

MINUTES

REGULAR COUNCIL MEETING
TUESDAY, SEPTEMBER 4, 2012
COUNCIL CHAMBERS
211 WEST ASPEN AVENUE
12:00 NOON AND 5:30 P.M.

12:00 NOON MEETING

1. CALL TO ORDER

Mayor Nabours called the meeting of the Flagstaff City Council held on September 4, 2012, to order at 12:02 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.

Councilmembers present:

Councilmembers absent:

MAYOR NABOURS
VICE MAYOR EVANS
COUNCILMEMBER BAROTZ
COUNCILMEMBER BREWSTER
COUNCILMEMBER ORAVITS
COUNCILMEMBER OVERTON
COUNCILMEMBER WOODSON

None

Others present: City Manager Kevin Burke; City Attorney Rosemary Rosales.

3. PUBLIC PARTICIPATION

A. Presentation on Fallen Officer Memorial

This item was moved to the evening portion of the meeting.

B. 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.

4. BOARD AND COMMISSION APPOINTMENTS

A. Consideration of Appointments: Board of Adjustment.

RECOMMENDED ACTION:

Make one (1) appointment to a term expiring May 2013; one (1) appointment to a term expiring May 2014; and two (2) appointments to terms expiring May 2015.

It was noted that this item had errors on the staff report and would be coming back to Council at their September 18, 2012, meeting. The Council Interview Team members reported that both of those currently serving were happy to be reappointed and the other person they had interviewed was looking at other available vacancies.

5. LIQUOR LICENSE PUBLIC HEARINGS

No items submitted

6. 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.

Items 6A, 6B, 6D and 6E were pulled from the Consent Agenda.

Councilmember Overton moved to approve Consent Items 6C and 6F; seconded by Vice Mayor Evans; passed unanimously.

A. Consideration and Approval of Job Order Contract thru Mohave Educational Services Contract: Cinder Lake Landfill, Cell D-Rock Coring Project

RECOMMENDED ACTION:

1. Approve the contract with Mohave Educational Services, through the Job Order Contract (JOC) project delivery method for site work with SDB Contracting Services, Inc. (ROC #070507) under the scope of work (attached), in the amount of \$62,932.83, with a contract time of 60 days: and
2. Authorize the City Manager to execute the necessary documents.

Staff gave some explanation as to how the contractor had been selected, noting that they were part of the Mohave Educational Services Contract, which is a cooperative purchasing arrangement, similar to purchasing through the State Contract. There are two methodologies for submitting proposals; one is via an RS Means Book and the other is through the Open Book process, wherein three quotes are obtained. In this case the Open Book method was utilized. This contractor had previously submitted a formal bid to the Mohave Educational Services, which process would be open to any local firms.

Staff noted that this could be pushed to a later time; however that would push the long-term development efforts out as well, which in the long run could produce higher costs. This would be paid for out of the Landfill Solid Waste fund.

Councilmember Brewster moved to approve the contract with Mohave Educational Services, through the Job Order Contract (JOC) project delivery method for site work with SDB Contracting Services, Inc. (ROC #070507) under the scope of work, in the amount of \$62,932.83, with a contract time of 60 days; and authorize the City Manager to execute the necessary documents; seconded by Councilmember Woodson; passed 6-1 with Councilmember Oravits opposed.

- B. Consideration and Approval of Second Amendment to Service Agreement: Residential curbside glass collection and prebaled cardboard revenue sharing.

RECOMMENDED ACTION:

1. Approve the amendment to the service agreement with Norton Environmental, Inc., to allow for the private collection of residential curbside glass only and a separate revenue sharing arrangement for large (approximately 1,000 lbs. or more) pre-baled cardboard; and
2. Authorize the City Manager to execute the necessary documents.

Staff noted that this did not alter the City's current collection structure for residential, and was a clean-up of the contract with Norton. If someone else wanted to come in to collect residential glass, they could do so.

Councilmember Woodson moved to approve the amendment to the service agreement with Norton Environmental, Inc., to allow for the private collection of residential curbside glass only and a separate revenue sharing arrangement for large (approximately 1,000 lbs. or more) pre-baled cardboard; and authorize the City Manager to execute the necessary documents; seconded by Vice Mayor Evans; passed unanimously.

- C. Consideration and Approval of Construction Contract: Pulliam Airport Concrete Ramp Joint Repair Project.

