreement will result in planning and economic benefits to the City and its residents, and will not be detrimental to the public health, safety or welfare, or materially injurious to the properties in the vicinity.
- F. The City has an interest in ensuring that the development of the Property complies with the City's standards for development and engineering improvements and all other City standards, and Developer desires assurances from the City that this long-term Project will be developed within a stable regulatory environment.

- G. Developer acknowledges that this development will be beneficial and advantageous to Developer. Developer agrees it will not be compensated for any lost revenue caused by the sale of a portion of the Property to the City (see paragraph 4.1.1) and that the compensation provided herein by the City for said portion is sufficient and appropriate.
- H. The City and Developer are entering into this Agreement pursuant to Arizona Revised Statutes § 9-500.05.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises and agreements set forth herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and in order to fulfill the foregoing objectives, the Parties agree as follows:

1. **Definitions.** The following terms, whenever capitalized in this Agreement, shall have the meanings set forth below, except where the context clearly indicates otherwise:
 - 1.1. “**Agreement**” shall mean this Development Agreement between the City and Developer.
 - 1.2. “**A.R.S.**” shall mean Arizona Revised Statutes.
 - 1.3. “**City**” shall mean and refer to the City of Flagstaff, an Arizona municipal corporation, and any successor public body or entity.
 - 1.4. “**Construction Permits**” shall mean any permit issued by the City or other jurisdiction that is required in order to begin construction on any On-Site or Off-Site phase or stage of the Project, including but not limited to public improvements, grading, electrical, gas, plumbing, or mechanical.
 - 1.5. “**Developer**” shall mean and refer to FMH Enterprises, LLC, an Arizona limited liability company, and any successor and/or assignee of FMH Enterprises, LLC pursuant to Section 6.21 of this Agreement.
 - 1.6. “**Effective Date**” shall mean the date this Agreement becomes effective as set forth in Section 6.9 of this Agreement.
 - 1.7. “**Parties**” shall mean a collective reference to the City and Developer, and its successors and/or assigns.

- 1.8. “**Roadway Improvements**” shall mean improvements to public roadway segments and intersections.
- 1.9. “**Site**” shall have the same meaning as the term Property.
- 1.10.
- 1.11. “**Zoning Code**” shall mean the City’s Zoning Code.

2. Applicable Regulations & Development Standards.

- 2.1. Screen Walls. The City will not require a screen wall along the Humphreys Street surface parking. Developer must construct a screen wall along the south side of Aspen Avenue along the surface parking. The screen wall may be constructed immediately adjacent to the public right-of-way. If it is necessary to meet parking requirements, the screen wall may encroach partially into the City’s right-of-way. City staff will determine the appropriate amount of encroachment that may be permitted. So long as the City owns the right-of-way, the City shall provide an encroachment permit in its standard form for the screen wall. The City shall not revoke the permit without six-month’s notice and adequate consideration, which will include the cost to remove and relocate the screen wall if removal and relocation is necessary as a result of the revocation.
- 2.2. Regulation Timeframe. All aspects of the Project, including public improvements, shall be governed by the City’s codes in existence as of the Agreement’s Effective Date, including the Zoning Code, ordinances, regulations, rules, guidelines and policies; provided, however, that Developer obtains grading permits for one or more components of the Project within two (2) years following City’s approval of this Agreement. If Developer fails to obtain any grading or Construction Permits at the expiration of this two (2) year period, the Project shall be subject to the City’s codes, ordinances, regulations, rules, guidelines, and policies in effect at the time Developer applies for such Construction Permits.
- 2.3. Permits & Building Fees. Developer agrees and understands that all building permits, development fees, and other fees normally applicable to construction within the City at the time of application shall apply to the Project. Denial of a Developer’s permit application for failure to meet the City’s criteria for such permit shall not be deemed a breach by the City of this Agreement.
 - 2.3.1. Out-Sourcing. City agrees to out-source review of permits if it cannot meet the City’s established timeframes.
 - 2.3.2. No Breach. Failure to meet established timeframes is not a material breach of this agreement, but may be cured pursuant to Section 6.8.

3. **Utility Requirements.** The City agrees to permit Developer to relocate the overhead utilities in the adjacent alleys to the Property so that such utilities do not interfere with the site plan so long as the relocation of the overhead utilities continues to conform with governmental requirements and code and does not negatively impact existing businesses in the area. The water meter for the Project must be sized according to AWWA Manual M22 and in accordance with City Code.
4. **Road Improvement Requirements.** The City and Developer understand that the Arizona Department of Transportation may eventually widen Humphreys Street to relieve traffic congestion. So long as Developer closes escrow on the Property and becomes the owner of the Property, the Developer agrees, as described below, to sell a portion of its Property to the City in anticipation of that project.
 - 4.1. **General Roadway Improvements.** The Developer is not required to provide a Traffic Impact Analysis ("TIA") to determine the necessary traffic mitigation for the Project. Instead, the Parties agree that Developer's traffic mitigation will be accomplished as described in this Section.
 - 4.1.1. **Sale of a Portion of the Property.** Developer agrees to sell to the City and the City agrees to purchase the portion of the Property described in **Exhibits B1 and B2** (the "Humphreys Right-of-Way") for a full purchase price of one hundred and fifty-five thousand six-hundred dollars (\$155,600.00). The City may deduct from the full-purchase price the value of the property that the City may abandon as discussed in Section 5.2 below. The value of the abandoned property is five thousand six hundred dollars (\$5,600.00). Sale of the Humphreys Right-of-Way will occur when Developer makes written demand upon the City after all permits have been received by Developer to begin construction and construction begins. Developer agrees this is adequate consideration for the Humphrey's Right-of-Way and will not require additional funds from the City or any other government entity that undertakes the widening of Humphreys Street for any reason, so long as no additional real property is needed from Developer on the site covered by this Agreement for the widening project. If, however, the widening project commences, the City will pay for the installation of an appropriate screen wall along Humphreys and the paving needed for the south parking lot to match-up with the current paving. Such installation and match-up of paving shall permit Developer to maintain the parking layout attached hereto as Exhibit C.
 - 4.1.2. **Use of the Property Prior to Widening of Humphrey Street.** The City shall provide an encroachment permit in its standard form to Developer to use the portion of the Humphreys Right-of-Way that is located south of Aspen Avenue for parking until the Humphreys widening project commences. The City shall not revoke the permit without six-month's notice and adequate consideration, which will include the City's acknowledgement that the

remaining amount of parking after any revocation is allowed as a legal nonconforming use and no further parking is required.

- 4.1.3. Conformance with City Parking Requirements. In the event that Humphreys Street is widened, the City will not require Developer to construct additional parking spaces to conform to regular City parking requirements due to spaces lost as a result of the Humphreys widening project.
- 4.1.4. Location of ADA Ramp. The ADA ramp which is located on the site plan alongside Humphreys Street will be relocated to City right-of-way on Aspen Avenue promptly after the Developer obtains a building permit. The City shall provide an encroachment permit for City right-of-way in its standard form to Developer for placement of the ADA ramp in City right-of-way and agrees to not revoke the permit without six-month's notice and adequate consideration, which will include all costs associated with removing and relocating the ADA ramp to a different location that is mutually agreeable to the Parties. The Developer will be responsible for maintenance of the ADA ramp.
- 4.1.5. Payment for Relocation of City Infrastructure and Facilities. The City shall pay for the design, construction, and permitting, to relocate the City infrastructure and facilities that impede the placement of the ADA ramp on Aspen Avenue, including the signal-light electrical box and fire hydrant located on the northeast corner of Humphreys Street and Aspen Avenue. The City will also pay for the conversion of one on-street parking space to sidewalk and match it to the brick-paved sidewalk area. All work will be performed by the Developer or its designee. All bids for design, construction or any other work covered by this Section shall be approved by the City Engineer. The City will pay within thirty (30) days of invoice. The Developer is responsible for the costs to construct the ADA ramp.
- 4.1.6. Limitation on Transfer of Humphreys Right-of-Way. The City agrees that, after purchase from Developer, it will not transfer ownership of any portion of the Humphreys Right-of-Way until the Humphreys widening project becomes imminent.

