

## MINUTES

SPECIAL MEETING  
THURSDAY, JUNE 27, 2013  
COUNCIL CHAMBERS  
211 WEST ASPEN AVENUE  
4:30 P.M.

### 1. Call to Order

Mayor Nabours called the meeting to order at 4:34 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 special 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 them 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 and City Attorney Michelle D'Andrea.

### 3. Presentation on Principles of Sound Water Management - Water Policies

Utilities Engineering Manager Ryan Roberts continued the presentation from last week, beginning with:

#### INFRASTRUCTURE

##### Policy E4 Service Outside the City Limits

- a. Should we continue service?
- b. Should we expand service?
- c. Rates charged to customers?

Further discussion followed on the above questions. Mr. Burke explained at currently if they were seeking water or sewer service outside the City limits, the City requirement was to annex or sign a preannexation agreement. For reclaimed water they currently do not have that same requirement.

Mayor Nabours asked if they were at a point where they need to give direction on what, if any, services would be provided outside of the City limits. Mr. Burke said that they were looking for whether the current policies regarding water, sewer, and reclaimed water were sufficient. If they were not, any changes would have to be formally adopted by Council.

Mr. Burke said that staff had written a policy, it was taken to the Water Commission, and what is before the Council is their recommendation. If the Council agrees with it, it will be brought forward in resolution form. If they change it, they need to do so in the structure of amending the policy.

Further discussion was held on the requirement of annexing or signing a preannexation agreement. Mr. Burke said that a perfect example was the expansion by Gore. It was also noted that there was no intention of revoking any service already established.

Mayor Nabours asked if Flagstaff Ranches came to the City and asked to be a customer of reclaimed water and were willing to run a line, the City would make them a customer or it would have to come to Council. Mr. Roberts said that would come to Council and would require an annexation agreement. Mayor Nabours said that was an example of where if they had the water he would be glad to see the water and would not expect them to annex. That was a policy decision.

Councilmember Barotz said that she thought that both potable water and reclaimed water were important, and to her it was more about the size of the development. She would like to see the Council able to weight in on any project.

Councilmember Oravits asked staff how many they see in a year, on average. Mr. Roberts said that in the past years they maybe had two requests and they went through IDS. The Planning Department required annexation and all the discussion stopped.

Further discussion was held on whether rates should be higher as the usage increased. The question was whether they wanted to have better management or have them individually handled.

Councilmember Barotz said that the ratepayer is paying taxes for services in the City and paying for the water system. They owe it to the public that if there is something big going on they should have Council make that decision and communicate with the public.

Vice Mayor Evans said that they also need to consider what they are using it for. Allowing people to hook into their system, but not requiring that they be annexed, is establishing two systems. Those in the City pay certain taxes.

Discussion was held on the need to further address this issue, and also the issue of bringing water into the City with Red Gap. Councilmember Oravits noted that they already bring in water from outside the City limits through Lake Mary and the Innerbasin.

Councilmember Brewster said that those outside will be paying more for City services, and they are still shopping in Flagstaff and paying sales tax.

Councilmember Overton said that they still had the standpipe point of delivery that should not be overlooked. While there may not be a physical pipe, they provide that to a lot of customers outside of the City limits.

Staff was asked if there were meters outside the City limits. Mr. Roberts said that they had a few customers where the main extends outside the City limits, such as the Arboretum.

Councilmember Overton asked if they saw it as a concern if a main or line was installed outside the City and becomes the City's responsibility, and then the annexation is not completed. Mr. Burke said that they go into that with a conscious decision point. The City may be extending a main for the purpose of looping the system, for better circulation. If someone wants to tap that line they are going to need to either annex or sign a preannexation agreement.

Councilmember Overton asked why they thought it was the City's responsibility for infrastructure outside the City limits, other than the grandfathered ones. Mr. Roberts said that a good example is W.L. Gore. They are investing millions to extend the main and loop the system, and that is all outside the City limits. Gore falls under the Flagstaff Ranches water territory. The City has no plans, nor legally could they, tap the line, but they need it for looping the system. Mr. Burke added that in that example it also allows them to access another well.

Mr. Roberts confirmed that the Snowbowl line for reclaimed water was not a City line. Once it left City limits, it was their property and they are required to operate, maintain, etc.

Vice Mayor Evans asked if anyone had ever completed an annexation after signing a preannexation agreement. Mr. Roberts said that he has been involved with W.L. Gore who signed one five or six years ago. The City was to follow through with the annexation, but did not get that done in the timeframe. The line still exists and it is a City main. They again want to sign an annexation agreement and this time the City plans to follow through. Mr. Burke clarified that the annexation agreement had a term that expired and the State annexation laws have changed. It never became eligible during that time period. Mr. Roberts said that he was only aware of the one preannexation agreement.

Discussion was held on whether this was a decision that should be made by staff or Council.

Rudy Preston, Flagstaff, said that the Snowbowl line was one they want Council to look at, mainly because it is being subsidized by the taxpayers.

Kathleen Nelson, Flagstaff, said that she could see both sides of annexing, but she believed Council should weigh in on whether water gets to them.

Marilyn Weismann, Friends of Flagstaff's Future, said that there were many properties needing to annex. The Regional Plan has an urban growth boundary and when they are talking about providing water and services, they need to keep that in mind. They should not be encouraging people to build golf courses outside the City. The purpose of using

reclaimed water was for them to conserve, as an alternative to use instead of potable water.

Richard Bowen said that from an economic development perspective, he wanted to be sure they maintain some flexibility. Flagstaff is a regional economy; their work force and consumers come from all over. They may not all be using the water system, but they are contributing to their economy.