RECOMMENDED ACTION:

1. Approve the construction contract with Robert E. Porter Construction in the amount of \$186,284.26 for the base bid only, with a 30 day contract

- time, subject to approval from ADOT Multimodal Planning Division, Aeronautics Group;
2. Approve change order authority in the amount of \$18,628.43(10%) of the contract amount to cover potential costs associated with unanticipated items of work; and
 3. Authorize the City Manager to execute the necessary documents.
- D. Consideration and Approval of Acceptance of Grant Funding: Fiscal Year 2012/2013 Community Development Block Grant Funds (CDBG).

RECOMMENDED ACTION:

Authorize acceptance of grant funding in the amount of \$532,465 from the United States Department of Housing and Urban Development (HUD) for the FY 2012/2013 Community Development Block Grant (CDBG) Program.

Discussion was held on potential overspending on projects. It was suggested that further discussion be held in the future on what all CDBG funds may be used for and what the guidelines are for their use. Staff suggested that they have those discussions when they come back to put their application process together for next year. Staff was directed to include the CDBG caps and review the cause and effect of going in a different direction, as well as leveraging of the funds.

Vice Mayor Evans moved to approve Item 6D (authorize acceptance of grant funding in the amount of \$532,465 from the United States Department of Housing and Urban Development (HUD) for the FY 2012-2013 Community Development Block Grant (CDBG) Program); seconded by Councilmember Brewster; passed unanimously.

- E. Consideration and Approval of Intergovernmental Agreement: Housing Stabilization Program.

RECOMMENDED ACTION:

Approve the Intergovernmental Agreement with Coconino County for the administration of the Coconino County Housing Stabilization Program in the amount of \$52,000 in the 2012/2013 Community Development Block Grant (CDBG) Funds.

Vice Mayor Evans moved to recess into Executive Session; seconded by Councilmember Brewster. Mayor Nabours said that he was adverse to sudden moves into Executive Sessions to consult with the City's attorneys.

Councilmember Oravits recused himself from the vote due to a potential conflict of interest. **Vice Mayor Evans withdrew her motion; Councilmember Brewster withdrew her second.**

Councilmember Woodson moved to approve Item 6E (approve the Intergovernmental Agreement with Coconino County for the administration of the Coconino County Housing Stabilization Program in the amount of \$52,000 in the 2012/2013 Community Development Block

Grant (CDBG) Funds); seconded by Vice Mayor Evans; passed 6-0 with Councilmember Oravits abstaining.

- F. Consideration and Adoption of Resolution No. 2012-034: A resolution of the Flagstaff City Council repealing Resolution No. 2010-62 approving amendments to the City Council's Rules of Procedure, and approving new Rules of Procedure by motion.

RECOMMENDED ACTION:

1. Read Resolution No. 2012-034 by title only.
2. Adopt Resolution No. 2012-034.
3. Approve the Flagstaff City Council Rules of Procedure dated September 4, 2012.

7. ROUTINE ITEMS

- A. Consideration and Possible Adoption of Changes to Title 1, Chapter 14, Personnel System, of the Flagstaff City Code:

- i. Resolution No. 2012-33: A resolution of the City Council of the City of Flagstaff, Arizona declaring as a Public Record that certain document filed with the City Clerk and entitled "The 2012 Supplement 4 to the Flagstaff Employee Handbook of Regulations"
- ii. Ordinance No. 2012-14: An ordinance of the City Council of the City of Flagstaff amending the Flagstaff City Code, Title 1, Administrative, Chapter 14, Personnel System, Section 1-14-001-0001, Personnel System Adopted; adopting the Flagstaff Employee Handbook of Regulations by reference, relating to policies and procedures concerning equal employment opportunity, non-discrimination and anti-harassment, Americans with Disabilities Act, complaints, affirmative action, probationary employees, performance evaluation, reduction in force, and grievances; providing for penalties, repeal of conflicting ordinances, severability, authority for clerical corrections and establishing an effective date.

RECOMMENDED ACTION:

1. Read Resolution No. 2012-33 by title only
2. Adopt Resolution No. 2012-33
3. Read Ordinance No. 2012-14 by title only for the first time

This item was moved to discussion at the evening portion of the meeting.

It was reported that the City of Flagstaff had a team of 30 people participating in the recent Climb to Conquer Cancer which raised \$1400, and Stacey Brechler-Knaggs was their team captain.

RECESS

The Flagstaff City Council recessed their meeting of September 4, 2012, at 12:34 p.m.

5:30 P.M. MEETING

8. RECONVENE REGULAR MEETING

Mayor Nabours reconvened the Regular Meeting of September 4, 2012, at 5:35 p.m.