5. Future Considerations.

- 5.1. Garage. The City and Developer presently believe that a parking structure on the portion of the Property located south of Aspen Avenue could be a benefit to the City and to Developer. Therefore, when said parking structure is being earnestly considered then Developer agrees to explore use of the parcel as a parking structure with terms and conditions acceptable to the Parties.

- 5.2. **Abandonment.** Staff will propose to the City Council that the City abandon right-of-way to the Developer for the southeast corner of the building to match the southwest corner of the building, as depicted on the Site Plan. The abandonment will be considered by Council at the same time as consideration of this Agreement. This Agreement is conditional on City Council approval and the continuing validity of the ordinance to abandon right-of-way to the Developer for the southeast corner of the building to match the southwest corner of the building.

6. **General Provisions.**

- 6.1. **Agreement Recordation.** In accordance with A.R.S. § 9-500.05(D), this Agreement shall be recorded in its entirety in the official records of the Coconino County Recorder, State of Arizona, no later than ten (10) days from the date of its execution by the City.
- 6.2. **Amendment.** This Agreement may be amended at any time by written amendment executed by both Parties; all amendments shall be recorded in the official records of Coconino County, Arizona, within ten (10) days following the execution thereof.
- 6.3. **Authorization.** The Parties to this Agreement represent and warrant that the persons executing this Agreement on their behalves have full authority to bind the respective Parties.
- 6.4. **Cancellation.** This Agreement is subject to the cancelation provisions of A.R.S. § 38-511.
- 6.5. **Captions.** The captions used herein are for convenience only, are not part of this Agreement, and do not in any way limit or amplify the terms and provisions hereof.
- 6.6. **Construction of Agreement.** This Agreement has been arrived at by negotiation and shall not be construed against either Party.
- 6.7. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall constitute an original, but all of which together shall constitute but one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signatures of all Parties may be physically attached to a single document.
- 6.8. **Default & Remedies.** A party hereunder shall be deemed to be in default under this Agreement if such party breaches any obligation required to be performed by the respective party hereunder within any time period required for such performance and such breach or default continues for a period of forty-five (45) days after written notice thereof from the party not in default hereunder. For

purposes of determining default and termination, the Developer's obligations set forth in the Agreement are severable, and each individual obligation shall terminate upon its completion.

- 6.8.1. **Developer's Remedies.** In the event that the City is in default under this Agreement and fails to cure any such default within the time period required therefore as set forth in Section 6.8 above, then, in that event, in addition to all other legal and equitable remedies which Developer may have, Developer may: a) terminate this Agreement by written notice delivered to the City; b) seek specific performance by the City; or c) seek recovery of money damages from the City.
- 6.8.2. **City's Remedies.** In the event that Developer is in default under this Agreement, and Developer thereafter fails to cure any such default within the time period described in Section 6.8 above, then, in that event, in addition to all other legal and equitable remedies which the City may have, the City may: a) terminate this Agreement by written notice delivered to Developer; b) seek specific performance by the Developer; or c) seek recovery of money damages from the Developer.
- 6.8.3. **Development Rights in the Event of Termination.** With the exception of a termination that occurs under Section 6.8.1 above, upon the termination of this Agreement as provided herein, Developer shall have no further rights to develop the Property pursuant to this Agreement.
- 6.8.4. **Litigation and Attorneys' Fees.** Except as otherwise agreed by the Parties, any litigation brought by either party against the other to enforce the provisions of this Agreement must be filed in the Coconino County Superior Court. In the event any action at law or in equity is instituted between the Parties in connection with this Agreement, the prevailing party in the action shall be entitled to its costs including reasonable attorneys' fees and court costs from the non-prevailing party.
- 6.9. **Effective Date of the Agreement.** This Agreement shall be effective upon the latter of the execution of the Parties hereto, recordation in accordance with Section 6.1, and upon expiration of thirty (30) days following the approval hereof by the City. However, in the event that the approval is delayed in its effect by judicial challenge, or by referendum or injunction, the effective date of this Agreement shall be delayed until resolution or termination of such judicial challenge, referendum or injunction. In the event of judicial challenge, referendum or injunction by any person or entity resulting in a delay in the effect of this Agreement that extends for a period of more than one hundred eighty (180) days following its approval by the City Council, this Agreement shall be terminable by Developer upon written notice to the City in accordance with this Agreement at any time within an additional sixty (60) days. Upon termination, this Agreement shall be of no further force or effect, and neither party shall have

any further obligation hereunder. Any delay relative to the effective date of this Agreement by judicial challenge, referendum or injunction filed by parties acting independently of and not under the control of the City shall not be deemed a default hereunder by the City.

- 6.10. **Entire Agreement.** This Agreement, along with the site plan approval, right-of-way abandonment ordinance, and Humphreys Right-of-Way acquisition ordinance, constitutes the entire agreement between the Parties hereto pertaining to the subject matter hereof, and all prior and contemporaneous agreements, representations, negotiations, and understandings of the Parties hereto, oral or written, are hereby superseded and merged herein. The foregoing sentence shall in no way affect the validity of any instruments executed by the Parties in the form of the exhibits attached to this Agreement.
- 6.11. **Further Acts.** Each of the Parties hereto shall execute and deliver such documents and perform such acts as are reasonably necessary, from time to time, to carry out the matters contemplated by this Agreement. The City Manager or his designee is authorized to perform such acts on behalf of the City.
- 6.12. **Governing Law.** This Agreement shall be governed by and construed under the laws of the State of Arizona and shall be deemed made and entered into in Coconino County.
- 6.13. **Incorporation of Recitals and Exhibits.** The Recitals set forth above, and the Exhibits referenced within the Agreement and attached below, are incorporated into this Agreement.
- 6.14. **Modification.** No modification of this Agreement shall be deemed effective unless in writing, signed by the Parties hereto, and recorded as required by Section 6.1.
- 6.15. **Negotiation of Partnership.** The Parties specifically acknowledge that the Project will be developed as private property, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants, and conditions contained in this Agreement. None of the terms or provisions of this Agreement shall be deemed to create a partnership between or among the Parties, nor shall it cause them to be considered a joint venture or members of any joint enterprise.
- 6.16. **No Personal Liability.** No current or former member, official, or employee of the City or Developer, when acting within the scope of their official capacity, shall be personally liable: (a) in the event of any default or breach by the City or Developer, as applicable; (b) for any amount which may become due to the non-breaching party or its successor and/or assign; or (c) pursuant to any obligation of the City or Developer, as applicable, under the terms of this Agreement.

- 6.17. **No Third Party Beneficiaries.** The City and Developer acknowledge and agree that the terms, provisions, and conditions hereof are for the sole benefit of, and may be enforceable solely by, the City and Developer; and none of these terms, provisions, conditions, and obligations are for the benefit of or may be enforced by any third party.
- 6.18. **Notices.** Unless otherwise specifically provided herein, all notices, demands, or other communications given hereunder shall be in writing and shall be deemed to have been duly delivered upon personal delivery or as of the third business day after mailing by the United States mail, postage prepaid, by registered or certified mail, return receipt requested, addressed as follows:

To City: City of Flagstaff
Attn: City Manager
211 West Aspen Avenue
Flagstaff, AZ 86001

Copy To: City of Flagstaff
Attn: City Attorney
211 West Aspen Avenue
Flagstaff, AZ 86001

To Developer: FMH Enterprises, LLC
Attn: Steven D. Shumway, President/CEO
P.O. Box 250
Show Low, AZ 85902

Copy To: FMH Enterprises, LLC
Attn: Shane J. Shumway, Executive V.P.
P.O. Box 250
Show Low, AZ 85902

Notice of address may be changed by either party by giving notice to the other party in writing of change of address.

- 6.19. **Severability.** In the event that any phrase, clause, sentence, paragraph, section, article, or other portion of this Agreement shall become illegal, null or void or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining portions of this Agreement shall not be affected thereby and shall remain in force and effect, to the extent that the intent of the Parties to develop the Project is still viable.
- 6.20. **Successors and Assigns.** All of the covenants and conditions set forth herein shall be binding upon the successors in interest of each of the Parties hereto,

except that transfer of any portions of right-of-way from the City to the State of Arizona will not result in a transfer of obligations in this Agreement to the State. Obligations accruing after a transfer of ownership will not be deemed to be an obligation of the transferor, though no transfer will relieve a transferor of any obligation that accrued prior to the transfer.

