

# MINUTES

REGULAR COUNCIL MEETING  
TUESDAY, NOVEMBER 20, 2012  
COUNCIL CHAMBERS  
211 WEST ASPEN AVENUE  
4:00 P.M. and 6:00 P.M.

## 4:00 P.M. MEETING

### 1. **CALL TO ORDER**

Mayor Nabours called the meeting of the Flagstaff City Council held on November 20, 2012, to order at 4:03 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:

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

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

### 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 of its citizens.*

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

- A. **Consideration of Minutes:** Minutes of the November 13, 2012, Special Meeting (Executive Session), and the November 13, 2012, Work Session.

Mayor Nabours noted that he has discussed two minor changes with the City Clerk's Office.

**Councilmember Brewster moved to approve as amended [the minutes of the November 13, 2012, Special Meeting (Executive Session), and the November 13, 2012, Work Session]; seconded by Councilmember Woodson; passed 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.

Rudy Preston, Flagstaff, addressed the Council regarding the conditions in the jail holding facility and the use of reclaimed water at the Snow Bowl.

6. **PROCLAMATIONS AND RECOGNITIONS**

None submitted

7. **APPOINTMENTS**

None submitted

8. **LIQUOR LICENSE PUBLIC HEARINGS**

None submitted

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.**

Mayor Nabours said that they would discuss each item separately.

- A. **Consideration and Approval of Agreement:** Amendment Two to the Master Facility Use Agreement between Arizona Board of Regents and City of Flagstaff.

No discussion was held on this item.

- B. **Consideration and Approval of Street Closure(s):** 2012 New Year's Eve event.

Brief discussion was held on handicapped parking spaces for this event. Mr. Grube noted that they could have an additional handicapped-only parking area, accessible at the Leroux/66 intersection. He said that Traffic Engineering was comfortable with that set up and the barricades would be signed properly.

Staff was questioned on the funding. Mr. Burke said that his understanding was that the \$3,700 was for the fireworks display on New Years. The \$5,000 associated with the Police Department work for this has usually been funded through a grant. Mr. Grube confirmed that they were being funded through a grant again this year.

- C. **Consideration and Approval of:** Consent to Transfer of Control of Cable License Agreement; Amendment No. 1 to the Broadband Network Agreement.

Ms. Ott explained that this was required due to a change in ownership of the franchise. She said that the City has a very limited opportunity to weigh in on rates, etc. of the franchise. This will not change the service quality and if prices do change, there are other avenues in which to address that issue.

- D. **Consideration and Approval of Claims Expenses/Litigation Costs:** Settlement Offer to close case between the City of Flagstaff, Roy Taylor and Jane Taylor, Ruth Mitchell, and Kenneth Christopher Mitchell, surviving wife and son of deceased Kenneth Mitchell, Sr.

Mayor Nabours said that this settlement was driven by the City's insurance company and the City had no say in the settlement because it was their money. By entering into the settlement the City is in no way agreeing that the City, Police Department, or any officer was at fault in any way or liable in any way. He said that the Council was solidly behind the Police Department and this settlement was no reflection on the Police Department.

**Councilmember Brewster moved that Consent Items 9-A through 9-D be approved [A) approve Amendment Two to the Master Facility Use Agreement between Arizona Board of Regents and City of Flagstaff and authorize the City Manager or designee to execute the necessary documents; B) approve the street closure of Aspen Avenue between San Francisco and Beaver Street on Monday, December 31, 2012, from 8:00 p.m. through Tuesday, January 1, 2013, at 2:30 a.m.; C) approve Consent to Transfer of Control of Cable License Agreement from Cequel Communications, LLC to Nespresso Acquisition Corporation, Amendment No. 1 to Broadband Network Agreement, and authorize the Mayor to execute the necessary documents; and D) Authorize settlement between the City of Flagstaff, Roy Taylor and Jane Taylor, Ruth Mitchell, and Kenneth Christopher Mitchell, surviving wife and son of deceased Kenneth Mitchell, Sr]; seconded by Vice Mayor Evans; passed unanimously.**

10. **ROUTINE ITEMS**

- A. **Consideration and Adoption of Resolution No. 2012-39:** A resolution of the Flagstaff City Council approving a public participation (P2) policy that shapes when and how citizen involvement occurs.

Mayor Nabours said that he and Councilmember Barotz had done some editing on the narrative statement, which was presented. Councilmember Brewster said that she could not decide between the two so she asked two people which were not involved in the process which ones they liked best and they picked Ms. Ott's.

