

WORK SESSION AGENDA

**CITY COUNCIL WORK SESSION
TUESDAY
OCTOBER 10, 2017**

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

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 work session, 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. 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.

3. 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

4. Public Participation

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

5. Preliminary Review of Draft Agenda for the October 17, 2017, City Council Meeting.*

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

6. Indigenous Youth STEM Academy at Picture Canyon

7. Indigenous Circle of Flagstaff Presentation

8. Uranium Transportation Update.

9. Overview of Proposition 207 (A.R.S. § 12-1134).

10. Review of Draft Agenda Items for the October 17, 2017, City Council Meeting.*

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

11. Public Participation

12. Informational Items To/From Mayor, Council, and City Manager; future agenda item requests.

13. 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

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Betsy Emery, Open Space Specialist
Co-Submitter: Nicole Woodman
Date: 09/28/2017
Meeting Date: 10/10/2017



TITLE:

Indigenous Youth STEM Academy at Picture Canyon

DESIRED OUTCOME:

This is an informational update on the Indigenous Youth STEM Academy.

EXECUTIVE SUMMARY:

In the summer of 2017, the Open Space Program established the Indigenous Youth STEM Academy (IYSA) at Picture Canyon Natural and Cultural Preserve as a way of providing an opportunity for Indigenous youth to learn about science, technology, engineering, and math (STEM) in connection to culture through outdoor education. As Native Americans are one of the most underrepresented groups within STEM careers and among STEM degree-holders, the Open Space Program feels there is a significant need for focused programming with Indigenous youth on these topics.

The three primary goals of the IYSA are:

- Utilize Picture Canyon as an outdoor classroom for local Indigenous youth to connect with community and culture
- Enhance existing relationships between the City of Flagstaff and surrounding tribal communities
- Fulfill the mission of the Flagstaff STEM Education VISTA Project to increase the interest and academic performance in STEM areas of underrepresented youth

During the pilot year, staff programmed with three different Indigenous youth groups - the National Indian Youth Leadership Project, Native Americans for Community Action, and Kinlani Bordertown Dormitory. Approximately 25 youth participated and represented 10 different tribal communities. Each day-long academy included an interpretive tour of the Preserve, a panel discussion with local STEM professionals and students, and an interactive learning activity (e.g. rock art documentation, native and invasive plant identification). All programming took place at Picture Canyon Natural and Cultural Preserve as it provides a unique opportunity for learning about Northern Sinagua petroglyphs and habitation sites, has an outdoor classroom area, interpretive signs throughout the Preserve, and represents a place a cultural importance for many surrounding tribal communities.

Staff is now in the planning process for expanding the impact of the program with enhanced collaboration and focused sessions with a specific Indigenous youth group during the 2018 spring and fall school semesters.

INFORMATION:**Connection to City Council Goal and/or Regional Plan:**City Council Goals:

Enhance public transparency and accessibility

Actively manage and protect all environmental and natural resources

Regional Plan:

Goal OS.1. The region has a system of open lands, such as undeveloped natural areas, wildlife corridors and habitat areas, trails, access to public lands, and greenways to support the natural environment that sustains our quality of life, cultural heritage, and ecosystem health.

Goal LU.3. Continue to enhance the region's unique sense of place within the urban, suburban, and rural context (Policy LU.3.3).

Goal CC.2. Preserve, restore, and rehabilitate heritage resources to better appreciate our culture.

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

Goal REC.1. Maintain and grow the region's healthy system of convenient and accessible parks, recreation facilities, and trails.

Financial Impact:

Funding for this program derives from the Open Space Program's base budget (214-06-170-0665), with one-time \$2,000 as allocated by City Council during the 2017 budget cycle.

Attachments: PowerPoint



TEAM FLAGSTAFF



Indigenous Youth STEM Academy

Erin O'Keefe

Open Space Events and Outreach Coordinator

AmeriCorps STEM VISTA





TEAM FLAGSTAFF



Indigenous Youth STEM Academy (IYSA)

To provide Indigenous youth in Flagstaff and the surrounding communities an opportunity to learn about **s**cience, **t**echnology, **e**ngineering, and **m**ath (STEM) in connection to culture, community, and stewardship while providing resources for pursuing higher education and professional careers in STEM fields.