Dawn Dyer, Flagstaff, said that citizens should not have to subsidize delivery of water outside the City limits. The Water Policy should be a vision for the future. They are already in trouble coming up with reclaimed water for contracts already in place.

Ann Marie Zeller, Flagstaff, said that in the two most recent issues of Cityscape, the City stated that both plants were producing and have been producing A+ quality water, and that Wildcat was a pumping station. Little America wanted to expand, and they have no way to provide them with the water to do that. She believed that all water agreements should go to a public vote.

Klee Benally, Flagstaff, said that it was evident through comments that folks are passionate and concerned with the use of reclaimed water on the San Francisco peaks. With climate change and drought, the issue is wise water use. He said that the Snowbowl was not the heart of matter being discussed, but decisions made could impact what has occurred.

Toby Cat, Flagstaff, spoke against the City selling water to Snowbowl.

Adam Dunstan said that he was a frequent business visitor and environmental scientist. He said that the Council should discuss what has been done with the contract; they should call a meeting with the Navajo Nation to apologize for not honoring their rights; and they should get out of the contract as soon as legally possible.

Councilmember Barotz asked how they were tying the various issues together. Ordinance No. 2002-07 addressed the reclaimed water contracts, and she asked if they wanted that in the Water Policy. Mayor Nabours said that they could not change an ordinance by a policy decision; they could only be changed by another ordinance. He said that before they get to an ordinance, he asked if there was a consensus one way or the other on whether they wanted every request for service outside the City limits to come before Council, or if there was a limit or minimum amount of usage required before it comes to Council.

Councilmember Barotz asked how they could make a policy if there is an ordinance that would be contradictory. Ms. D'Andrea said that if they make a policy inconsistent, the ordinance would prevail. If they wanted to modify the ordinance they could make those changes at another time. Mayor Nabours said that there was no ordinance amendment or a new ordinance before Council tonight.

Mayor Nabours asked the following questions, and Councilmembers responded as indicated:

**Should every request for service outside the City limits come to Council? Should they distinguish between potable water, reclaimed water and sewer? Should annexation or a preannexation agreement be necessary to make application?**

Councilmember Brewster said that she did not think that everything needed to go to Council. She had no number in mind, but should limit it on the amount of usage, and would let staff recommend the amount.

Vice Mayor Evans said that all commercial requests needed to go before Council. In the cases of residential use, they should set a limit such as staff would address a single house, subdivisions would come before Council.

Councilmember Overton said that annexation agreements should come to Council for approval since there are not many of them. He saw some merit in requesting preannexation agreements, although the rules driven by the Legislature could prohibit them at times. He believed they should have to hear every case.

He also questioned whether they would be encouraging reliance on standpipe users if they discouraged annexations.

Mayor Nabours asked Councilmember Overton if the property could not be annexed because they were not eligible, or there was a reason they did not want to annex, whether he would not consider their application. Councilmember Overton said that he would consider it. He would like to find a threshold on which ones would need to go to Council.

Councilmember Oravits agreed that there should be a threshold; he agreed with Councilmember Overton and Brewster and preannexation.

Councilmember Woodson said that he did not think every request should go to Council. He sees a difference between water, sewer and reclaimed water, and that depends on the other answers. He saw a reason to ask for a preannexation agreement.

Councilmember Woodson said that they need to look at pricing when looking at the different uses as they can encourage or discourage by rates. Mayor Nabours noted that rates would be discussed on another day.

Further discussion was held on what was already in the Code and what was in the policy. Vice Mayor Evans said that she thought it was hard to work on a Water Policy when they have ordinances that are in conflict. Mayor Nabours said that they needed to bite it off a piece at a time. They can look at the policy now and later on either change the policy or change the ordinance.

Councilmember Barotz said that she supports having requests for service outside the City limits go to Council, but not all would need to go before them.

After further discussion, Mayor Nabours said that he was getting a consensus that annexation was an element, but not a requirement. Mr. Burke said that it would be best for staff to have a clear line. That type of discretion on annexations would be more of a policy decision. He suggested that they include annexation and allow Council to object to

the annexation when it comes before them. A process for appeal to Council of the annexation requirement was suggested.

An example presented was Flagstaff Ranches, if they wanted to purchase reclaimed water but not annex. Mr. Burke said that would not be consistent with the policy so it would have to go before Council.

A break was held from 6:30 p.m. to 6:47 p.m.

After further discussion it was agreed that the following questions needed further direction:

- ◆Will the staff have the right to grant services to a property owner if they are not within the City limits and the property owner does not desire or request to be annexed?
- ◆Is annexation or preannexation to be a requirement to get water or sewer services subject to an appeal to the Council?
- ◆Or, is there a consumption amount, up to a certain amount if they think it is a good fit on whether to annex or not?
- ◆If they are over the limit, it is not a staff decision and it goes to Council. Is annexation/preannexation a requirement or is it a consideration?

Councilmember Brewster said that she would like to see those two issues separated.

Mayor Nabours said that at some point they are going to need to look at what the ordinances provide and how they fit within the policy, or how they conflict with the policy.

Councilmember Barotz requested another copy of the February 11, 2013, CCR that had the eight ordinances attached to it.

Mr. Burke recapped the discussion by noting that nothing had changed yet; the closest they came was that any service outside the City would go to Council, but there would be a distinction between the different types. Right now the policy reads that services do not go to Council, but they do require either an annexation or preannexation agreement.

#### 4. Adjournment

The Special Meeting of the Flagstaff City Council held June 27, 2013, adjourned at 6:58 p.m.

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MAYOR

ATTEST:

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CITY CLERK