



CITY OF FLAGSTAFF  
WATER COMMISSION  
October 17, 2019

**SUMMARIZED MINUTES**

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**MEMBERS PRESENT**

John Malin  
Ward Davis  
Elizabeth Christy  
Malcolm Alter  
Timothy Bowers  
Ben Ruddell  
Jamie Whelan, Council Rep

**MEMBERS ABSENT**

Marie Jones, P&Z Rep

**STAFF PRESENT**

Ryan Roberts  
Marion Lee  
Steve Camp  
Erin Young  
Jim Janecek

**OTHERS PRESENT**

Jack Rathjen  
Paul Turner

**I. CALL TO ORDER**

Chair, John Malin called the meeting to order at 4:03 p.m.

**II. APPROVAL OF MINUTES – September 19, 2019**

Moved by John Malin and seconded by Elizabeth Christy to approve the meeting minutes of September 17, 2019. Motion carried unanimously.

**III. PUBLIC PARTICIPATION** – Jack Rathjen, resident of Flagstaff proposed a new rate for treated effluent discharge, this is discharge water downstream from the Wildcat Hill Treatment Plant. He is proposing this new rate because of the upcoming rate study. He would like Lake Elaine to be refilled with the discharged water and it would not cost the City anything.

**IV. NEW BUSINESS**

**A. Water Resources Master Plan Scope of Services: Erin Young**

A draft scope-of-work for the Water Resources Master Plan was provided to the Water Commission via email on Wednesday September 25, 2019. Comments to the scope of work were requested to be sent to Erin Young by 5 pm, Friday October 11<sup>th</sup>, for discussion at this meeting.

Erin distributed the comments received along with a revised DRAFT Proposed Scope of Services of the Water Resources Master Plan dated October 17, 2019. Staff is seeking a recommendation from the Water Commission to accept the scope of work with discussed modifications, for presentation to City Council at a work session on October 29. With acceptance of the scope of work by City Council, staff will move forward with a solicitation of services.

Erin gave a brief presentation on the Water Resources Master Plan Scope of Services.

The WRMP is an opportunity to go beyond a “traditional” plan

- No rush to complete; projected for 2021
- Integrating the community into the effort

- Flagstaff's water planning efforts are at the forefront of the industry – opportunity to expand into GIS and policy
- Some sections of the scope of work will develop concurrently
- Final scope will be negotiated with contract
- Possible opportunities to leverage funding for plan with technical assistance (time provided by agencies or consultants)

\*\*Received comments from 2 on the commission, 1 of 2 City Sections (waiting on sustainability), 1 citizen via water commission, sent to and waiting on 1 NAU professor

**Introduction** - Comments received on Draft Scope (2 staff) – Staff agreed and amend text

- Clarity needed on second paragraph on page 1
- Question of whether economic value per gallon pertains to both reclaimed and potable

**Section 1.0 History** - Comments received on Draft Scope (1 citizen) – Staff amended text to make clear that staff will assist with task

- Is this section needed? Financially wasteful. Staff needs to be responsible as a repository of knowledge (no comprehensive compilation of planning information exists in final form; institutional knowledge is gone when staff leave; save on future efforts to learn history)

**Section 4.0 Develop Goals** - Comments received on Draft Scope (1 WC; 1 citizen)

- Consultant outreach problematic in the past. Has it been before for this application? Is outreach during the process practical? (staff are familiar w/ similar consultant-led processes)
- Have meetings at end of study; question whether there is enough knowledge of the issues with the public (staff still feel meetings upfront are necessary; may change w/final scope)
- Accomplish this task with a short set of meetings: contractor, staff & WC

Staff addressed:

- Clarified title and purpose to summarizing relevant City Goals, City Plans & Regional Plan as drivers of the WRMP
- Clarified purpose is to address Council's objective of developing a sustainable water budget, and likely several other vague or undefined concepts
- Reduced number of meetings from six to three

**Section 5.0 Water Demand and Water Use Projections** - Comments received on Draft Scope (1 citizen & 1 staff)

- Clarity needed on ask of contractor and ownership of model
- Clarity needed that demand scenarios will be vetted w/ stakeholders and used in rest of study
- Expand to include water quality scenarios (water demand is independent of source; staff unsure of how quality serves as a driver of demand; can discuss w/ consultant & stakeholders)
- Question if there are ways to assign water volumes to zoning with much disparity in activities (at the moment we use volume/acre – will address question during process)

Staff addressed:

- Staff agreed and amended text to make it clear City GIS is base of demand model. Developed by staff w/ assistance of contractor.
- Added meetings to provide staff support and to vet scenarios with stakeholders.