TEAM FLAGSTAFF



IYSA - Program Overview

Interpretive Tour

STEM Panel Discussion

Interactive Learning Projects

Rock Art Documentation

Plant Identification





TEAM FLAGSTAFF



IYSA – 2017 Participants

**National Indian Youth
Leadership Project**
Gallup, New Mexico



**Native Americans for
Community Action**
Flagstaff, Arizona



**Kinlani Bordertown
Dormitory**
Flagstaff, Arizona





IYSA – 2017 Outcomes

- Increased interest in STEM areas
- Increased interest in pursuing college

“It is extremely important for Native Americans to work in STEM careers. I feel Native Americans are extremely overlooked as we are seen to not be well educated.”

“One of the biggest barriers [to Native Americans pursuing careers in STEM] is poor education in our home towns.”





TEAM FLAGSTAFF



IYSA - 2018

Enhanced collaboration

Focused sessions

Spring semester – two sessions

Fall semester – two sessions





TEAM FLAGSTAFF



Thank you.

Ahéhee'

Erin O'Keefe

Open Space Events and
Outreach Coordinator

eokeefe@flagstaffaz.gov



CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Caleb Blaschke, Assistant to the City Manager
Date: 07/31/2017
Meeting Date: 10/10/2017



TITLE

Indigenous Circle of Flagstaff Presentation

STAFF RECOMMENDED ACTION:

Council Direction

EXECUTIVE SUMMARY:

On October 20, 2015, the City Council approved a Future Agenda Item Request (F.A.I.R) to discuss Indigenous Peoples, including:

1. An update on the status of implementation of the Navajo Nation Human Rights Commission and City of Flagstaff Memorandum of Understanding (MOU).
2. Public engagement with City Council on issues of importance to the Native American Community and consideration of proposals resulting from this process.
3. Designation of an Indigenous People's Day

Shortly after, the Navajo Nation Human Rights Commission and City staff made a presentation to Council reporting on the status of the Memorandum of Understanding.

On March 8, 2016 the City Council held a discussion about organizing a series of input sessions to engage Flagstaff's indigenous community members. Staff was directed to assist the Indigenous Circle of Flagstaff in facilitating a series of listening sessions. Upon conclusion of the outreach, Council would reconvene to identify policies and develop a plan to address the challenges facing Flagstaff's indigenous community members.

Over the past year, the following listening tours were held:

- Youth and Education (November 16, 2016)
- Homelessness (November 30, 2016)
- Our Elders (February 8, 2017)
- Economic Development (March 1, 2017)
- Police and Criminal Justice (April 5, 2017)
- Environmental Justice (May 3, 2017)

During the listening tours, comments regarding different subjects and topics were received. The Indigenous Circle of Flagstaff will present its findings to Council on October 10, 2017 (Attachment 1).

INFORMATION:

Goal #8) Improve effectiveness of notification, communication, and engagement with residents, neighborhoods and businesses and about City services, programs, policies, projects and developments

Attachments: Attachment 1: ICF Presentation

Flagstaff Indigenous Peoples Day



Report on Recommendations

from

Indigenous Community Forums

October 10, 2017



INDIGENOUS CIRCLE
of FLAGSTAFF



- I. Purpose
- II. Process
- III. Recommendations
- IV. Implementation

I. Purpose

A necessary and proper beginning by which the City of Flagstaff will work with Indigenous Peoples impacted by Flagstaff City policies to honor Indigenous histories, respect Indigenous contemporary holistic wellbeing, and work intentionally and diligently for the benefit of future generations of Indigenous Peoples.