6.20.1. **Assignment.** Developer's rights and obligations hereunder may only be assigned to a person or entity that has acquired the Property or a portion thereof and only by a written instrument, recorded in the Official Records of Coconino County, Arizona, expressly assigning such rights and obligations. Such assignment must be approved by the City before the assignment is valid, which approval shall not be unreasonably withheld.

6.20.2. **Lender Provisions.** Further, Developer or any persons or entities benefited by this Agreement may collectively assign all or a part of its rights and obligations under this Agreement to any lender from which such Developer or other benefited person or entity has borrowed funds for developing, constructing improvements, and/or operation of the improvements on the Property (the "Lender"). If the Lender requests a collateral assignment of this Agreement as part of its collateral for its loan to Developer, the City agrees that such collateral assignments are permissible without consent of the City. In the event of default by Developer, the City shall provide notice of such default at the same time notice is provided to Developer to any Lender previously identified in writing to the City. If a Lender is permitted under the terms of its agreement with Developer to cure the default or to assume Developer's position with respect to this Agreement, the City agrees to recognize the rights of Lender and to otherwise permit Lender to assume such rights and obligations of Developer under this Agreement. Nothing contained in this Agreement shall be deemed to prohibit, restrict or limit in any way the right of a Lender to take title to all or a portion of the Property, pursuant to a foreclosure proceeding, trustee's sale, or deed in lieu of foreclosure. The City shall, at any time upon request by Developer or Lender, provide to any Lender an estoppel certificate, acknowledgement of collateral assignment, or other document evidencing that this Agreement is in full force and effect, that it has not been amended or modified (or, if appropriate, specifying such amendment or modification) and that no default by Developer exists hereunder (or, if appropriate, specifying the nature and duration of any existing default) and certifying to such other matters reasonably requested by Developer or Lender. Upon request by a Lender, the City will enter into separate assumption or similar agreement with such Lender consistent with the provisions of this Section.

6.21. **Term.** The term of this Agreement shall commence on the effective date of this Agreement as defined in Section 6.9 and shall automatically terminate at complete

build out of the Project unless previously terminated pursuant to the terms of this Agreement.

- 6.22. **Waiver.** No waiver by either party of a breach of any of the terms, covenants, and conditions of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, covenant, or condition herein contained.

IN WITNESS WHEREOF, the City has caused this Agreement to be duly executed in its name and on its behalf by its Mayor and its seal to be hereunder duly affixed and attested by its City Clerk, and Developer has signed the same on or as of the day and year first above written.

City of Flagstaff, a municipal corporation


Gerald W. Nabours, Mayor

FMH Enterprises, LLC, an Arizona limited liability company



Attest:


City Clerk

Approved as to form and authority:


City Attorney

List of Exhibits

Exhibit A: Legal Description of the Property

Exhibit B1: Legal Description of the Humphreys Right-of-Way

Exhibit B2: Map Depicting Humphreys Right-of-Way

Exhibit C: Revised parking layout after potential widening of Humphreys.

EXHIBIT A

Legal Description of the following properties:

100-21-007A, 100-19-011A, 100-19-012, 100-19-013A, 100-19-019

FLAGSTAFF TOWNSITE Block: 1-A Lot: 13, Subdivision: FLAGSTAFF TOWNSITE Block: 1A Lot: 14 THRU:-
Lot: 18 , , , , Sixteenth: SE Quarter: SE Section: 16 Township: 21N Range: 07E, and

FLAGSTAFF TOWNSITE Block: 2-A Lot: 2 THRU:- Lot: 4
LOT 1 LESS:112 SF PER 1644/334., , Sixteenth: SE Quarter: SE Section: 16 Township: 21N Range: 07E, and

FLAGSTAFF TOWNSITE Block: 2-A Lot: 5 THRU:- Lot: 9 , , , , Sixteenth: SE Quarter: SE Section: 16
Township: 21N Range: 07E, and

FLAGSTAFF TOWNSITE Block: 2-A Lot: 10 AND:- Lot: 11 LOT 12 BLK LESS:31 SF PER 1632/887, Sixteenth:
SE Quarter: SE Section: 16 Township: 21N Range: 07E, and

FLAGSTAFF TOWNSITE Block: 2-A Lot: 26 AND:- Lot: 27 , Sixteenth: SE Quarter: SE Section: 16 Township:
21N Range: 07E

EXHIBIT B1

The following is a description of a parcel of land, being a portion of Lot 12 of Block 2A of The Townsite of Flagstaff, File 1 Map 1 and Book 1 Page 16, Coconino County Records, situate in the SE¼ section 16, Township 21 North, Range 7 East, G.& S.R.M., Flagstaff, Coconino County, Arizona being more particularly described as follows:

The westerly 8 feet of said Lot 12

Said parcel of land contain 1,105 sq. ft. of land more or less as shown on Exhibit B which by this reference is made a part hereof

Right-of-Way Dedication



Expires: 2/31/16

Mogollon Engineering and Surveying, Inc.

411 W. Santa Fe Ave. Flagstaff, AZ 86001- P.O.-Box 1952 Flagstaff, AZ 86002-mogollon99@aol.com- 928-214-0214

EXHIBIT B1

The following is a description of a parcel of land, being a portion of Lot 13 of Block 1A of The Townsite of Flagstaff, File 1 Map 1 and Book 1 Page 16, Coconino County Records, situate in the SE¼ section 16, Township 21 North, Range 7 East, G.& S.R.M., Flagstaff, Coconino County, Arizona being more particularly described as follows:

The westerly 8 feet of said Lot 13

Said parcel of land contain 1,104 sq. ft. of land more or less as shown on Exhibit B which by this reference is made a part hereof

Right-of-Way Dedication



Expires: 8/31/16

Mogollon Engineering and Surveying, Inc.

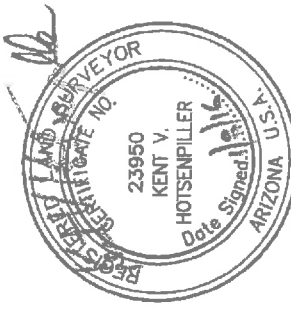
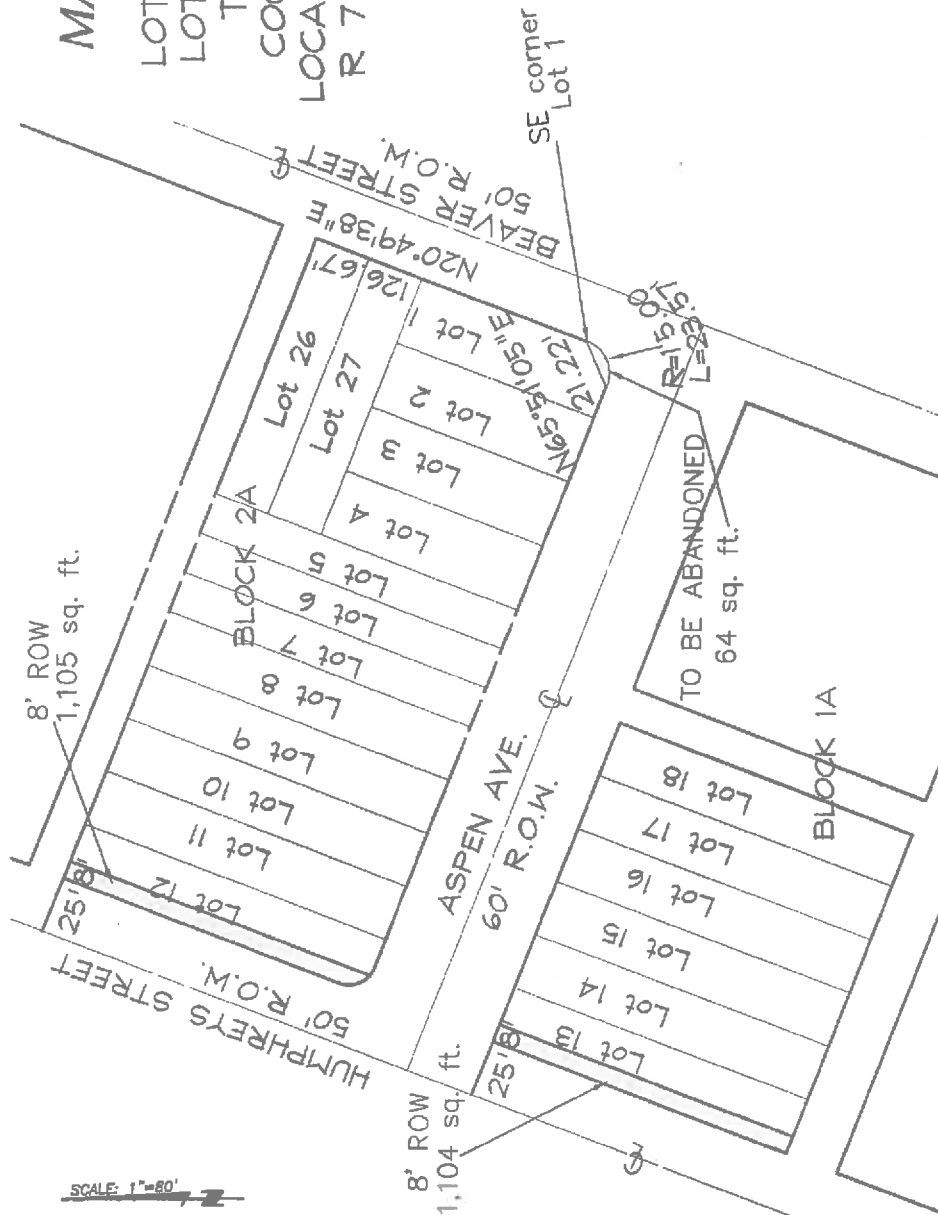
411 W. Santa Fe Ave. Flagstaff, AZ 86001 - P.O.-Box 1952 Flagstaff, AZ 86002-mogollon99@aol.com- 928-214-0214