**Councilmember Oravits moved to approve the revised wording; seconded by Vice Mayor Evans; passed 6-1 with Councilmember Brewster casting the dissenting vote.**

**Vice Mayor Evans moved to read Resolution No. 2012-39 by title only; seconded by Councilmember Oravits; passed unanimously.**

***A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA APPROVING A PUBLIC PARTICIPATION POLICY***

Individuals addressing the Council regarding the Public Participation Policy with comments and requests for clarification were:

Rudy Preston  
Katie Nelson

Mayor Nabours said that they first saw the chart in the Council Chambers about six months ago, and have been working on it recently over the past few weeks. Staff explained that all agendas and packets are posted on the City's website and also any proposed resolutions and/or ordinances, along with the agendas, are posted on the bulletin board outside of the Council Chambers. Councilmember Barotz also noted that members of the public may sign up for an automatic e-mail notice when the agendas are posted on the website.

**Vice Mayor Evans moved to adopt Resolution No. 2012-39; seconded by Councilmember Brewster; passed unanimously.**

- B. **Consideration and Adoption of Resolution No. 2012-40:** A resolution of the Mayor and Council of the City of Flagstaff, Coconino County, Arizona, declaring official and adopting the results of the Special Election held on November 6, 2012.

Rob Wilson presented a PowerPoint presentation that addressed concerns he had with the election process from both the May 2012 and November 2012 elections, and ended with a question to the Council as to whether they felt comfortable canvassing the returns. He added that he would be attending the Board of Supervisors meeting this evening to give the same presentation to them.

Discussion was held on what procedure needed to be followed to address these concerns. It was noted that in order to have any type of challenge of the election the canvass must first be completed.

After further discussion the Council agreed that the issues needed to be addressed and staff was directed to meet with the new County Recorder to see if changes could be made to address the concerns.

Mr. Burke recapped that staff would 1) investigate the past allegations / responses; 2) provide options to Council for future elections; and 3) have dialogue with the new County Recorder.

Mayor Nabours said that the City has between 6-20 days after the election to canvass the vote. With this in front of them they have to make a presumption that the results are legitimate. Ms. Rosales added that it was a required procedural process. Councilmember Oravits said that he still had some questions and was not comfortable voting for it.

**Councilmember Brewster moved to recess into Executive Session; seconded by Councilmember Oravits; motion failed 2-5.**

**Vice Mayor Evans moved to read Resolution No. 2012-40 by title only; seconded by Councilmember Barotz; passed 6-1 with Councilmember Oravits casting the dissenting vote.**

***A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF FLAGSTAFF, COCONINO COUNTY, ARIZONA, DECLARING OFFICIAL AND ADOPTING THE RESULTS OF THE SPECIAL ELECTION HELD ON NOVEMBER 6, 2012***

**Councilmember Woodson moved to adopt Resolution No. 2012-40; seconded by Vice Mayor Evans; passed 6-1 with Councilmember Oravits casting the dissenting vote.**

Mayor Nabours said that he did not believe it was the end of this issue and it put them in a very awkward situation.

## **R E C E S S**

The Flagstaff City Council Meeting of November 20, 2012, recessed at 5:04 p.m.

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

## **R E C O N V E N E**

Mayor Nabours called the Flagstaff City Council Meeting of November 20, 2012, back to order at 6:02 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).

11. **ROLL CALL**

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

Members Present:

MAYOR NABOURS  
VICE MAYOR EVANS  
COUNCILMEMBER BAROTZ  
COUNCILMEMBER BREWSTER

COUNCILMEMBER ORAVITS  
COUNCILMEMBER OVERTON  
COUNCILMEMBER WOODSON

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

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

None.

13. **PUBLIC HEARING ITEMS**

None submitted

14. **REGULAR AGENDA**

A. Draft 2013 City of Flagstaff Legislative Priorities Agenda.

Deputy City Manager Jerene Watson reviewed the State-related Draft Proposed Legislative Agenda items and Mr. Burke reviewed the Federal-related items.

Vice Mayor Evans said that she would like to see them also 1) support the establishment of a Veterans Home in Bellemont, and 2) support an Economic Impact Study of the I-11 Corridor on cities to the east. Other Councilmembers agreed, with some having hesitation on taking a stand on the Veterans Home, believing it should be spearheaded by the County, with the City supporting their efforts.