Jamie Whelan indicated that travel for meetings can be expensive so suggest for staff to consider skype for meetings. Erin said staff will do that and added that all water is taken into account for demand and water use project-tions.

**Section 6.0** Resources Maximization Assessment - Comments received on Draft Scope (1 citizen)

- Perception this is an operational efficiency review (need to clarify that water source utilization can be about maximizing the supply or extending the life of the source, which is indeed a master planning topic)

Staff addressed:

- Staff added clarity to the text

**Section 7.0** Supply Considerations - Comments received on Draft Scope (1 WC; 1 citizen)

- Advice on the specifics of financial metrics for water projects (staff feels the scope adequately addresses the comment)
- Commission member offered to assist with developing metrics
- Suggestion to re-title as this is the heart of the study, more than “considerations”
- Suggestion financial metrics are not consistent and to call out the key metric (mention of metrics is intended to be broad until refined; looking for demonstration of experience in RSOQ)
- Issue with third bullet

Staff addressed:

- Added meetings to this task to ensure stakeholders have opportunities for input prior to, during, and following the analysis
- Staff agree with title suggestion and changed to “Future Water Supply Options or Alternatives”
- Fixed mistake with third bullet

**Section 8.0** Values Assessment & Scenario Selection - (1 WC; 1 citizen; 1 staff)

- Land use efficiency is a value
- Question of whether a values assessment is possible and the cost; do we have examples?
- Question whether the term "Scenario selection" is being used inappropriately.
- Question of how the outcome can be assigned to different sectors, by water type, type of job. (these questions will be addressed with consultant)

Staff addressed:

- Staff agreed and amended text
- Examples are provided
- Amended title to remove reference to scenarios

**Section 9.0** Scenarios Assessment – Comments received on Draft Scope (1 WC; 1 citizen)

- Suggest title change to “Future Supply Alternatives”
- Consider staged investments that will provide the lowest cost to taxpayers (impact to taxpayers/water bills included in Section 10.0)

Staff addressed:

- Staff agreed and amended title
- Added clarifying text to consider staged investments

**Section 10.0** Public Outreach – Comments received on Draft Scope (1 citizen)

- Change title to “Stakeholder Outreach”
- Clarification if City Council decision is taken in this step

Staff addressed:

- Staff agreed and amended text

**Section 11.0** Water Management Recommendations – Comments received on Draft Scope (1 WC; 1 citizen)

- Do you mention the importance of both new building codes for water efficiency and retrofit incentive programs for water efficiency
- Reference to a path forward adopted by Council but does not define when and how that takes place (timing and details will be included in final scope of work with Consultant)

Staff addressed:

- Staff agreed and amended text

Staff Priorities

The Plan must provide:

- a fair side-by-side cost estimate of water supply options, time and volume-adjusted cost estimates
- a Water Demand Model
- an assessment of potential local water sources to offset new projects
- a review of water management operations for ability to extend life of supplies
- definitions to goals and objectives of City Council, Regional Plan, etc.
- values-based policy and application models
- a stakeholder engaged and student-involved process
- recommendations to implement preferred alternative

The following discussions and comments were made:

- Change the last priority - *recommendations to implement preferred alternative* to be number 2.
- Staff wants the Water Commission to agree with the consultant they choose.
- The Commission questioned the process of selecting a consultant or firm.
- Timeline - if staff goes with an on-call consultant or firm it will be back on the agenda next month with a defined scope of work. Going with an outside consultant/firm would take longer (another six months or so).