NOTICE OF OPTION TO RECESS INTO EXECUTIVE SESSION

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PLEDGE OF ALLEGIANCE, INVOCATION, AND MISSION STATEMENT

The Council and audience said the Pledge of Allegiance and Mayor Nabours read the City of Flagstaff's Mission Statement:

MISSION STATEMENT

To protect and enhance the quality of life of its citizens.

9. ROLL CALL

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

Councilmembers present:

Councilmembers absent:

MAYOR NABOURS
VICE MAYOR EVANS
COUNCILMEMBER BAROTZ
COUNCILMEMBER BREWSTER
COUNCILMEMBER ORAVITS
COUNCILMEMBER OVERTON
COUNCILMEMBER WOODSON

None

Others present: City Manager Kevin Burke; City Attorney Rosemary Rosales.

10. APPROVAL OF MINUTES FROM PREVIOUS MEETINGS

- A. Consideration of Minutes: August 27, 2012, Special City Council Meeting (Executive Session) and August 27, 2012, City Council Meeting

RECOMMENDED ACTION:

Approve the minutes of the August 27, 2012, Special Council Meeting and August 27, 2012, City Council Meeting as submitted/corrected.

Councilmember Oravits moved to approve the minutes of the August 27, 2012, Special Council Meeting and the August 27, 2012, City Council Meeting as submitted; seconded by Councilmember Woodson; passed unanimously.

11. PUBLIC PARTICIPATION

A. Employee Recognition

Mayor Nabours invited Diana Lee forward and presented her with a Plaque of Special Recognition, on behalf of her mother, Peggy Lee, who was retiring today from the City after 22 years of service, thanking her mother for her service to the City.

Mr. Burke also read and presented a plaque from the City on behalf of her years of service with the City.

At this time Police Chief Kevin Treadway gave a brief presentation on the dedication of the Fallen Officers Memorial which will be held on Saturday, September 8, 2012, at 11:00 a.m. at the Police Station. He noted that the artist, Neal Logan, was home sick and unable to join them. He said that it was representing the four officers killed in the line of duty since 1908, three of which worked for Coconino County and one from the City, Officer Moritz.

B. Proclamation - September 2012 as Mental Health Recovery Month

Mayor Nabours invited Lisa Siffling forward, presenting her with the Proclamation after it was read.

C. 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.



Ann Marie Zeller addressed the Council regarding the Water Report.

12. CARRY OVER ITEMS FROM THE 12:00 NOON AGENDA

A. Consideration and Possible Adoption of Changes to Title 1, Chapter 14, Personnel System, of the Flagstaff City Code:

- i. Resolution No. 2012-33: A resolution of the City Council of the City of Flagstaff, Arizona declaring as a Public Record that certain document filed with the City Clerk and entitled "The 2012 Supplement 4 to the Flagstaff Employee Handbook of Regulations"

- ii. Ordinance No. 2012-14: An ordinance of the City Council of the City of Flagstaff amending the Flagstaff City Code, Title 1, Administrative, Chapter 14, Personnel System, Section 1-14-001-0001, Personnel System Adopted; adopting the Flagstaff Employee Handbook of Regulations by reference, relating to policies and procedures concerning equal employment opportunity, non-discrimination and anti-harassment, Americans with Disabilities Act, complaints, affirmative action, probationary employees, performance evaluation, reduction in force, and grievances; providing for penalties, repeal of conflicting ordinances, severability, authority for clerical corrections and establishing an effective date.

This item has been pulled and will come back to Council at the September 18, 2012, meeting.

13. PUBLIC HEARING ITEMS

No items submitted

14. REGULAR AGENDA

- A. Consideration of Ordinance No. 2012-13: An ordinance of the Mayor and Council of the City of Flagstaff amending Flagstaff City Code, Title 3, Business Regulations; Chapter 3, User Fees; Section 3-10-001-0005, Recreation, revising Jay Lively Activity Center fees.

RECOMMENDED ACTION:

Postpone to the October 2, 2012, City Council meeting to allow sufficient time to develop more detailed information and to complete community outreach and discussion with the public.

Staff noted that at the July 3, 2012, meeting Council had directed staff to bring this back to the September 4, 2012, meeting; however, more time was needed and they were requesting that it be postponed to the October 2, 2012, meeting.