RIGHT-OF-WAY MAP

FOR

MARRIOTT RESIDENCE INN

LOT 1 AND 12 BLOCK 2A AND
 LOT 13 BLOCK 1A, FLAGSTAFF
 TOWNSITE, FILE 1 MAP 1,
 COCONINO COUNTY RECORDS
 LOCATED IN SECTION 16, T 21 N,
 R 7 E, FLAGSTAFF, COCONINO
 COUNTY, ARIZONA



Expires on 3/31/18

Survey was performed in June of 2015. Information shown hereon is true and correct to the best of my knowledge.

Mogollon
 ENGINEERING
 & SURVEYING

411 N. Santa Fe Avenue
 Flagstaff, Az. 86001
 Phone: 928-214-0214 • Mogollon@aol.com

EXHIBIT B

MARRIOTT RESIDENCE INN
 DEDICATION AND ABANDONMENT

HORIZONTAL SCALE: 1"=80'

VERTICAL SCALE:

DESIGNED/DRAWN BY:

PROJECT NO. 14138

DATE: 1/08/16

REAL ESTATE PURCHASE AND SALE CONTRACT

(Humphreys Road adjacent to Marriott Residence Inn)

The City of Flagstaff, a municipal corporation organized and existing under the laws of the State of Arizona (“Buyer” or “City”) and the entity listed below (“Seller”) hereby enter into this Real Estate Purchase and Sale Contract this ____, day of ____, 2017 (“Contract”).

1. Property. Buyer agrees to purchase, and Seller offers to sell, certain real property along the east side of Humphreys Road, as legally described and depicted in Exhibits A and B attached hereto (“the Property”). The City of Flagstaff is acquiring the Property for possible future widening of Humphreys Road.
2. Seller. Seller consists of the following entity, with the following ownership interests in the Property:

Name and Corporate Status:

FMH Enterprises, LLC

Ownership Interest (%):

100%

Total: 100%

3. Purpose. The purpose of this Contract is to carry out the intent of Ordinance No. 2016-03, and section 4.1.1 of the Development Agreement dated February 2nd 2016, by and between the City and FMH Enterprises, LLC, an Arizona limited liability company (“Developer”), related to purchase and transfer of the Property. The parties acknowledge that this Contract is not intended to waive any terms and conditions of the Development Agreement. A secondary purpose of this Contract is to carry out the intent of Ordinance No. 2016-04, related to City of Flagstaff abandonment of a 64 square foot parcel as legally described and depicted in Exhibit A and B attached hereto (“the Abandoned Parcel”) to the Developer.
4. Purchase Price for Property. Buyer agrees to pay Seller the purchase price of one hundred and fifty-five thousand six-hundred dollars (\$155,600.00) less the value of the Abandoned Parcel of five thousand six hundred dollars (\$5,600.00), for a total of one hundred fifty thousand dollars (\$150,000.00).
5. Conveyance of Property. Seller shall convey the Property to Buyer by Special Warranty Deed, as provided for in Ordinance No. 2016-03. The Special Warranty Deed will be executed prior to Closing.
6. Conveyance of Abandoned Parcel. City of Flagstaff shall convey the Abandoned Parcel to FMH Enterprises, LLC by Special Warranty Deed, as provided for in Ordinance No. 2016-04. The Special Warranty Deed will be executed prior to Closing.
7. Opening of Escrow; Closing. Buyer shall deposit the sum of one thousand dollars (\$1,000.00) with Pioneer Title Agency, Inc. of Flagstaff, Arizona (the “Escrow Agent”) to be applied against the Purchase Price at the Close of Escrow.

The Opening of Escrow shall be deemed to be the date on which the Deposit and a fully executed copy of this Contract are delivered to the Escrow Agent. The consummation of the transaction contemplated by this Contract ("Close of Escrow") shall occur on or before sixty (60) days after the Opening of Escrow but in any event no earlier than March 1, 2017. If Escrow Company or Recorder's Office is closed on the scheduled closing date, Close of Escrow shall occur on the next day that both are open for business. The Closing shall occur at the offices of the Escrow Agent, or at such other place as Seller and Buyer may agree in writing. Closing shall be deemed to have occurred when (i) all closing documents contemplated by this Contract have been delivered to, received by, and executed by the appropriate parties, (ii) all conditions to such Closing contemplated by this Contract have been satisfied or waived, (iii) the funds required to be paid under this Contract have been properly delivered to Escrow Agent and are available for distribution to Seller by Escrow Agent, (iv) the deed required pursuant to Conveyance has been recorded.

8. Title. Within (5) days of Opening of Escrow, Escrow Agent shall deliver to the Buyer and Seller a preliminary title report pertaining to the Property (the "Title Commitment"). On or before fifteen (15) days after receipt of the Title Commitment, Buyer shall notify Seller of any matters or exceptions shown on the Title Commitment, or on any documents identified in the Title Commitment as title exceptions, that are not acceptable to Buyer (the "Objections"). Any matters or title exceptions to which Buyer does not object within such time period shall be deemed to be acceptable matters. Mortgages, deeds of trust and other liens encumbering the Property shall be cleared at or before Closing by Seller. Seller shall pay all ad valorem and similar taxes and assessments relating to the Property in full prior to Close of Escrow.
9. Environmental Investigation. Buyer has received a copy of the Phase 1 Assessment and accepts the Property with no further environmental inspections required. Seller shall not make any material adverse change to the condition of the Property prior to Closing.
10. No Warranties by Seller. Buyer agrees and acknowledges that no representations, statements or warranties have at any time been made by Seller, or any agent of Seller, as to the condition, quality, quantity, operation, state of repair, or prospects of the Property, or any other matter concerning the Property, in any respect. The Property and the Abandoned Parcel are being conveyed in "as-is" and "where is" condition and the parties agree to bear all risk regarding all attributes and conditions, latent or otherwise with respect to the property conveyed to that respective party.
11. Brokerage. Buyer and Seller warrant to one another that they have not dealt with any broker in connection with the sale of the Property. If any person shall assert a claim to a finder's fee, brokerage commission or other compensation on account of employment or alleged employment as a finder or broker or performance of services as a finder or broker in connection with this transaction, the party under whom the finder or broker is claiming shall indemnify, defend and hold the other party harmless from and against any such claim and all costs, expenses and liabilities incurred in connection with such claim or any action or proceeding brought on such claim, including, but not limited to, counsel and witness fees and court costs in defending against such claim. This indemnity shall survive the close of escrow or the cancellation of the Contract.
12. Closing Costs.
 - a. Buyer shall pay the premium for a standard ALTA owner's policy of title insurance with a limit of liability in the amount of the Purchase Price for the Property.