Ryan clarified that the reason this is on the agenda is staff wants to know what the Water Commission wants to see in the Master Plan. Jamie Whelan added that what helps City Council make a decision is the definition or an expression of the need, a timeline and what the Water Commission and staff considers. Chair, Malin suggested to narrow the process down by November. In summary, asked staff to take the scope of work in its generality and send to a preferred on-call consultant. Come back with the scope of work based on this and see the scope of work in November.

COMMENT: Robert Vane (Public) – The Annual Report to the Water Commission projected the need for next water supply is 2039 so it is important for this study to be done right and November is too soon. Water Services recently completed two studies on DPR & IPR and another one on Red Gap Ranch. He suggested for staff to pause and reflect of what was learned from these studies. The potential for consultants to come back with their own proposal. Staff will have three different proposals with common quotes and the one selected should go through the same discussion process.

**B. Floodplain Variance – Katlon RV: Jim Janecek**

Jim Janecek presented this item and introduced Lon Franklin, owner of Katlon RV and Paul Turner, Turner Engineering. Property owner of an existing RV storage facility is requesting that a new structure be constructed in the floodway, which is prohibited by City Code Title 12 Floodplain

Regulations. The proposed structure is a gate shed located at the entrance of an existing RV storage facility on Old Walnut Canyon Road.

The history of this property as per City of Flagstaff Stormwater staff summary prepared for a variance request from this property owner in 2005: "The applicant currently operates an existing recreational vehicle storage facility on the adjacent property (5700 E. Old Walnut Canyon Road) under a Floodplain Use Permit issued by the City in 1995. No variance from the Floodplain Regulations was required to obtain this Floodplain Use Permit. A variance was also not required for a subsequent expansion of the storage facility in 2005. Staff have reviewed these permits, and the conditions attached to them, and believe that they were issued based on a misinterpretation of the floodplain regulations."

For this new variance request, the property owner, through a contracted civil engineering firm, Turner Engineering, Inc., has prepared a response to topics requested by our variance process guidelines outlined in our floodplain regulations. The highlights of their response are that the flood elevations will not increase, and there will not be any adverse impacts to other properties.

Staff recommends this variance be recommended for denial from the City Council acting as the floodplain board, for the following reasons:

1. New structures in the floodway are categorically not allowed per our floodplain regulations.
2. The applicant's argument, under the premises of "good and sufficient cause", was not convincing that an occupied gate house building is required instead of a non-occupiable structure with automated devices, elevated electronic controls and security cameras, etc., that can accomplish the same tasks.
3. Approving new occupiable buildings in the floodway sets a precedent for other large residential and commercial developments in this floodway which is against the intent of the National Flood Insurance Program.

Jim said Stormwater can approve or recommend approval of a variance of non-occupiable structures (ex: like large fences; a structure that has electronic components). John Malin asked what the history was on the approval of the Country Club new driving range structure that was occupied and is no longer occupied. Malcolm said he recalls that a variance was issued but for limited occupancy, that all utilities be raised above base flood elevation and opening buildings all around. Malcolm added that FEMA provides guidance on community assistance program (audit) for compliance and asked staff if talked to FEMA about this. Jim said no and that FEMA was hard to reach.

Paul Turner, Turner Engineering said in the Water Commission Minutes of January 17, 2013, the Commission approved the driving range. The minutes states:

*The proposed building is "new construction" in a Floodway and therefore does not comply with the city's Floodplain Regulations. However, staff recommends granting the variance if the structure meets all minimum requirements of the National Flood Insurance Program, does not worsen existing flooding conditions, does not create dangerous conditions or allow any new uses at the site, and minimizes the potential for flood damage to the structure.*

Turner said the finished building will not reside in the floodway because it is going to be elevated, and understands Jim's concerns. FEMA does not always recognize floodways in backwater pool situations. John Malin asked if the building will have utilities? Turner said the building will have running water, sewer (bathroom) and heating but no kitchen. Services will be connected to neighboring street. Paul clarified that the building will not be occupied 24/7.