Council requested that the following items be provided by staff when it came back to Council:

- ▶ Prices that the City charges for use of other facilities and fields
- ▶ Cost recovery percentages for other recreational facilities
- ▶ Copy of minutes from community outreach and input with user groups, along with sign-in sheets
- ▶ Cost of maintenance of fields, broken down as to what is being maintained, and how much is covered by BBB and General Funds
- ▶ Information on dasher board advertisement and why it is not being done now
- ▶ Information on concessions at the ice skating rink
- ▶ What the McPherson building is being used for, what repairs are needed, and if it could generate additional revenue
- ▶ Copy of any cost recovery policies

Councilmember Overton moved to postpone this item to the October 2, 2012, Council meeting; seconded by Councilmember Woodson; passed unanimously.

- B. Consideration and Approval of Lease of City-Owned Property: Snow play recreational area on the northeast portion of McMillan Mesa.

RECOMMENDED ACTION:

1. Approve the Lease Agreement with D&C Maintenance and Snow Plowing, L.L.C., for an annual lease fee of \$3,000 for the winter season of operation; revenue share, based on gross revenue less sales tax, of 5.5% up to \$400,000; 7.5% from \$400,001 to \$600,000; and 9.5% from \$600,001 and higher; with an initial term of ten (10) years and an option for two 5-year extensions upon mutual written agreement between both parties; and
2. Authorize the City Manager to execute the necessary documents.

Councilmember Woodson declared a conflict of interest and left the room (at 6:10 p.m.)

Mayor Nabours noted that there had been a lot of confusion and misunderstanding of where they were at with this proposal, and he gave the following narrative. About two years ago the Council identified a need for a snow play facility and set that as a goal. A little over a year ago the City requested an RFP, resulting in the current proposal. It was reviewed by five City departments and they believed that the proposal had enough validity and planning to move forward. To move forward, the Proposers need 1) a lease of the land; and 2) a conditional use permit.

The lease was never intended to address all of the details of the operation; that would come in the conditional use permit process. Before the lease came before Council the Proposer held two public information meetings and the proposal was presented to four commissions. Those presentations were to answer questions and provide feedback; they were not to receive a yes or no vote.

On May 8, 2012, the proposal came before Council and it was the conclusion of a majority of the Council that staff should move forward in preparing a lease. A proposed lease was discussed on July 10, and a lease was presented to Council on July 17. They have had several hours of public discussions and made amendments and format changes to the lease. It was now before the Council for adoption, amendment or neither. They were there to discuss the lease, and not the use permit.

Mayor Nabours also stated that some questions have been raised and staff has answered them:

Did the original RFP say that the snow play area could not be lighted? The RFP stated that the projected hours were 9-4. It also stated that the Proposer would be given an opportunity for alternate revisions.

Why can't the City provide for vacant parcels around town for sledding?

The City has chosen not to do that. An actual facility is safer and keeps the City out of the snow play business. The City cannot provide impromptu sledding hills. They don't want the kids to get hurt.

With the lease rent so low is it considered a gift? With all factors considered, rent and other benefits, it is not considered a gift.

The Proposers gave a brief PowerPoint presentation that addressed:

- ▶ FLAGSTAFF SNO-PARK NIGHT TUBING
- ▶ WHAT IS BEING REQUESTED?
- ▶ WHY IS THIS BEING REQUESTED?
- ▶ LIGHT COMPARISONS
- ▶ REQUESTED CHANGES TO LEASE IF LIGHTS ARE NOT APPROVED
 - Remove reclamation bond requirement
 - Remove west side parking lot requirement
 - Simplify design of east side parking
 - Simplify landscape requirement
 - Leave greater portion of equipment on site for summer

They anticipate tickets to cost less than \$10 for City residents (between \$7 and \$9) and over \$10 for visitors. Additionally, they would have family pricing and free tickets (believed to be 600) given to the Parks and Recreation Department to assist disadvantaged individuals unable to pay.

Those from the public speaking in favor of the snow play area:

Cara Slaughter
Jonathan Allen
Randy Rhoton
Jeff Kelly
John Stigmon
Gabe Valdes
Tom Wyatt (Flagstaff Chamber of Commerce)
Sarah Cockayne

Those from the public speaking against the snow play area:

Shana Fox
Bryan Bates
April Smith
Moran Henn (Friends of Flagstaff's Future)
Nina Swidler
LauraAnne Chapman
Kim Gehle-Romberger
Marilyn Wessman
George Averbek
Lance Diskan
Nancy McCleskey
Jamie Whelan

Council took a break from 7:19 p.m. to 7:34 p.m.

