

COMBINED SPECIAL MEETING/
WORK SESSION
TUESDAY, APRIL 30, 2013
COUNCIL CHAMBERS
211 WEST ASPEN AVENUE
6:00 P.M.

SPECIAL MEETING

1. Call to Order

Mayor Nabours called the Special Meeting 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).

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; Interim City Attorney Michelle D'Andrea.

3. Pledge of Allegiance

The Flagstaff City Council and audience recited the Pledge of Allegiance.

4. **Consideration and Approval of Agreement:** Consent Order - Arizona Department of Environmental Quality in the Matter of Wildcat Hill Wastewater Treatment Plant and Rio de Flag Water Reclamation Facility; **and discussion of associated conservation efforts.***

Utilities Director Brad Hill addressed the Council and provided a brief PowerPoint presentation which addressed:

- ADEQ CONSENT ORDER
- CONSENT ORDER – WILDCAT HILL & RIO DE FLAG WASTEWATER

- INTRODUCTION
- WILDCAT HILL – WHY ARE WE HERE?
- CONSENT ORDER
- STATUS OVERVIEW
- QUESTIONS

Mr. Hill explained that there were two different ways to address such a violation—through the Consent Order or through a Compliance Order (which is a civil action).

Councilmember Woodson asked why they were not on top of this issue more and Mr. Hill explained that each plant had been doing their own reporting and the local ADEQ office was aware, but the violation was cited once the ADEQ Phoenix office became aware. He said that they have since made changes internally to the reporting process.

Councilmember Barotz asked that the Council receive periodic updates. Mr. Hill said that they have to provide updates to ADEQ monthly and could provide those to Council as well.

Moran Henn, representing Friends of Flagstaff's Future, said that she was there to address the issue of using potable water to supplement the lower levels of the reclaimed water, but providing it at the reduced rate. She urged the City to charge the potable water rate for the reclaimed water and not subsidize the price.

Mr. Hill then reviewed the second part of the issue on the agenda, which addressed the water conservation efforts being implemented this summer.

- 2013 REDUCED RECLAIM WATER DELIVERIES
- APRIL WATER COMMISSION - RECOMMENDATION
- CITY OF FLAGSTAFF CODE – 7-03-001-0014
- 2013 REDUCED RECLAIMED WATER DELIVERIES

Discussion was held on the fact that the Water Commission made the decision on this issue, rather than the Council. Mr. Hill explained that the City Code authorized the Utilities Director to notify the City Manager regarding this type of change, who then notifies the Council. Mr. Hill said that he felt it was appropriate to involve the Water Commission in the discussions and engage them along with the reclaimed water customers. Several members of the Council voiced concern with this process.

On question, Mr. Hill said that they estimated the use of potable water to provide 50% of the reduction, with the other 50% addressed through conservation, to cost the City around \$37,000, not including the lost revenue on the water conservation.

Discussion was held on the legal obligation to supply the reclaimed water to the customers. Mr. Hill said that they have 72 customers for reclaimed water, a majority of which are provided through a Reclaimed Water Agreement. Under those agreements the City has the ability to turn them off if they do not comply and even on the other types they have that same ability.

Interim City Attorney D'Andrea said that the City Attorney's Office has reviewed the contracts and believe the City has the authority to make these changes; any other concerns would need to be discussed in Executive Session.

Brad Garner, Flagstaff and member of the Water Commission, said that his first thought when this came before the Commission was that it was above their "pay grade." He proposed a motion to bring this matter before Council with recommendations for: 1) 50/50; 2) 100/0; or 3) 0/100, with emergency rate changes, but the motion failed. He said that he questioned whether the issue of putting potable water into the reclaimed water system was operational or political.

Rudy Preston, Flagstaff, addressed the Council and said that he believed that Selenium in the water was still an issue, regardless of changing the testing procedures. He asked why it was not SCA's responsibility.

Katie Nelson, Flagstaff, said that she really did not want to see potable water being used in this way.

Mr. Hill reviewed the various options outlined in the Consent Order: 1) Class A+, 2) Blending; or 3) Repermit to Class A. He explained that if Wildcat is not working in 2014 they would propose blending; however, it will take some infrastructure, engineering and construction and they could not get that done within this irrigation season.

Discussion was then held on the possibility of going through the process to provide Class A rather than A+. It was noted that although the bond language when this came before the voters did not include the specific class of water, it was always identified to provide Class A+. In order to repermit for Class A water it requires a Nitrogen Management Plan and he does not recall the timeline for that because with the discussions that took place in February, they were moving forward to continue with Class A+. He said that if they did switch to permit for Class A it would be for all, and once the problem was addressed, they would repermit back to Class A+.

Various scenarios were discussed on ways to charge for the potable water used as reclaimed.

Councilmember Woodson moved to approve and sign the Consent Order between the City of Flagstaff and the Arizona Department of Environmental Quality; seconded; passed unanimously.

Staff was directed to bring information back to Council, next week if possible, on the timeline it would require to repermit to provide Class A water on a temporary basis, and any other ideas on how to address this issue without using potable water.