Lon Franklin, owner of Katlon RV said he needs building for practicality. He needs a new gate system and this building would hold the new system there, also a new security system. The Water Commission further discussed the variance. Variance regulations are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this Ordinance would create an exceptional hardship to the applicant or the surrounding properties. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not the structure, its inhabitants, or the property owners. Malcolm said you can convince FEMA that this is not occupiable but in this case it does look like one because it has a bathroom. Jim added that he thinks the piers or foundation will be in the floodway and would support a variance if it does not have walls or a roof. After further discussion, the Water Commission believed they were stuck in making a decision and deny the customer. As long as the building is not occupiable it should be okay. The Commission recommend for staff to work with Turner Engineering and Katlon RV to work this out and remove toilet.

Moved by Malcolm Alter and seconded by Timothy Bowers to table this item until November. All approved.

### **C. Enforcement Response Plan - Successes**

Steve Camp gave a brief presentation on the Enforcement Response Plan. Flagstaff Water Services adopted an enforcement response plan, which was adopted by Council resolution in December 2018. The plan was long overdue and required by the State's Phase II Municipal Separate Storm Sewer System (MS4) permit and Title 7, Chapters 2 and 3 of Flagstaff City Code. The ERP incorporates the Flagstaff Water Services Pretreatment, Cross Connection and Stormwater programs. Overall, the plan has set a level playing field for internal customers (staff) and external customers (industry, restaurants, businesses, contractors, builders and waste haulers). Clear expectations and structured enforcement combined with boilerplate letters and violations have tremendously helped Flagstaff Water Services, specifically the Pretreatment Program

The ERP was developed to meet the following criteria:

- Set escalating enforcement procedures and prioritization (including penalties) for code violations.
- Identify staff Roles and Responsibilities by Position Title
- How the City will exercise its legal authority to comply with the state MS4 stormwater permit and cross-connection and pretreatment code.

City staff has developed the following boilerplate enforcements documents:

- Inspection Report
- Warning Letters for Pretreatment and Cross Connection
- Notice of Violation for Pretreatment and Cross Connection

The ERP follows the following enforcement procedures:

- Inspection Report/Warning Letter – issued
- Notice of Violation/Corrective Action Notice
- Administrative Order/Stop Work Order
- Administrative fines/penalties
- Civil Litigation – At Discretion of City Attorney's Office

The following are examples of how the ERP exceeded expectations:

- Clear definitions of when an industry is in significant non-compliance

- Clearer communication between the industry and Water Services staff
- Clear timelines for when industry can expect escalating enforcement
- Ease of issuing enforcement with boilerplate letters/notices and clear timeframes

Overall, the Pretreatment program has issued numerous warning letters, mostly for cross connection, and five Notice of Violations. Prior to the ERP, staff didn't have direction on how to proceed with escalating enforcement. Once an industry or customer exceeded a permit parameter, failed to notify about an illicit discharge, failed to test a backflow device or didn't pump out a grease interceptor, staff had no direction on how to proceed. Enforcement either didn't occur, or was conducted with no direction and was arbitrary, at best. Now all enforcement follows the same procedure. Staff and industry have clear guidelines on what to expect.

Prior to the ERP staff received complaints from industry about concerns on how the City would proceed with enforcement for violations. One industry was concerned staff could overreact for minor violations and place the customer in significant non-compliance. Now all parties have clear expectations on what establishes significant non-compliance. Now both staff and industry have a clear path and clear expectations.

**V. OLD BUSINESS - None**

**VI. INFORMATIONAL ITEMS TO/FROM THE CHAIR, COMMISSION OR STAFF**

Malcolm Alter is frustrated with the Rio De Flag Project and still wonders what the role of the Water Commission is. At the City Council meeting on October 15<sup>th</sup>, there was a Rio project update. If you look at the presentation, note that the cost has gone up. He said he thought the Water Commission is supposed to hear, consider and recommend to Council on all Stormwater related issues. Also, to note that the recent presentation to the Water Commission was not referenced (not referenced anywhere).

**VII. ADJOURNMENT**

John Malin moved to adjourned at 6.30 p.m. and seconded by Elizabeth Christy.