- Brief history
- Address challenges and identify solutions
- Implement policies & programs
- Build positive relationships
- Flagstaff Indigenous Peoples Day

II. Process

Indigenous organized and led
with City collaboration

*Adopting an implementation plan for initiatives
identified through the public engagement with the
lives of Native American community members and
neighbors*



- Step One: Indigenous Community Forums
- Step Two: Compile and reports community recommendations
- Step Three: City of Flagstaff implements recommendations
- Step Four: Flagstaff Indigenous Peoples Day
- Step Five: Build and support structures for the ongoing relationship

Select Highlights from the Six Forums

1. Nov. 16: Youth and Education

- 230 eager participants
- Foster respect, understanding, visibility

2. Nov. 30: Homelessness

- 80-100 participants; meals were served
- Meet practical challenges; raise awareness of resources

3. Feb. 8: Our Elders

- 120 participants, engaged and fed
- Community & cultural center to bring elders & youth together

4. Mar. 1: Economic Development

- 80-100 participants
- Quantify Native economic contribution to Flagstaff; help promote Native businesses

5. Apr. 5: Police & Criminal Justice

- 40-60 participants
- More cultural awareness; alternatives to incarceration (treatment)

6. May 3: Environmental Justice

- 60-80 participants
- Community education; protection of sacred places, including San Francisco Peaks

III. Recommendations: Intergenerational, Intertribal, Holistic, Culturally appropriate and collaborative

This is an unprecedented effort that could become a model for other cities that adjoin Native lands and serve significant Indigenous populations.



1. Visibility
2. Economic Inclusion
3. Community Center
4. Education
5. Wellness
6. Housing
7. Transportation

IV. Implementation

Changes are systemic, culturally appropriate, transparent, and implemented through policy actions of the Flagstaff City Council



Step Three: City of Flagstaff implements recommendations

City to take the lead on implementing community recommendations

- Revisit the resolution ...
- City experiences participating?
- Acceptance of recommendations?
- Commitment for collaboration and support beyond City?
- Action plan and next steps?
- Priority, Dedicated Resources?
- Timeline?



We'd like to know...

City experiences participating?

Questions from Council?

Questions from the community?

Question and Answer Session

Special thanks to all who contributed to the process!

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Caleb Blaschke, Assistant to the City Manager
Co-Submitter: Sterling Solomon
Date: 07/31/2017
Meeting Date: 10/10/2017



TITLE

Uranium Transportation Update.

STAFF RECOMMENDED ACTION:

Council Discussion.

EXECUTIVE SUMMARY:

Background:

On June 6, 2017 the City of Flagstaff received a petition asking Council to: 1) Establish a resolution to oppose transport of uranium ore and other radioactive materials from Canyon Mine to the White Mesa Mill near Blanding Utah; or, 2) Explore creation of an ordinance opposing transport of uranium ore through Flagstaff roadways. The petition was brought before Council on July 5, 2017. At that meeting, Councilmembers Putzova and Barotz requested Uranium transportation through Flagstaff be discussed as a Future Agenda Item. Below is staffs response on whether the City of Flagstaff has jurisdiction over the transport of uranium within City limits.

Overview:

Federal law preempts cities from specifically regulating the transport of uranium, unless federal legislation delegates such regulatory authority. Cities may in some cases designate alternate or preferred routes for the transport of hazardous materials such as uranium, however. Cities also have responsibility for responding to emergencies involving hazardous materials.

The federal government exercises general preemption over state and local governments in the regulation of transportation of radioactive materials and waste. The authority to do so is primarily contained in Article VI, paragraph 2 of the United States Constitution, commonly referred to as the Supremacy Clause; the Atomic Energy Act of 1954, 42 U.S.C. § 2011, et seq ("AEA"); the Hazardous Materials Transportation Act, 49 U.S.C. § 1801, et seq ("HMTA"); the Energy Reorganization Act of 1974 which established the Nuclear Regulatory Commission, 42 U.S.C. § 5841, et seq; and the Federal Railroad Safety Act, 45 U.S.C. § 431, et seq.

While additional research is being performed by legal it currently appears no exceptions allow the City to attempt to regulate the transport or containment of uranium because under the Atomic Energy Act, the federal government occupied the entire field of nuclear safety so that most state and local efforts concerning nuclear safety are preempted. In *Pacific Gas and Electric Co. v. State Energy Resources*

Conservation and Development Comm'n, 461 U.S. 190, 212, 103 S.Ct. 1713, 1726 (1983), the United States Supreme Court held that the federal government has occupied the entire field of nuclear safety concerns, except for limited powers that are expressly delegated to the states. Any state (or municipal) regulation which is inconsistent with federal law in the field of nuclear materials is preempted because of the Supremacy Clause of the U.S. Constitution. *Jersey Central Power and Light Company v. Township of Lacey*, 772 F.2d 1103, 1110 (3rd Cir. 1985).