- b. Other costs incurred in the transfers of the Property shall be paid in accordance with the customs of real estate transactions presently in effect in Coconino County, Arizona, as determined by the Escrow Agent.
13. Distribution of Proceeds upon Closing. The proceeds of the sale (Purchase Price less Closing Costs attributable to Seller) shall be distributed to Seller by the Escrow Agent per the ownership interests listed herein. Seller is responsible for verifying accuracy of distribution of proceeds with the Escrow Agent and Buyer has no liability for any errors.
14. Sidewalk Maintenance. Seller, its successors, assigns, and/or tenants shall remain responsible for maintenance of public sidewalks to the extent required by the Flagstaff City Code as may be amended from time to time. See Flagstaff City Code Section 8-03-001-0004, *Removal of Snow and/or Ice*, and Chapter 8-0, *Sidewalks*.
15. Cure Period. A party shall have an opportunity to cure a potential breach of this Contract. If a party fails to comply with any provision of this Contract, the other party shall deliver a notice to the non-complying party specifying the non-compliance. If the non-compliance is not cured within five (5) business days after delivery of such notice (Cure Period), the failure to comply shall become a breach of Contract.
16. Attorneys' Fees and Costs. If any action is brought by either party in respect to its rights under this Contract, the prevailing party shall be entitled to reasonable attorneys' fees and court costs as determined by the court.
17. Seller Remedies. In the event of default by Buyer, Seller shall have all remedies available at law including but not limited to specific performance.
18. Buyer Remedies. In the event of default by Seller, Buyer shall have all remedies available at law including but not limited to specific performance.
19. Time of the Essence. The parties hereto expressly agree that time is of the essence with respect to this Contract.
20. Notices. Any notice, which a party is required or may desire to give the other, shall be in writing and shall be sent either (a) by United States registered or certified mail, return receipt requested, postage prepaid, or (b) by a generally recognized overnight carrier providing proof of delivery. Any such notice shall be addressed to a party at such party's address appearing next to such party's signature on last page of the main body of this Contract. Any notice so given shall be deemed to have been given as of the date of actual receipt. Notices shall be addressed to the parties as follows:

SELLER:
FMH Enterprises, LLC
1501 E. Woodford Rd.
Show Low, AZ. 85901

BUYER:
City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona. 86001

21. Governing Law. The laws of the State of Arizona shall govern the validity, construction, enforcement and interpretation of this Contract.
22. Severability. In the event that any phrase, clause, sentence, paragraph, section or other portion of this Contract is found by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining portions of this Contract will not be affected thereby and will remain in force and effect to the fullest extent permitted by law.
23. Entire Contract. This Contract embodies the entire Contract of the parties. Any amendments hereto shall be in writing and executed by the parties hereto. All exhibits attached hereto are a part of this Contract for all purposes.
24. Successors in Interest. This Contract shall bind and inure to the benefit of Seller, Buyer, and their heirs, executors, administrators, successors and permitted assigns.
25. Survival of Closing. Each of the covenants, conditions, agreements and representations contained in this Contract shall survive the closing hereunder and the recordation of the Special Warranty Deed.

IN WITNESS WHEREOF, the parties have executed this Contract on the date set forth below.

SELLER:

By: _____

Title: _____
Its Authorized Representative

STATE OF ARIZONA)
)ss
County of Coconino)

ACKNOWLEDGMENT. On this ____ day of _____ 2017, before me, a Notary Public, personally appeared _____, known to be or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument and acknowledged that (s)he executed the same for the purposes therein contained.

Notary Public

My Commission Expires:

Coral Evans, Mayor

)SS

)

ACKNOWLEDGMENT. On this ____ day of _____ 2017, before me, a Notary Public, personally appeared _____, known to be or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument and acknowledged that (s)he executed the same for the purposes therein contained.

My Commission Expires:

APPROVED AS TO FORM:

S:\Legal\Civil Matters\2016\2016-468 Marriott Right-of-Way Purchase\Marriott ROW REPK 11-8-16 v6.docx

EXHIBIT A

The following is a description of a parcel of land, being a portion of Lot 12 of Block 2A of The Townsite of Flagstaff, File 1 Map 1 and Book 1 Page 16, Coconino County Records, situate in the SE¼ section 16, Township 21 North, Range 7 East, G.& S.R.M., Flagstaff, Coconino County, Arizona being more particularly described as follows:

The westerly 8 feet of said Lot 12

Said parcel of land contain 1,105 sq. ft. of land more or less as shown on Exhibit B which by this reference is made a part hereof

Right-of-Way Dedication



Mogollon Engineering and Surveying, Inc.

411 W. Santa Fe Ave. Flagstaff, AZ 86001- P.O.-Box 1952 Flagstaff, AZ 86002-mogollon99@aol.com- 928-214-0214

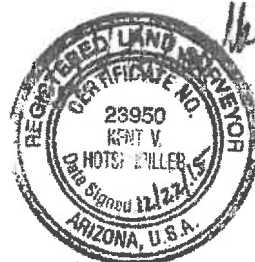
EXHIBIT A

The following is a description of a parcel of land, being a portion of Lot 13 of Block 1A of The Townsite of Flagstaff, File 1 Map 1 and Book 1 Page 16, Coconino County Records, situate in the SE¼ section 16, Township 21 North, Range 7 East, G.& S.R.M., Flagstaff, Coconino County, Arizona being more particularly described as follows:

The westerly 8 feet of said Lot 13

Said parcel of land contain 1,104 sq. ft. of land more or less as shown on Exhibit B which by this reference is made a part hereof

Right-of-Way Dedication



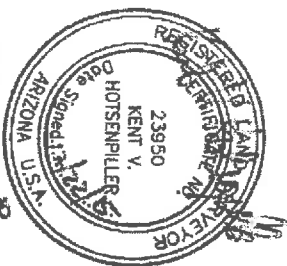
Expires: 3/31/16

Mogollon Engineering and Surveying, Inc.

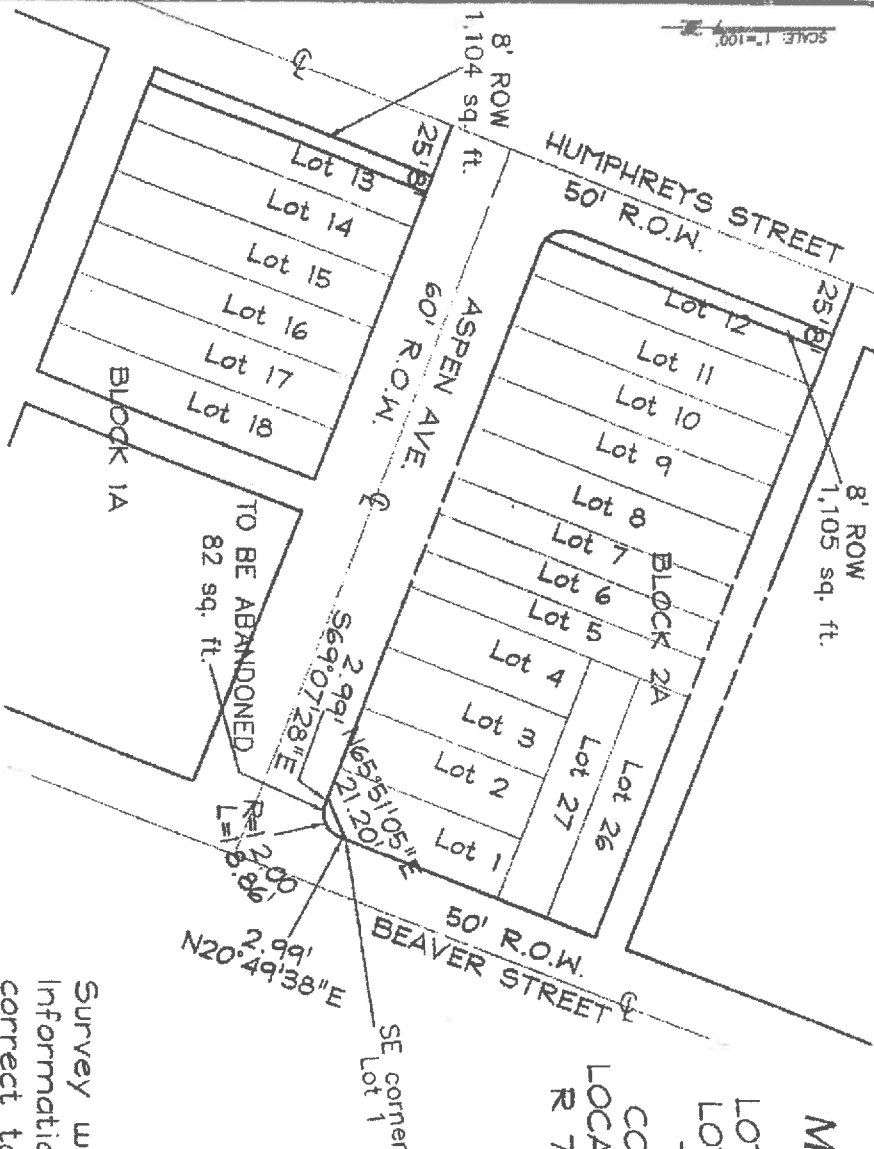
411 W Santa Fe Ave. Flagstaff, AZ 86001- P.O.-Box 1952 Flagstaff, AZ 86002-mogollon99@aol.com- 928-214-0214