Further discussion was held on the I-11 Corridor and it was suggested that a Work Session be held in the future to further discuss it. Councilmember Woodson asked staff to review records from six to eight years ago. He said that at that time the consensus of the City was that they did not want a new freeway extension through Flagstaff.

Mayor Nabours asked if the Council was interested in supporting efforts to reverse recent legislation to require all candidate elections to be held in the fall of even-numbered years. After some discussion the consensus was to leave the issue alone.

Mr. Burke recapped issues not currently on the list. He said that he would ask Mr. Travis to report back on the Property Reclassification issue and he would then prepare a CCR regarding the Rio de Flag.

Further discussion was held on the Veterans home. Mr. Burke said that they could put it on the list, but be respectful to the County and let them take the lead. Councilmember Woodson said that he liked the idea, but he would not want to support it if the Feds did not support it. Councilmember Oravits said that he, the Mayor and Vice Mayor Evans all met with them and the Feds were saying this was their top site, and they have funds available, but they are waiting for the \$10 million match from the State.

Mr. Travis, Nexus Consulting, said that one of the issues that circles back each year is the State budget. He said that it has been balanced based on the extension of the temporary sales tax passing, which did not happen. That will mean the State will be close to balancing this year and with the anticipated growth they are seeing, it should be enough to backfill. That does not, however, address student growth, health care, lawsuits with the State, etc. so it will be another interesting budget year. The year after this one will be better. He said that shared revenues continue to come back and they have a number of new legislators that will need to be educated about them.

Ms. Watson said that staff was working on a schedule for the Council to meet with the State legislators.

Vice Mayor Evans said that they need to monitor the CDBG funding and HUD funding as it relates to FHA and the new Section 8 voucher monies. With a three-year waiting list they need to know of opportunities to get additional funding, or know if they are looking to take funding away.

Councilmember Barotz reported that she, Mayor Nabours and Councilmember Woodson met with Ann Kirkpatrick earlier in the morning, as she was back as their Representative. She said that she was very receptive and has knowledge/history of the area. She was in their corner for whatever she can do.

Mayor Nabours added that although Paul Gosar is no longer in Flagstaff's District he is always willing to help as well.

15. **DISCUSSION ITEMS**

E. **Discussion/presentation regarding SB1598, Regulatory Bill of Rights, and the implications of its implementation to City permit and approval processes.\***

Roger Eastman, Zoning Administrator, gave a PowerPoint presentation on SB1598, components of which take effect at the end of the year.

WHY SB1598

WHAT DOES SB1598 INCLUDE?

Regulatory Bill of Rights (12/31/2012)

SB1598 - SOME ASPECTS ARE SENSIBLE

SB1598 - IMPORTANT DEFINITIONS:  
HOW DOES SB1598 APPLY IN FLAGSTAFF?  
SB1598 DOES NOT APPLY TO:  
SB1598 DOES NOT APPLY TO ... SPECIFIC EXEMPTIONS  
LICENSING TIME FRAMES  
ADMINISTRATIVE REVIEW  
SUBSTANTIVE REVIEW  
LICENSE APPLICATION PROCESS  
DIRECTORY OF DOCUMENTS  
COMPLAINTS/ GOVERNING BODY REVIEW / CLARIFICATION OF INTER.  
SUMMARY OF IMPLICATIONS  
A CLOSER LOOK AT THE CD DIVISION  
TIMELINE  
HANDOUT  
BUILDING FLOW CHARTS  
IMPACTS TO CUSTOMER SERVICE - Negative  
IMPACTS TO CUSTOMER SERVICE - Positive  
CONCLUSION

Mr. Eastman said that there is some good with this bill and the Central Arizona Homebuilders Association and the League are working hard to get the Legislature to approve amendments to those portions of the bill that are not so good.

Mr. Eastman explained that an important part of the process is that the City can only give formal direction once during the process so it is imperative that all departments work together and there be one contact person for each project. He said that they have discussed the need to be more precise in their requests of the applicants.

Mr. Eastman said that there is also consideration being given to the use of a waiver, which would be agreed to by both the City and the applicant, that would allow more flexibility with the schedule, but that would be available only if the applicant agreed.

He said that the Community Development Department has worked hard over the last few years to work closely with applicants and accommodate the projects. He said that this bill forces staff to no longer be so accommodating and at some point if a developer brings someone in that misses the mark, staff will have to say "I'm sorry, you're *denied* and you're *going to have to start over*." If they have used up their time frame and the applicant has not submitted what is necessary, they will have to deny.