The Hazardous Materials Transportation Act preempts state and municipal regulations concerning hazardous materials, including radioactive materials. The federal Department of Transportation has determined that any delay in transportation may reduce safety, and therefore such regulations are preempted. The Arizona Department of Transportation ("ADOT") regulates radioactive material, including uranium, as a hazardous material. See: ADOT, Arizona Commercial Driver License Manual, Hazmat Section 9. In some cases, states or municipalities may require carriers transporting radioactive material to use major city thoroughfares or designate alternate routes, as long as the requirements are not inconsistent with federal law. States and cities may apply "rule of the road" restrictions that apply to all vehicles to hazardous materials vehicles without being inconsistent with federal law. In addition, if the routes to be utilized by trucks transporting uranium through the City of Flagstaff are state routes, ADOT would have primary authority over them and ensuring their safety.

Because federal law generally preempts cities from specifically regulating the transport of uranium, it appears the City may not prohibit the transport of uranium on city streets. However, the City may in conjunction with ADOT address the transport of uranium in the same way other types of hazardous materials are addressed. The City may also be able to designate preferred routes to be taken by trucks transporting uranium ore from the mines to out-of-state processing plants and additional conversations with ADOT and the Arizona Attorney General's are underway on this subject.

The United States has an agreement with the International Atomic Energy Agency (IAEA), implemented through 10 CFR Part 75, that covers uranium processing facilities and mines. Material accounting and control information is collected by the covered facilities through the USNRC, and the facilities are subject to inspection by IAEA personnel on an ad hoc, routine, or special inspection basis (10 CFR § 75.8).

Packaging design requirements are regulated by the USNRC, and it has responsibility for establishing requirements for the design and manufacture of packages for radioactive materials (10 CFR Part 71) The U.S. Department of Transportation (USDOT) regulates shipments while they are in transit, and sets standards for labeling and smaller quantity packages in accordance with their hazardous contents.

INFORMATION:

Council Goals: Social Justice.

Attachments:

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Kevin Fincel, Deputy City Attorney
Date: 10/03/2017
Meeting Date: 10/10/2017



TITLE

Overview of Proposition 207 (A.R.S. § 12-1134).

STAFF RECOMMENDED ACTION:

Information only

EXECUTIVE SUMMARY:

In preparation for upcoming Council discussions regarding proposed zoning code amendments, the City Attorney's Office will provide a brief overview of the Private Property Rights Protection Act, in particular A.R.S. § 12-1134, which is commonly referred to as Prop. 207. The discussion will be limited to the general requirements of the law. No legal advice will be provided. If legal advice regarding a specific application of the law is requested, Council can vote to go into executive session or an executive session will be scheduled on a future agenda.

INFORMATION:

Pursuant to A.R.S. § 12-1134, the enactment of a land use law that reduces the existing rights to use, divide, sell or possess private real property may require the city or town that enacted the law to compensate affected property owners for any reduction in the fair market value of their property. This law does not prohibit the City Council from enacting land use laws that negatively impact property values; it merely states that, in some cases, compensation may be required. More detail will be provided during discussion.

Attachments: [A.R.S. 12-1134](#)
[A.R.S. 12-1136](#)

Arizona Revised Statutes Annotated

Title 12. Courts and Civil Proceedings

Chapter 8. Special Actions and Proceedings Relating to Property

Article 2.1. Private Property Rights Protection Act (Refs & Annos)

A.R.S. § 12-1134

§ 12-1134. Diminution in value; just compensation

Effective: December 7, 2006

[Currentness](#)

A. If the existing rights to use, divide, sell or possess private real property are reduced by the enactment or applicability of any land use law enacted after the date the property is transferred to the owner and such action reduces the fair market value of the property the owner is entitled to just compensation from this state or the political subdivision of this state that enacted the land use law.