5. **Adjournment**

The Special Meeting of the Flagstaff City Council of April 30, 2013, adjourned at 7:15 p.m.

WORK SESSION

1. **Call to Order**

Mayor Nabours called the Work Session to Order at 7:15 p.m.

2. **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.

Nick Koressel and Avi Henn, representatives of the Green NAU – Energy Initiative, gave a brief PowerPoint presentation that addressed:

- GREEN NAU – ENERGY INTIATIVE
- ENERGY SAVINGS PERFORMANCE CONTRACTING HOW DOES IT WORK?
- ENERGY - WHAT WILL NAU SAVE?
- ENVIRONMENTAL BENEFITS
- BEHAVIOR CHANGE
- TWO AREAS OF FOCUS

Rudy Preston, Flagstaff, spoke about Selenium in the City's water and said he hoped they did not jump around with Class A water. Additionally, he saw the Council had held an Executive Session re the Hopi v. City of Flagstaff case and he hoped they would sit down and work things out and not give away all of the City's water.

6. **Arizona Department of Transportation Consultation with Rural Elected Officials.**

FMPO Manager David Wessel introduced Michael Kies with Arizona Department of Transportation (ADOT), who then gave a PowerPoint presentation on ADOT's Five-Year Plan. He said that the Plan was out for public comment right now and the State Transportation Board had asked them to take several scenarios to the public.

- FY2014-2013 TENTATIVE FIVE-YEAR TRANSPORTATION FACILITIES CONSTRUCTION PROGRAM
- BACKGROUND
- MAP-21
- ADOT'S LONG RANGE PLAN
- 2006-2012 ADOT HIGHWAY SPENDING
- ADJUSTING THE PROGRAM TO MATCH REVENUE FORECASTS
- REDUCED REVENUE
- \$18.4 BILLION = VALUE OF STATE HIGHWAY SYSTEM INFRASTRUCTURE

- WE HAVE A CHOICE
- SCENARIO A: GA & STATEWIDE SUBPROGRAM SCENARIOS – SCENARIO A
- 81% on PRESERVATION
- SCENARIO B – FOCUS ON MAJOR PROJECTS
- 65% ON PRESERVATION
- SCENARIO C: PRESERVATION AND MAJOR PROJECTS (Staff recommended)
- FY 14 TO FY18 PROGRAM
- STATEWIDE PROGRAM
- SUMMARY OF THE PROGRAM FY14-FY18

Councilmember Oravits thanked Mr. Kies for his presentation and noted that the City of Flagstaff had recently been having similar discussions, on a smaller scale. He commented on a few areas getting bad, such as I-17 on the hill outside of Camp Verde, and he also mentioned the turn lane light at Fourth and East Route 66 Overpass was not visible.

Councilmember Brewster asked what ADOT was doing with bridges. Mr. Kies said that he knows that the federal government requires them to do so many inspections based on their formula, but he did not know what their schedule was as that was outside of his area of focus.

Councilmember Overton said that they could not say they have not seen this coming, but the communities have needs and it was disheartening to be going into preservation mode. He asked if there were contingency funds available for unforeseen incidents such as the road to Page. Julian Avila with ADOT said that an emergency was declared on that issue which will make it eligible for federal funds. Councilmember Overton said that the City was happy to lend any assistance in keeping that funding from coming from the statewide funds.

Mr. Burke asked if the reduction in funding shown on Slide 6 was at all impacted by the funds being moved from ADOT to DPS, or if it was just a shrinking of the pie. Mr. Kies said that what was shown was strictly the revenues from the gas tax, so it was just the shrinking of the pie.

Mr. Burke asked if there was a percentage decrease shown on the various funds. Mr. Kies replied that it was not a specific percentage, but rather based on a revenue formula referred to as the Casa Grande Accord.

In referring to the extra lane being installed on the mountain pass outside of Camp Verde, Mr. Burke asked if that was already completely funded, or if that was a project that would not be completed. Mr. Kies said that was a new truck lane, or passing lane, which is from a different pot of money since it is considered a safety project, and it is completely funded.

Mr. Burke said that in reviewing the different options, he believed that Option A best served the City of Flagstaff. Mr. Kies said that comments would be accepted through the ADOT website and could also be voiced at the State Transportation Board meeting being held in Flagstaff on May 10.

3. Preliminary Review of Draft Agenda for the May 7, 2013, 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.*

Councilmember Overton asked to receive a construction site plan for Item 9-D on the May 7 Agenda. Councilmember Woodson noted that he would be declaring a conflict on that item.

Councilmember Oravits, in reference to Item 10-C which was calling for an emergency, said he would not be voting for the emergency as he did not support the project. Mr. Burke noted that the first and second read on the same evening would require a 7-0 vote; however, the emergency would only require 6, so it could be read for the second time on May 21, 2013, and then have an emergency declared, which would allow the City to still take advantage of the low interest rate.

Councilmember Barotz asked that an updated staff summary be supplied for the final agenda on Item 9-D, the Boys and Girls Club Agreement, as there were discrepancies between the summary and the agreement regarding insurance which she had already discussed with the Interim City Attorney.

A break was taken between 8:02 p.m. and 8:14 p.m.