Council reviewed various possibilities of action that could be taken:

1. Not approve at all
2. Approve the lease in front of them, with restrictions re lights
3. Take out any reference to lighting at all and leave that to CUP process
4. Amend the proposed lease to provide for 30 days of lighting as requested

Councilmembers reviewed their positions on the issue. The Proposer reviewed his options presented if Council did not provide for lighting. Council also discussed the input received from various commissions regarding the issue which had been found confusing by some members, as well as the reference to this project being consistent with the General Plan Land Use Map.

Discussion was held on the need for the Proposer to still go through the conditional use permit process and what obstacles they may have with it.

Mayor Nabours moved that Article 5D be amended to delete any reference to hours of operation and lights, and any other reference within the document; seconded by Councilman Oravits.

Concern was voiced by members of the Council that this would prolong any decision being made regarding lights until the conditional use permit process, which could ultimately be appealed and back before the Council within the year.

Motion passed 4-2 with a roll call vote:

Mayor Nabours	Yes
Vice Mayor Evans	No
Councilmember Barotz	No
Councilmember Brewster	Yes
Councilmember Oravits	Yes
Councilmember Overton	Yes

Councilmember Woodson abstained.

Mayor Nabours moved to approve the lease as amended; seconded by Councilman Oravits; passed 4-2 with a roll call vote:

Vice Mayor Evans	No
Councilmember Barotz	No
Councilmember Oravits	Yes
Councilmember Overton	Yes
Councilmember Brewster	Yes
Mayor Nabours	Yes

Councilmember Woodson abstained.

15. DISCUSSION ITEMS

- A. Discussion Item: Filling of vacancies on Regional Plan Citizens Advisory Committee

RECOMMENDED ACTION:
No recommendation

Councilmember Woodson returned to the dais at this time (8:23 p.m.)

Staff was directed to add Discussion of Filling Vacancies on Regional Plan Citizens Advisory Committee to the September 18, 2012, meeting agenda, and include information on makeup of committee and whether the Steering Committee can override a decision of the Council with regard to membership. It was noted that due to the turnaround time, the draft agenda may not have all of the information, but a complete package would be included in the final agenda packet.

16. PUBLIC PARTICIPATION

Moran Henn commented on Vice Mayor Evans' vote against the snow play area.

17. INFORMATIONAL ITEMS AND REPORTS FROM COUNCIL AND STAFF, REQUESTS FOR FUTURE AGENDA ITEMS

Staff was asked to remind the Police Department that it was campaign season and there have been issues with damaged and/or missing signs.

Staff was asked to add the following items to Section 15 for discussion:

- ▶ No longer reading proclamations at Council meetings
- ▶ Value-Added RFQ process (to include list of things previously sent and background e-mails)

Staff was asked to see if the Council Retreat could be scheduled for the afternoon of October 11 as there were a few councilmembers unable to make a morning session on that date.

Staff was asked to report on how the changes to the election laws will impact Flagstaff and discuss whether they should join in Tucson's suit to challenge the provisions as they affect charter cities.

Staff noted that the new meeting times, adopted earlier in the meeting, would begin in October.

Updates were reported on:

- ▶ The Lions Demolition Derby held last weekend
- ▶ This weekend's wine tasting event at Hart Prairie
- ▶ Attendance by the Mayor and three councilmembers to the Annual Conference of the League of Arizona Cities and Towns

- ▶ The City was getting closer to achieving the goal of obtaining a grant for Picture Canyon
- ▶ NAIPTA has installed a new bus shelter at the Flagstaff Arts and Leadership Academy
- ▶ NAIPTA has added more buses and later hours
- ▶ NAIPTA reported a total of 1.7 million trips in FY2012

Staff was asked to provide an update on the prairie dog situation and also an update on the Council i-Pads.

Mr. Burke reported:

- ▶ The League Resolutions Committee unanimously supported the City's resolution for forest health so it would now become part of the Legislative Agenda
- ▶ He would pursue starting the October 11, 2012, Retreat at midday
- ▶ The Community Enrichment Services Department has placed a color copy of the draft Parks and Recreation Master Plan in each of the Council's boxes and they would soon be reviewing this Plan
- ▶ Next week they were going on a tour of the Interbasin Pipeline Reconstruction project and they needed to let Meg know if they planned to attend.

ADJOURNMENT

The Flagstaff City Council meeting of September 4, 2012, adjourned at 8:35 p.m.

MAYOR

ATTEST:

CITY CLERK

CERTIFICATION

STATE OF ARIZONA)
) ss.
 County of Coconino)

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 September 4, 2012. I further certify that the Meeting was duly called and held and that a quorum was present.

DATED this 18th day of September, 2012.

CITY CLERK