B. This section does not apply to land use laws that:

1. Limit or prohibit a use or division of real property for the protection of the public's health and safety, including rules and regulations relating to fire and building codes, health and sanitation, transportation or traffic control, solid or hazardous waste, and pollution control;
2. Limit or prohibit the use or division of real property commonly and historically recognized as a public nuisance under common law;
3. Are required by federal law;
4. Limit or prohibit the use or division of a property for the purpose of housing sex offenders, selling illegal drugs, liquor control, or pornography, obscenity, nude or topless dancing, and other adult oriented businesses if the land use laws are consistent with the constitutions of this state and the United States;
5. Establish locations for utility facilities;
6. Do not directly regulate an owner's land; or
7. Were enacted before the effective date of this section.

C. This state or the political subdivision of this state that enacted the land use law has the burden of demonstrating that the land use law is exempt pursuant to subsection B.

D. The owner shall not be required to first submit a land use application to remove, modify, vary or otherwise alter the application of the land use law to the owner's property as a prerequisite to demanding or receiving just compensation pursuant to this section.

E. If a land use law continues to apply to private real property more than ninety days after the owner of the property makes a written demand in a specific amount for just compensation to this state or the political subdivision of this state that enacted the land use law, the owner has a cause of action for just compensation in a court in the county in which the property is located, unless this state or political subdivision of this state and the owner reach an agreement on the amount of just compensation to be paid, or unless this state or political subdivision of this state amends, repeals, or issues to the landowner a binding waiver of enforcement of the land use law on the owner's specific parcel.

F. Any demand for landowner relief or any waiver that is granted in lieu of compensation runs with the land.

G. An action for just compensation based on diminution in value must be made or forever barred within three years of the effective date of the land use law, or of the first date the reduction of the existing rights to use, divide, sell or possess property applies to the owner's parcel, whichever is later.

H. The remedy created by this section is in addition to any other remedy that is provided by the laws and constitution of this state or the United States and is not intended to modify or replace any other remedy.

I. Nothing in this section prohibits this state or any political subdivision of this state from reaching an agreement with a private property owner to waive a claim for diminution in value regarding any proposed action by this state or a political subdivision of this state or action requested by the property owner.

Credits

Added by Proposition 207, sec. 3, approved election Nov. 7, 2006, eff. Dec. 7, 2006.

[Notes of Decisions \(12\)](#)

A. R. S. § 12-1134, AZ ST § 12-1134

Current through the First Regular Session of the Fifty-Third Legislature (2017)

Arizona Revised Statutes Annotated
Title 12. Courts and Civil Proceedings
Chapter 8. Special Actions and Proceedings Relating to Property
Article 2.1. Private Property Rights Protection Act (Refs & Annos)

A.R.S. § 12-1136

§ 12-1136. Definitions

Effective: December 7, 2006

[Currentness](#)

In this article, unless the context otherwise requires:

1. “Fair market value” means the most likely price estimated in terms of money which the land would bring if exposed for sale in the open market, with reasonable time allowed in which to find a purchaser, buying with knowledge of all the uses and purposes to which it is adapted and for which it is capable.
2. “Just compensation” for purposes of an action for diminution in value means the sum of money that is equal to the reduction in fair market value of the property resulting from the enactment of the land use law as of the date of enactment of the land use law.
3. “Land use law” means any statute, rule, ordinance, resolution or law enacted by this state or a political subdivision of this state that regulates the use or division of land or any interest in land or that regulates accepted farming or forestry practices.
4. “Owner” means the holder of fee title to the subject real property.
5. “Public use”:
 - (a) Means any of the following:
 - (i) The possession, occupation, and enjoyment of the land by the general public, or by public agencies;
 - (ii) The use of land for the creation or functioning of utilities;
 - (iii) The acquisition of property to eliminate a direct threat to public health or safety caused by the property in its current condition, including the removal of a structure that is beyond repair or unfit for human habitation or use; or
 - (iv) The acquisition of abandoned property.

(b) Does not include the public benefits of economic development, including an increase in tax base, tax revenues, employment or general economic health.

6. “Taken” and “taking” mean the transfer of ownership or use from a private property owner to this state or a political subdivision of this state or to any person other than this state or a political subdivision of this state.

Credits

Added by Proposition 207, sec. 3, approved election Nov. 7, 2006, eff. Dec. 7, 2006.

[Notes of Decisions \(1\)](#)

A. R. S. § 12-1136, AZ ST § 12-1136

Current through the First Regular Session of the Fifty-Third Legislature (2017)

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