Staff noted that they would be allowed to approve with conditions, but the culture they have had has been approving with very few conditions. Years ago they used to approve with a long laundry list.

A. **Discussion Item**: Resolution of support for quick and efficient delivery of Veterans benefits.

Vice Mayor Evans said that when she met with Col. Strickland at the State's Veterans Affairs Office he had mentioned that one of the major issues he had is

the delivery of services to the 600,000 veterans they have in Arizona.

Once the paperwork is completed they have to send it to the Federal Veterans Affairs, and that is taking on an average 286 days to be certified. If it is not filled out correctly, then it is a three-year process.

She had recently attended this year's Disability Banquet and the speaker was a highly-decorated disabled veteran. He went through a three-year process. She would like to propose that they put together the appropriate language to prepare a resolution to give to their representatives, to carry to Washington DC. They need to let them know that it is not okay to take so long.

Councilmember Barotz noted that she and the Mayor had discussed this same issue this morning with Ann Kirkpatrick and she suggested that they also discuss this issue with the rest of the Arizona delegation. She felt that a resolution was fine but the sense was that if they did one of the two, they should put their energy into contacting the other representatives. Mayor Nabours added that in speaking to Ms. Kirkpatrick the issue was money, and perhaps they should also contact neighboring states once the Arizona delegation has been contacted.

Vice Mayor Evans added that it had also been mentioned that next year a lot of those individuals doing the certification will be retiring and it takes up to two years to be trained in the process, so that could impact the process even more.

Discussion was held on the process to follow and it was determined that they would discuss the issue further with Mr. Rodgers when he came up on December 11 to give his presentation. Also during this time they will schedule a meeting with the member of the Governor's staff and through this process develop some appropriate wording for a resolution or letter that would be circulated through the Greater Arizona Mayors Association, the League of Arizona Cities and Towns and the Association of Counties, to the Arizona delegation and eventually surrounding states. Mr. Burke suggested that something could be developed by sometime in January.

B. **Discussion Item:** Resolution of support for Veterans Cemetery and Home inBellemont, Arizona.

Discussion was held on the Veterans Cemetery and Home in Bellemont. It was noted that the entire Council would receive a full briefing on this issue by Mr. Rodgers at his December 11 presentation.

Mr. Travis stated that one thing different with this issue versus many of the others is that this proposed project would provide jobs to the entire region.

It was suggested that the City partner with the County to lobby for the \$10 million match needed to see this project move forward. Because this included 160 new jobs to the region it may also be eligible for other types of funding.

It was agreed that a discussion needed to be held with the County and this issue should also be brought up during the upcoming breakfast with the Council and State delegation.

C. **Discussion Item:** Dark Skies Presentation

Councilmember Barotz said that she was asking the Council to support a Work Session presentation by members of the Dark Skies community in Flagstaff to talk about what it means to be a Dark Sky community and the economic impact. They were not asking for any action.

Councilmember Overton said that it would be interesting to get data back from them and he would like to ask them the role the community partners play and also the impact of various areas such as NAU and the County islands that do not participate.

Councilmember Barotz said that their intent was not to talk specifics of the ordinance. She said that there would be a representative from the Naval Observatory as well as a diverse coalition of other members from the community who are interested and believe it is a value.

Council agreed to place this item on a Work Session agenda.

D. **Discussion Item:** City presence at Arizona Department of Liquor Licenses and Control Public Hearing on Maverik to be located on East Butler.

Brief discussion was held on what action the City wanted to take in the public hearing that will be held by the Arizona Liquor Board since the City recommended disapproval of this license.

It was agreed that Councilmember Overton and a member of the Legal Department would attend the hearing to convey the City's position. Staff was directed to prepare some talking points. Additionally, staff was asked to notify those who spoke at the City's public hearing of the date and time of the public hearing at the state level once they receive that information. Mayor Nabours also requested that a copy of the video from the City's public hearing be provided.

16. **PUBLIC PARTICIPATION**

None.

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

Mr. Burke noted that the last meeting of December and first meeting of January are both Tuesdays, and both holidays, so the last meeting in December would be December 18, and the first meeting in January is January 8.

Councilmembers reported on the following:

Meetings were held with the Federal Transit Administration regarding a \$6 million grant, and they went very well

NAIPTA received 1,000 completed surveys

Comments have been received that a bus stop was needed around Steves (near the Guidance Center, Goodwill and Shelter)

Law Enforcement Toy Drive begins this weekend, at Cal-Ranch