4. Discussion on community non-profit special event signs.

Zoning Administrator Roger Eastman gave a PowerPoint presentation on non-profit special event signs, which addressed:

- COMMUNITY NONPROFIT SPECIAL EVENT SIGNS
- SUMMARIZING THE ISSUE
- SOME OPTIONS
- CITY OF SEATTLE'S KIOSKS
- SOME OPTIONS: IF NO
- ALTERNATIVE
- STAFF SEEKING DIRECTION

After some discussion, and input from Bob Kuhn of the Flagstaff Unified School District, Council directed staff to attempt to find a few visible locations in the City where they could have a pilot program to have these types of signs located there. Mr. Eastman said that staff would continue with status quo at this point and bring back some recommendations through the Zoning Code amendment process.

5. Discussion on Use of Wireless Communication Devices While Driving or Bicycling Prohibited - Proposed Ordinance - 2013-11.

Jeff Bauman, City Traffic Engineer and Staff Liaison to the Transportation Commission, presented a PowerPoint presentation which addressed:

- PROPOSED ORDINANCE – USE OF WIRELESS COMMUNICATION DEVICES
- BACKGROUND – COMMON TYPES OF DISTRACTION
- LEGISLATIVE HISTORY
- CELL PHONE WHILE DRIVING EXISTING LEGISLATION
- TEXTING WHILE DRIVING EXISTING LEGISLATION
- FEDERAL DISTRACTED DRIVING ISSUES
- DEFINITIONS
- TRAFFIC CODE – PROPOSED ORDINANCE
- ORDINANCE – VIOLATION
- PATH FORWARD

Mr. Kuhn and Bob Mullin, both members of the Transportation Commission, addressed the Council in support of the proposed ordinance.

The following comments were made in on the proposed ordinance:

- In Texas, there is no texting permitted in any school zone
- Enforcement would be a big issue
- There are other actions taken in cars that are distracting in addition to texting
- People know they should not drive and text at the same time
- One of the established goals of the Council was to protect the citizens of Flagstaff
- Just because it may be difficult to enforce does not mean they should not adopt an ordinance
- An education campaign should take place
- If they are going to adopt an ordinance, they should put all of their resources behind enforcing it

Police Chief Treadway said that he has spent most of his adult life and career investigating and enforcing traffic violations. As a representative of the Police Department they were very much in favor of doing whatever they can to make the community safer; however, there are enforcement challenges with ordinances of this nature. If they did move forward he would recommend that it be made a primary violation, not secondary. In speaking with a representative of Tucson, they indicated that since they instituted their ordinance they have only issued 26 citations.

Mr. Burke asked if there were any studies to indicate that once an ordinance of this type was adopted, there was a reduction in accidents, or a reduction in the behavior. Chief Treadway said that they do not have a clear answer to that, however, in traffic enforcement in general, he has read studies that indicate that for whatever violation a citation can have an impact on future driving behavior for the next three to five years.

Vice Mayor Evans said that while she strongly supports the Flagstaff Police Department, she was very concerned with abuse that could take place if an officer is able to pull someone over for texting, and then find other violations.

While there was not a consensus to move forward with an ordinance, everyone agreed that they would like to look at other ways to address the issue, particularly through an education campaign.

7. ~~**Presentation on Principles of Sound Water Management – Water Policies: Recharge & Recovery and Water Conservation**~~ **REMOVED FROM AGENDA.***

8. **Review of Draft Agenda Items for the May 7, 2013, City Council Meeting***

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

9. **Public Participation**

Mayor Nabours invited Joe Ferguson of the Arizona Daily Sun forward, and presented him with a proclamation and gift, and everyone thanked him for his service in reporting the news of the City, and wished him success in Tucson.

10. **Informational Items To/From Mayor, Council, and City Manager**

Councilmember Woodson reminded everyone of the Arizona State Transportation Board meeting scheduled for next Friday, May 10, and the dinner the evening before.

Councilmembers thanked staff for the Budget Retreat.

Vice Mayor Evans reported that Victor Travino with the Mexican Consulate was being relocated to a different post and on May 8 the Mayor of Phoenix is having a going-away party for him. She said that they will know his replacement around the first of June.

Vice Mayor Evans thanked members of the Flagstaff Leadership Program who had a group doing clean up at Bushmaster Park last weekend. She said that altogether, with various organizations, they had over 150 volunteers. She also said that they had a community picnic last weekend in the Sunnyside area.

Councilmember Overton reminded everyone of the Annual Literacy Spelling Bee later in the week, and he also thanked the Mayor and Kim Ott for the student tours that took place at City Hall.

Councilmember Brewster thanked the NAU students for their presentation earlier in the evening and she reminded everyone of the Bothhands Breakfast taking place later in the week.

Deputy City Manager Jerene Watson gave more information on the Flagstaff Leadership Program activities over the weekend, and thanked Mike O'Connor and Steve Zimmerman of the City, along with their crews, for getting things ready for them.

11. **Adjournment**

The Work Session of the Flagstaff City Council held April 30, 2013, adjourned at 9:42 p.m.

MAYOR

ATTEST:

CITY CLERK