MARRIOTT RESIDENCE INN

Survey was performed in June of 2015
Information shown hereon is true and
correct to the best of my knowledge.



Expires on 3/31/18



HORIZONTAL SCALE: 1" = 80'

VERTICAL SCALE:

DESIGNED/DRAWN BY:

PROJECT NO. 14138

DATE: 12/21/15

411 N. Santa Fe Avenue
Flagstaff, AZ 86001
Phone: 928-214-0214 • FlagstaffReal.com

Mogolon-
ENGINEERING & SURVEYING

EXHIBIT B

MARRIOTT RESIDENCE INN

DEDICATION AND ABANDONMENT

EXHIBIT A

The following is a description of a parcel of land, being a portion of Lot 1 of Block 2A of The Townsite of Flagstaff, File 1 Map 1 and Book 1 Page 16, Coconino County Records, situate in the SE¼ section 16, Township 21 North, Range 7 East, G.& S.R.M., Flagstaff, Coconino County, Arizona being more particularly described as follows:

Beginning at the southeast corner of said Lot 1, Block 2A, which is a beginning of a non-tangent curve, concave to the northwest, having a radius of 15.00 feet, and to which a radial line bears South 20°52'32" West;

Thence southerly and westerly along said curve a distance of 23.57 feet through a central angle of 90°02'54" to a south corner of said Lot 1;

Thence North 65°51'05" East along the existing Right-of-Way a distance of 21.22 feet to the Point of Beginning.

Said parcel of land contain 64 sq. ft. of land more or less as shown on Exhibit B which by this reference is made a part hereof

Right-of-Way Abandonment



Expires: 3/5/18

Mogollon Engineering and Surveying, Inc.

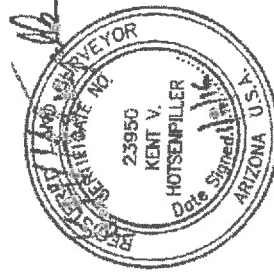
411 W. Santa Fe Ave. Flagstaff, AZ 86001- P.O.-Box 1952 Flagstaff, AZ 86002-mogollon99@aol.com- 928-214-0214

RIGHT-OF-WAY MAP

FOR

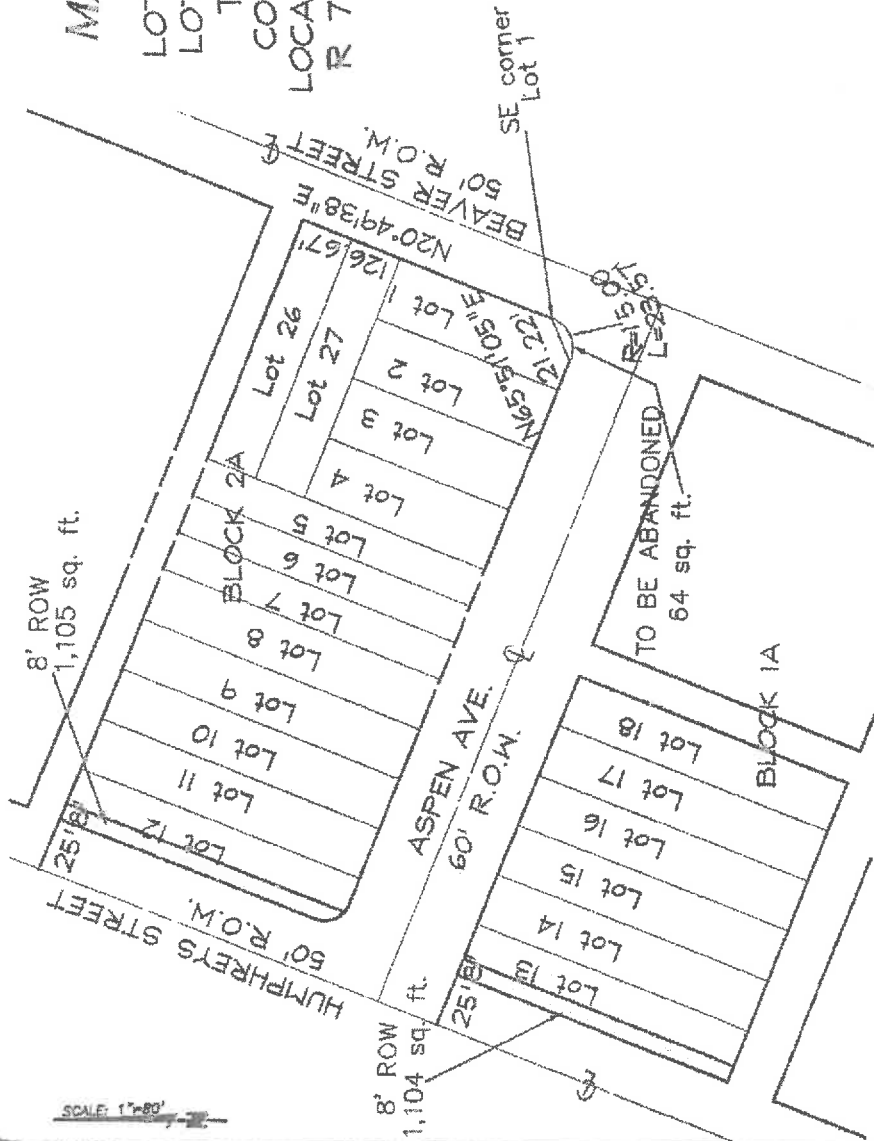
MARRIOTT RESIDENCE INN

LOT 1 AND 12 BLOCK 2A AND
LOT 13 BLOCK 1A, FLAGSTAFF
TOWNSITE, FILE 1 MAP 1,
COCONINO COUNTY RECORDS
LOCATED IN SECTION 16, T 21 N,
R 7 E, FLAGSTAFF, COCONINO
COUNTY, ARIZONA



Expires on 3/31/18

Survey was performed in June
of 2015. Information shown
hereon is true and correct to
the best of my knowledge.



Mogollon
ENGINEERING & SURVEYING

411 N. Santa Fe Avenue
Flagstaff, AZ 86001
Phone: 928-224-0214 • Mogollon@aol.com

HORIZONTAL SCALE: 1"=80'

VERTICAL SCALE:

DESIGNED/DRAWN BY:

PROJECT NO. 14138

DATE: 1/08/16

EXHIBIT B

MARRIOTT RESIDENCE INN
DEDICATION AND ABANDONMENT

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Sarah Darr, Housing Director
Date: 02/15/2017
Meeting Date: 02/21/2017



TITLE

Overview of City of Flagstaff Housing Programs and Services

RECOMMENDED ACTION:

None - this presentation is for discussion only.

EXECUTIVE SUMMARY:

The presentation will provide an overview of all of the housing programs and services provided by the City of Flagstaff.

INFORMATION:

COUNCIL GOALS:

- 1) Invest in our employees and implement retention and attraction strategies
- 4) Explore and adopt policies to lower the costs associated with housing to the end user

Attachments: PowerPoint



City of Flagstaff Affordable Housing Overview



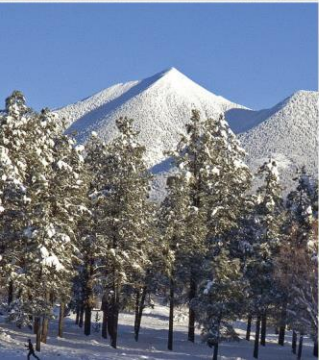
Sarah Darr – Housing Director
City of Flagstaff
February 21, 2017



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Outline for Tonight

- Flagstaff Housing Authority Board
- A Touch of History
- Affordable Housing 101
- What programs do we have and what do they do?



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- Flagstaff Housing Authority Board
- Housing Management Staff





City of Flagstaff Housing Authority Board

- “The Mayor shall appoint six (6) persons who are residents of Flagstaff...”
 - One resident or voucher holder member
- Board is currently limited to Housing Authority Programs and oversees HUD requirements



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A touch of history

- 1941 - Flagstaff Housing Authority created as an agency of the City of Flagstaff
- 1993 – Community Housing Programs first staffed (1 person)



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Numbers

- **941** – combined number of units and vouchers managed or overseen by City of Flagstaff Housing Staff
- 4 office locations
 - City Hall
 - Siler Homes
 - Brannen Homes
 - Clark Homes



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More Numbers

- **26,254** - Number of housing units in Flagstaff as of 7/1/2015
- **55%** - Rental percentage 2011-2015 per Census
- **14,440** - Number of rental units
- **941 or 3.6%** of housing units - Total number of City managed / overseen units
 - *Not including other affordable housing resources in Flagstaff totaling more than 880 additional



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Housing Section Staffing

26.5 Positions

- **22.5** - fully grant funded (1.25 FTE are not filled due to funding and one FTE is on a contract based on available funding)
- 2 - partially grant funded / general fund positions (one Housing Specialist and one Housing Director)
- 2 - general fund positions (one Housing Manager and one Housing Analyst)



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Housing Speak

- AMI – Area Median Income
- HUD - U.S. Department of Housing and Urban Development
- ADOH – AZ Department of Housing



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Affordable Housing 101

- What is “affordable housing”?
- What in the world is the housing continuum?
-but how?



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What do you think of
when you hear the
words
“affordable housing?”



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What is “Affordable Housing”?

The generally accepted definition of affordability is for a household to pay **no more than 30 percent of annual income on housing and housing related expenses.**

(Source: U.S. Department of Housing and Urban Development)



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So.....Who is interested in living in Affordable Housing?

Everyone!!

All income levels!

All family sizes!

All ethnicities!

No one is interested in paying more than 30% of their income for housing!



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Why is affordable housing important?

Communities benefit when citizens of all economic levels are able to secure housing



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It's All Relative

*Because affordability is
determined based on
income and market prices,
“solving” the issue is relative.*



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But isn't all housing affordable if you make enough money?

- Housing that is affordable
 - Market based
- Affordable Housing
 - 2 Prong Test
 - *What are the housing costs?*
 - *Who is eligible to purchase or rent it?*
 - Subsidy or investment of some type exists



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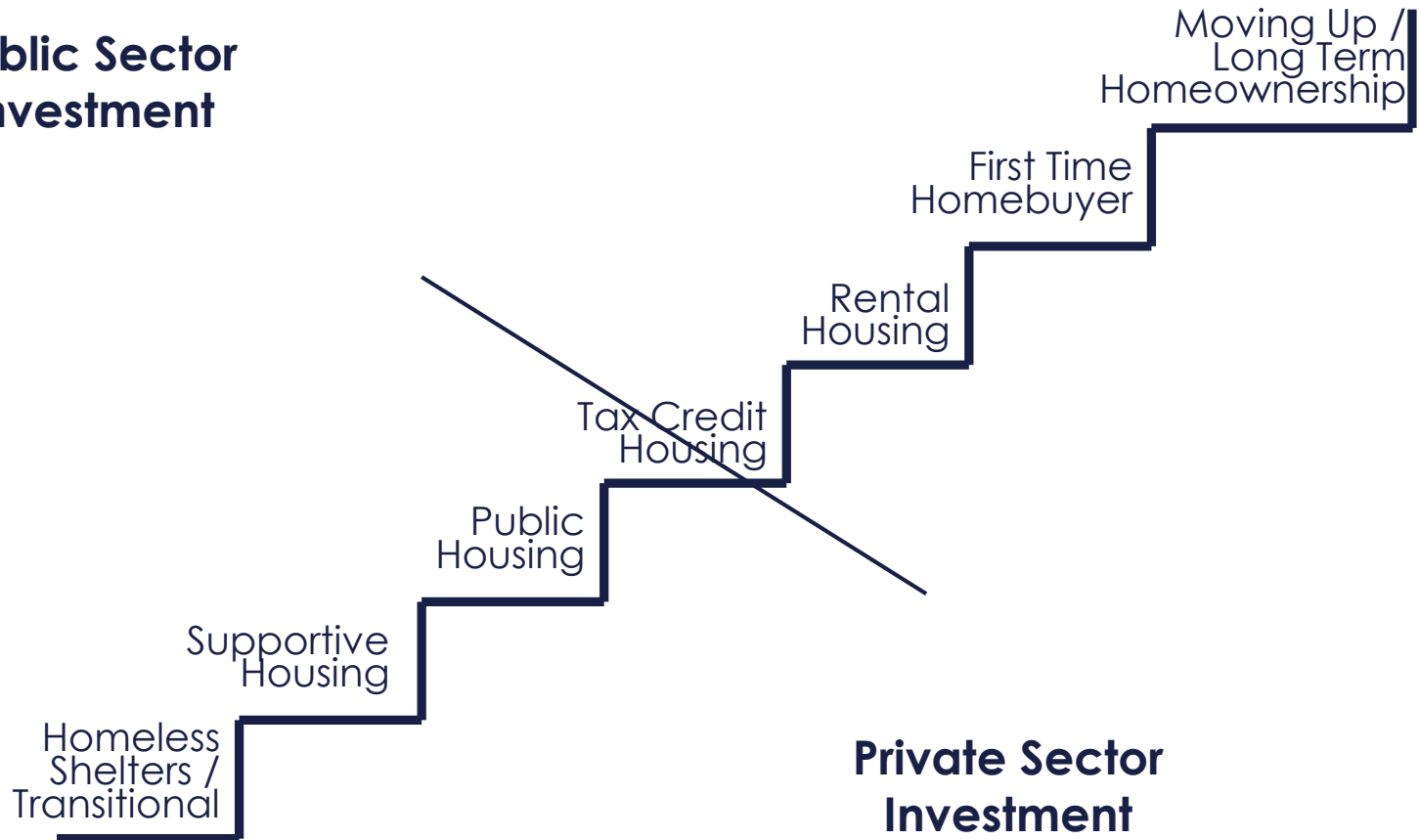
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Basic Housing Continuum

**Public Sector
Investment**



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Area Median Income (AMI) and Income Limits

2016 Income Limits by Household Size

Household size	30%	50%	60%	80%
1	13,300	22,150	26,580	35,400
2	16,020	25,300	30,260	40,450
3	10,160	28,450	34,140	44,500
4	24,300	31,600	37,920	50,550
5	28,440	34,150	40,980	54,600
6	32,580	36,700	44,040	58,650
7	36,730	39,200	47,040	62,700
8	40,890	41,750	50,100	66,750

Note: 30%, 50% and 80% income categories are provided by HUD.

60% income categories are provided by ADOH



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Why are most efforts focused on low-income households?

- Funding
- Funding
- Funding



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A Few Items to Remember

Affordable housing means
**financial assistance from
somewhere,**

partnerships are key,

and

often multiple funding sources
are necessary even for a
single project.



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Yes, but how?

Demand Side

- Help make the existing housing stock affordable to the community
- Most often in the form of lowering the monthly cost to an assisted household



Supply Side

- Aid by developing or rehabilitating units



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Rental Housing

- Rental programs are most often focused to lower-income households
 - 60% AMI and below
- College students are typically not eligible
- Largest local demand is for 1 and 2 bedroom units
 - Need is increasing with the aging population



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Ownership Housing

- Ownership programs are often focused on first-time homebuyers, but not always, depending on the funding source
- Both demand and supply tools
 - Demand tools are typically cheaper than supply
- Federal funding limited to 80% AMI and below
 - Local challenges
- Investment can be **forgiven, recaptured or retained**



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Subsidy Recapture Example Down Payment /Closing Cost Loans

- Deferred, no interest loans – not due until sale, refinance with cash-out or home is no longer owner occupied
 - Money comes back to the funding agency to be used again.
- This is called **subsidy recapture**
 - The initial funding amount is “recaptured” and can be used again to help another household.





I understand forgiven or recaptured, but what do you mean “retained” and why would you do it?

Incomes tend to rise

However....

Housing prices rise faster.

This creates an affordability gap.



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The problem??

Initial loan - \$20,000

7 years later, family decides to sell

Pays the loan back

Program now has \$20,000 to reinvest

Unfortunately...



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Housing prices have gone up even more

\$20,000 is no longer enough to help
another household purchase the home

Additional subsidy would have to be
added....

For each new family...
Every time the home is sold.



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Subsidy recapture provides home ownership opportunities, but does not provide a long term solution leading to the permanent preservation of housing affordability and public subsidy.

However...

Subsidy retention, or public equity retention, through **deed restrictions** or a tool like a **Community Land Trust** can preserve the public investment and provide permanently affordable housing in a sustainable manner.



Permanent Affordability Tools

Affordability Deed Restriction (shared equity)

- A provision in a deed that limits who the home can be sold to and the sale price.

Community Land Trust

- The separation of ownership of the land and the improvements (home)
- Ground lease governs relationship between the land owner and home owner
- A **resale formula** establishes the price of the home for future eligible buyers
- Typically also a shared equity model
- Some also include rental housing



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Tax Credit 101

- Low Income Housing Tax Credits (LIHTC)
 - Built by private developers
 - Can be non-profit
 - Nearly 800 units in Flagstaff
 - Serves 60% AML and below
 - Administered by Arizona Department of Housing
 - Minimum affordability time period – 15 years
 - CoF has partnered in multiple complexes



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What about other funding sources?



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- **Federal**
 - Grant programs
 - Tax-credit program
- **State**
 - Federal pass-through (HOME, ESG)
 - Limited state based funding
- **Local**
 - Private Non-and Not-for-Profit
 - Foundation or non-profit grants or financing
- **Employers**
 - Employer Assisted Housing (EAH) programs



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City of Flagstaff Housing Programs

- Public Housing
- Property Management
- Voucher Programs
- CDBG
- Housing Planning
- Owner Occupied Housing Rehab
- Incentive Policy for Affordable Housing
- Permanent Affordability Program
- Employer Assisted Housing
- Loan Management
- Community Participation

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Public Housing – 265 Units

- CoF owns and operates units
- Funding comes from HUD
- 80% AMI and below
- 40% of new residents must be 30% AMI or below
- Serves families, elderly, disabled



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Public Housing Units - 265

- **Brannen Homes** -127 units
 - 1952: (47 units)
 - 1958: (40 units)
 - 1960: (40 units)
- **Siler Homes** - 100 units - 1972
- **Scattered Site** - 38 Units
 - Purchased and developed 1986 through 2002

35



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Public Housing Maintenance

Maintenance staff is responsible for physical and operation condition of all Public Housing units and grounds



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Public Housing

Funding - \$2,066,815 (FY16)

- PH Operating Subsidy - \$628,405
- PH Capital Fund Program - \$402,019
- Dwelling Rental and other income - \$1,036,391



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Clark Homes – 80 units

- Owned by the Flagstaff Housing Corp.
- CoF manages the complex via contract
- 50% AMI and below
 - 40% of new residents must be 30% AMI or below
- Serves families, elderly, disabled
- Management fee - \$41,000 and reimbursement of all direct costs
- Funding is from HUD



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Voucher Programs

- **Section 8 Housing Choice Vouchers** - 333 vouchers
 - CoF manages administration of vouchers
 - 50% AMI and below
 - 75% of vouchers issued must be to households at 30% and below
 - Serves families, elderly, disabled
 - Works with many local landlords
 - Funding comes from HUD



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Voucher Programs

- **Veterans Affairs Supportive Housing (VASH)** - 106 vouchers
- 50% AMI and below
- Serves homeless veterans
- CoF manages administration
- Strong, amazing partnership with VA
- Funding comes from HUD

40



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Voucher Program

Funding - \$3,703,577 (FY16)

- Housing Assistance Payments- \$3,435,999
- Administrative Fee - \$267,578



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SRO for SMI – 12 Units

Known as Mod/Rehab

Single Room Occupancy for Seriously Mental III

- CoF administers project based housing assistance
- 50% AMI and below
- Serves Seriously Mental III
- Partnership with Guidance Center
- Funding comes from HUD - \$78,892
 - Housing Assistance Payments - \$67,292
 - Administrative Fee - \$11,600



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CDBG

Community Development Block Grant

- HUD entitlement grant to benefit low and moderate income households and areas
- January 10, 2017 – Council Work Session Item on CDBG



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Affordable Housing Planning

- Incentive Policy for Affordable Housing
- Developer Negotiations
- Data and research
- Planning and analysis (Dreaming)



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Incentive Policy for Affordable Housing (IPAH)

117 Units Built

- Ridge at Clear Creek (61 units)
- Elevation (29 units)
- Housing Solutions of Northern Arizona (9 units)
- Habitat for Humanity (7 units)
- Izabel Homes (10 units)
- Elden Townhomes (1 unit)



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Incentive Policy for Affordable Housing (IPAH)

Anticipated

- Trailside Apartments (12 units)
- Crestview (12 units)
- Juniper Point – 10%



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Owner Occupied Housing Rehabilitation

- CoF program and also administration on behalf of Coconino County via IGA
- Serves homeowners at 80% AMI and below with health and safety needs in their homes
- City-wide



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Permanent Affordability

45 Homes

Land Trust Program

- CoF owns land and administers 99-year ground leases
- 20 homes
- Up to 150% AMI (only as market dictates)

Deed Restricted

- CoF administers deed restrictions
- 25 homes
- Up to 125% AMI



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Other Program Elements

- Employer Assisted Housing
- Technical Assistance
- Loan Management
- Fair Housing Resource
- Community Participation
 - Continuum of Care
 - Front Door effort
 - Coconino County Community Action Board
 - Non-profit boards (advisory)
- State and National Organizations



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Closing Thoughts

- Thank you for the opportunity to share what we do!
- Don't forget the third "P"
 - Policies
 - Paperwork
 - **People**
- **Questions?**



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Affordable Housing Overview

Thank You!

Sarah Darr – Housing Director
City of Flagstaff
928-214-2745
sdarr@flagstaffaz.gov

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**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Elizabeth A. Burke, City Clerk
Date: 02/15/2017
Meeting Date: 02/21/2017



TITLE

Future Agenda Item Request (F.A.I.R.): A request by Councilmember Putzova to place on a future agenda a discussion on the use of reclaimed water for non-recreational purposes.

RECOMMENDED ACTION:

Council direction.

EXECUTIVE SUMMARY:

Rule 4.01, Procedures for Preparation of Council Agendas, of the City of Flagstaff City Council Rules of Procedure outlines the process for bringing items forward to a future agenda. Councilmember Putzova has requested this item be placed on an agenda under Future Agenda Item Requests (F.A.I.R.) to determine if there is another member of Council interested in placing it on a future agenda. This item has been included in a presentation scheduled for the February 28, 2017, Work Session so if there is no agreement to move this forward, that portion of the presentation will be removed.

INFORMATION:

Attachments:

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Elizabeth A. Burke, City Clerk
Date: 02/15/2017
Meeting Date: 02/21/2017



TITLE

Future Agenda Item Request (F.A.I.R.): A request by Vice Mayor Whelan to place on a future agenda discussion of the use and design of Wheeler Park.

RECOMMENDED ACTION:

Council direction.

EXECUTIVE SUMMARY:

Rule 4.01, Procedures for Preparation of Council Agendas, of the City of Flagstaff City Council Rules of Procedure outlines the process for bringing items forward to a future agenda. Vice Mayor Whelan has requested this item be placed on an agenda under Future Agenda Item Requests (F.A.I.R.) to determine if there is another member of Council interested in placing it on a future agenda.

INFORMATION:

Attachments: