

## MINUTES

### 1. Call to Order

Chairman Ryan and Mayor Evans called the Joint Work Session of March 12, 2018, to order at 4:06 p.m.

### 2. Pledge of Allegiance and Mission Statement

The audience and members of the Board of Supervisors and City Council recited the Pledge of Allegiance.

## MISSION STATEMENT

*The mission of the City of Flagstaff is to protect and enhance the quality of life for all.*

### 3. Roll Call:

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

#### CITY COUNCIL MEMBERS PRESENT:

MAYOR EVANS  
VICE MAYOR WHELAN  
COUNCILMEMBER BAROTZ  
COUNCILMEMBER MCCARTHY  
COUNCILMEMBER ODEGAARD  
COUNCILMEMBER OVERTON  
COUNCILMEMBER PUTZOVA

#### CITY COUNCIL MEMBERS ABSENT:

NONE

#### BOARD OF SUPERVISORS PRESENT:

CHAIRMAN RYAN  
VICE CHAIRWOMAN FOWLER  
SUPERVISOR ARCHULETA  
SUPERVISOR BABBOTT  
SUPERVISOR PARKS

#### BOARD OF SUPERVISORS ABSENT:

NONE

Others present: Interim City Manager Barbara Goodrich; Interim Deputy County Manager Lucinda Andreani; Deputy City Attorney Kevin Fincel; Deputy County Attorney Rose Winkeler.

#### 4. Public Participation:

*Public Participation enables the public to address the Council about an items that are not on the 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 on an item that is on the agenda 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 an opportunity to speak.*

Dennis Lavin thanked the Council, Mayor, and Vice Mayor for the support of the Arts. Many of the Council were in attendance at the Viola Awards, and he wanted to thank them for their support.

#### 5. Discussion of Potential Land Exchange Related to the 1996 Navajo-Hopi Land Settlement Act.

Michelle Ralston, Staff Assistant for Supervisor Art Babbott, introduced a list of public officials representing various jurisdictions that were in attendance: Lisa Atkins, Director, Arizona State Land Department; Perry Riggs, Deputy Director, Washington Office of the Navajo Nation; Steve Pauken, City Manager of Winslow; Nick Matiella, Legislative Assistant, Senator John McCain's office; Judy Sulltrop, Constituent Services from Congressman O'Halleran's office; Councilmember Bruce Fredericks, representing Tuba City on the Hopi Tribal Council; Councilmember LeRoy Shingoitewa, representing Moenkopi on the Hopi Tribal Council; Rosa Honanie, representing Sipaulavi; Jesse Thompson, Supervisor, Navajo County; Alberto Peshlakai, Intergovernmental Liaison, Navajo County; Glenn Kephart, Navajo County Manager; Troy Honahnie, Vice President Clark Tenakhongva's office.

Bill Ring, Coconino County Attorney, provided a PowerPoint presentation that covered the following:

NAVAJO NATION TREATY OF 1868  
LANDS ADDED TO NATION AND DATES  
HOPI TRIBAL RESERVATION AND HOPI ABORIGINAL LANDS  
HOPI RESERVATION  
A SIMPLE IMAGE OF JOINT USE AREA  
SUMMARY VIEW OF NATIONS  
CONGRESS' DILEMMA: RESOLVING THE 1974 PARTITION  
1980'S AND EARLY 1990'S  
ONE SETTLEMENT PROPOSAL (EARLY 1990'S): GRANT HOPI THE CO BAR, ESPEE, AND  
HART RANCHES  
EARLY 1996 [ACCOMMODATION AGREEMENT]  
JULY 18, 1996 SENATOR MCCAIN INTRODUCES THE NAVAJO HOPI LAND DISPUTE  
SETTLEMENT ACT [PL 104 301]  
CONGRESSIONAL TESTIMONY IN SUPPORT OF THE 1996 BILL  
WHERE WE ARE TODAY  
LEGAL PREMISE FOR THE EXCHANGE  
SUMMARY

Vice Mayor Whelan asked where the language about the bank of reserves came from. Mr. Ring responded that it was his language. One could have cash reserves or be land rich but cash poor, so "bank of reserves" referred to other means of value to complete a transaction. Federal and state lands had value and could be appraised. Values could be determined based upon the value of the land itself. The failing of the 1996 Act was the inability to have cash reserves to complete the condemnation.

Assistant to the City Manager Caleb Blaschke introduced Nick Matiella from Senator McCain's office. Mr. Matiella read a prepared statement in which Senator McCain sent his gratitude for inviting his staff to review their exploratory efforts relating to the Hopi lands settlement.

In 1995, the Clinton administration achieved a historic legal settlement with the Hopi Tribe in which they received \$50.2 million dollars to acquire replacement lands as compensation for the loss of aboriginal lands at the hands of the Federal Government, an incident known as the Navajo-Hopi land dispute. In 1996, Senator McCain passed a law, the Navajo-Hopi Land Dispute Settlement Act, that was intended to execute the 1995 settlement agreement. The 1996 Act would have enabled the Hopi Tribe to acquire approximately 146,000 acres of State Trust Land. The Hopi replacement lands were ideally situated for economic development along Interstate 40, including two clusters located south of Twin Arrows and five miles southeast of Winslow, Arizona. Unfortunately, the 1996 Act was never fully executed, and the Hopi Tribe had waited more than 20 years to be made whole. In September of last year, the Hopi Tribe contacted Senator McCain to request his assistance in addressing this matter because of the potential decommissioning of the Navajo Generating Station (NGS). According to the Hopi Tribe, if NGS shuttered, the Tribe could lose around 80% of their general fund, which was derived primarily from coal revenue. Senator McCain recognized the Hopi's desire to embrace sustainable forms of economic development. He also believed the federal government had a solemn obligation to honor the promise made to the Hopi. In response to the Hopi's request for assistance, Senator McCain offered to facilitate the exploration of alternatives to the 1996 Act. One idea was to introduce legislation that would authorize a federal state land conveyance in lieu of the 1996 Act. Conceptually, Congress would compensate the State Land Department by transferring federal land of equal value to the State. In the course of researching this idea, hypothetical maps were generated in consultation with the State Land Department so that staff could better understand what lands might be suitable for future review by local governments. There was widespread acknowledgement over the frustration and confusion surrounding undesirable maps involving Forest Service land near Walnut Canyon National Monument and the Kachina area. It was important to underscore that legislation had not been introduced in Congress and no federal lands had been predetermined for disposal. Senator McCain had a longstanding policy of first seeking local elected support prior to introducing legislation that could directly affect local communities. Senator McCain was proud of his 32 years of service to Flagstaff and Coconino County. In recent years, he brought federal resources for the recovery of the Schultz fire. He ushered legislation to protect the Mountaineer community during the Slide fire. He passed legislation to study a boundary expansion proposal for Walnut Canyon National Monument. And he championed legislation to protect the Arizona Trail, a segment of which crosses the lands discussed tonight. Senator McCain was committed to ensuring that his legislative proposals do not interfere with the local conservation and recreation priorities. Mr. Matiella thanked the Council and Board for the opportunity to provide background information on the matter.

Chairman Ryan asked why the settlement could not be implemented and enacted through condemnation of state lands to the Hopi Tribe and then paying fair market value with funds provided under the 1996 Act. Mr. Matiella indicated there were two primary reasons: 1) the 1996 Act contemplated acquiring state lands through eminent domain, and that had been difficult for any land commissioner over the last 20 years to agree to; and 2) there was a flaw in the 1996 Act that required the State of Arizona to consent to the exchange. There had been questions regarding what the term "State of Arizona" meant, such as whether it was the State Land Commissioner, the Governor, or the State Legislature. For all intents and purposes, the 1996 Act was largely not executable. Consequently, what they had been attempting to do was take a fresh look at new options to present to the local community.

Chairman Ryan asked whether the Hopi Tribe received the \$50.2 million for land acquisition per the 1996 Act and, if so, if they still had sufficient funds to pay fair market value per the Act and whether there was still a need for an appropriation. Mr. Matiella responded that he did not have the answer as to the account balance for the Hopi. His understanding was that all of the structured requirements of the settlement were met, and the Hopi had been able to expend some of that money on private lands that were interspersed with the State properties, but he deferred to the Hopi to answer that.

Chairman Ryan asked for clarification regarding the proposal to select national forest lands surrounding Flagstaff. Mr. Matiella responded that the maps had regrettably caused a lot of confusion. The maps were a draft to start the discussion and advance the proposal, but they learned quickly that the lands in question were not suitable.

Chairman Ryan explained that there is a concern from the community. There was desire to have a public process and express the values associated with those lands. There was not a desire to disrupt the settlement, but an assurance that another process would take place to either remove those lands or give input from the community.

Mayor Evans conveyed that Mr. Matiella had mentioned that the journey started in September 2017, but the Council became aware of the issue in January 2018. Questions Council had received from the community included why they did not know about this, how long this had been happening, and what the process was for public input. The Council, Board of Supervisors, and the public all wanted to weigh in. She asked what the process looked like moving forward.

Mr. Matiella responded that the City, County, and the community would be defining that for them. Senator McCain wanted to assist the Hopi and was looking for ways to do that. Mr. Matiella urged the County and City to refrain from excluding the possibility of all forest service lands from this type of in lieu process. There might be lands such as county inholdings that the community would be comfortable with seeing disposed that Senator McCain's office and other parties involved in this project were not aware of yet.

Councilmember Odegaard mentioned a map in Mr. Ring's presentation that showed a five-mile radius within the City of Flagstaff that would not be touched. He heard from the community that Senator McCain may have reversed that and asked for clarification.

Mr. Matiella said he could not comment or commit on anything that had not been formally proposed and passed by the City and County first, but understood they were hearing a lot of desire to maintain the five-mile radius. If that was the desire of the City and County collectively, stating that would be helpful. The situation in 1996 was different then it is today. There could be reasons for the City and County to pursue inholdings within that five-mile radius that had not been discussed yet. He did not want to box the City and County into a position that was taken in 1996 that might not apply today.

Councilmember Barotz stated her understanding was that the five-mile radius language referred to the trust lands and not the forest service lands that could be exchanged as part of the in lieu process. She thought it referred to the checkerboarded lands south of I-40. Mr. Matiella stated that it was about trust lands, but there seemed to be some overlaying of the radius and a desire to keep forest service lands out of this project, which was also a commitment that was made back in 1996.

Councilmember McCarthy indicated that the lands up for discussion were all in the Flagstaff area and thought it might make sense to take some forest service land in that area and also some from other parts of the state. It is not just a Flagstaff issue, it is a federal responsibility, so

it might make sense to take small parts of land from other areas. Mr. Matiella thought that was a helpful suggestion.

Councilmember Odegaard commented that he thought the people here wanted to protect the public lands in their own backyards. He did not want anything to happen within the five-mile boundary.

Councilmember Putzova asked if there would be a gaming prohibition on the newly acquired lands or if that was something that was not subject to conditions put on the land. Mr. Matiella indicated it could be added in the legislation if that was something they wanted to do, however, they had never reached that point in their research to begin to answer that question.

Supervisor Babbott asked if there were opportunities for specificity to be put into any legislation that enunciated community values and provided amenities that were important to the community. He provided the examples of connectivity, trail access, or access to public lands. Mr. Matiella indicated that specific language could be included.

Supervisor Archuleta asked about the timeline since the County and City needed to provide input. Mr. Matiella replied that conversations on the project had ceased about a month or two ago. It was now in the City and County hands and the hands of the northern Arizona community to help them shape the timeline.

Mayor Evans clarified that conversations to solve the land dispute issue had stopped with Senator McCain's office, and if the community wanted to assist the Hopi, the City and County needed to propose a timeline and determine with citizen input what lands to swap or not swap. Mr. Matiella said he would leave it to the City and County to determine next steps.

Mr. Blachske introduced Judy Sulltrop, Constituent Services Representative for Congressman O'Halleran's office, who read a letter from Congressman O'Halleran.

In the letter, Congressman O'Halleran thanked Mayor Evans and Chairman Ryan for the opportunity to comment on the proposed amendment for the Navajo-Hopi Land Dispute Settlement of 1996. At a meeting with local officials in mid-January, he was notified of a draft proposal and map that was circulating throughout the community. The local officials expressed serious concerns to him about the draft proposal and asked that he take actions to make sure that their input and the input of the citizens of the entire region were included in the draft proposal. At that point, he felt it was necessary to start an open public dialogue on this critical issue. To open a collaborative discussion, he signed a letter with Senator John McCain asking elected leaders from the City of Flagstaff and Coconino County for their preferences. The letter also shared their desire for the Hopi Tribe and the State Land Department to engage in discussions that would serve as a starting point towards the resolution. The Hopi Tribe had waited more than 20 years for the federal government to replace ancestral lands that were lost in the Navajo-Hopi land dispute. The land settlement was especially important now as the Hopi Tribe and the Navajo Nation both face substantial losses in general funds as the energy production landscape changed in Arizona and across America. The potential closure of the Navajo Generating Station in northern Coconino County might result in the loss of coal revenue that went to the Hopi Tribe and the Navajo Nation. The Hopi Tribe might face a loss of about 80% of the revenue that supports their government's general fund. A land base along the I-40 corridor would allow the Hopi Tribe to pursue economic development in a way that was sustainable and would benefit its future generations. He was committed to working with the local governments, the Hopi Tribe, the Navajo Nation, and concerned citizens to ensure this was an open discussion and a thoughtful process. He looked forward to working together to develop a proposal that was broadly supported by northern Arizona residents, stakeholder

groups, and governments, and invited them to share their thoughts and concerns with him and his office.

Mr. Blachske introduced Timothy Nuvangyaoma, Chairman of the Hopi Tribe.

Mr. Nuvangyaoma said he appreciated the opportunity to address the City, County, local stakeholders, and neighbors. The Hopi Tribe valued each of them and wanted to work together in friendship for the betterment of their shared futures. He was grateful for the chance to clear up some misconceptions that had been circulating. This dialogue was important so that no one was quick to judge without having all of the facts. He wanted to be clear on three points. The Hopi Tribe was not trying some kind of land grab for forest service lands. They had a profound respect for the sacred landscape and the lands that surround Flagstaff. All they wanted was the federal and state governments to live up to the promises they made to his people. In 1996, Congress passed a law to compensate the Hopi Tribe for the illegal possession and loss of some of their reservation. The law promised that the Hopi could acquire 500,000 acres of land outside of their reservation to replace the lands that they lost. As part of the 1996 Settlement Act, the Hopi Tribe dropped their claims against the United States. The United States, the State of Arizona, and the Navajo Nation all benefitted when the Hopi Tribe dropped their lawsuit. But the government had never lived up to its promises in the settlement. The Hopi Tribe did not accept handouts, because they were a proud and resilient people that stand by their word. All that they have asked, and continued to ask, was that the government stand by its word. To that end, they ask Senator McCain to help them obtain the lands that they were promised in 1996, because he was one of the authors of the law. All that they wanted were the interspersed State trust lands on their Hart, Dry, Clear Creek, and Aja ranches. Those were the same lands they had been trying to acquire for the past two decades. Acquiring and consolidating their settlement lands had always been a priority. But it was more important now because of the potential closure of the NGS. If NGS closes, the entire regional economy would be impacted; none would be hit as hard as the Hopi Tribe. Revenues from NGS and the Kayenta mine account for almost 85% of the Tribe's general fund. Unemployment was already incredibly high. Economic development on the reservation was almost impossible because of how remote they were and the fact that they were landlocked by the Navajo Nation. If NGS closes, the situation would become worse. The Hopi Tribe and his administration needed to take actions to protect the future of their people and children. The single most significant thing the government could do to help them weather this storm was to live up to the promises it made in 1996 and allow them to obtain their settlement lands. The lands would not make up for the loss of NGS related revenues, but it would help them diversify the economy and mitigate the impacts. They were encouraged that the state and federal government had returned back to the table to work together to live up to their commitments to the Hopi Tribe. But there was still a lot of work to be done.

Mr. Blaschke introduced Perry Riggs, Deputy Executive Director, from the Navajo Nation Washington, D.C. office.

Mr. Riggs thanked Coconino County and the City of Flagstaff for inviting them to attend this meeting. He commented that he grew up in Leupp, Arizona, and it was good to come back home. Like the Hopi, they had unresolved issues with the settlement. Their economy would also be tremendously impacted by the closure of the Navajo Generating Station. This issue also involved land near the Navajo reservation, so they care about this issue and feel that it was important for the Navajo Nation to be involved in the process. In his capacity, he was here to listen to what the parties in attendance had to say. He appreciated the invitation to attend the meeting.

Mr. Blachske introduced Lisa Atkins, Commissioner, with the Arizona State Land Department.

Commissioner Atkins thanked the Council and Board for the opportunity to join the meeting. The Arizona State Land Department had the fiduciary responsibility for managing the State's land trust which was not public land; it was Trust land of more than 10 million acres that was given to the State in statehood for thirteen defined beneficiaries. The trust held land in every Arizona county. 9.2 million of the original 10 million acres granted to the State was still within the management of the State Land Department. She wanted to make clear that they looked forward to working with the City and County within the definition that Senator McCain's and Congressman O'Halleran's offices had laid out this evening.

In order to complete the settlement agreement with the Hopi Tribe, the federal government needed to obtain certain trust lands, and in return the State Trust needed to be compensated for those lands. They understood the public nature of that conversation and wholeheartedly supported it. The Trust was impacted like the communities were impacted. The job of the State Land Department, as well as her job as the Commissioner, was a fiduciary duty to all the beneficiaries of the Trust, including aligning the interests of the beneficiaries and the future of the State's policies. She and the State took that very seriously. There was a balance that could be achieved as long as the lines of communication were kept open. Their primary efforts were initiated because of the United State's obligation to the Hopi Tribe, and that had been conducted in good faith. She wanted to emphasize the history of the Trust.

Chairman Ryan had earlier asked the question about condemnation, and while she could not answer for previous administrations, she did not believe that condemnation was in the best interest of the Trust. In reviewing the history of the issue, she could not find any State concurrence with condemnation. The delegation members had worked hard to come up with an appropriate in lieu selection. It was not an exchange—they were prohibited from doing an exchange—but it gave them an opportunity. What they are looking for were places where they could enhance their footprint for the beneficiaries in concert and in alignment with where the Trust has holdings. They had identified areas all over Arizona, not just within the Coconino National Forest. They had potentially identified some Bureau of Land Management (BLM) land and some other forest service lands. Lands that were adjacent to holdings of the Trust would give them opportunities for better management of those lands. Managing the trust assets in perpetuity so that future generations of beneficiaries were not disadvantaged was something they took very seriously.

Aligning the interests of the trust, and where the trust had a footprint, was also important. They were aligned with the City and County with the Joint Land Use Study project in regard to the Naval Observatory and Camp Navajo and other areas of the state. It was foolhardy for her as a fiduciary to think that those 9.2 million acres were isolated acres that had no impact on anybody else. She gave her solemn commitment, as she had given Senator McCain, that they were in this for the best interest in the long-term for the State, and not just for the Trust, but also for the communities.

Councilmember McCarthy said he was pleased to hear that they had looked at properties all around the state that could be a part of the trade. He appreciated the State being open-minded about trading some lands and understood their charter. He asked if they would be open to selling for cash as opposed to a trade, or some cash and some trade.

Ms. Atkins responded that they were looking at an in lieu process. State trust lands would be going to the Hopi Tribe, and the State was looking for lands of equal value. When initially looking at lands in northern Arizona, the value of those lands did not make up the value of what would be given up, and the State needed to be cognizant of the footprint of the Trust and the perpetuity nature of the trust for its beneficiaries.

Councilmember McCarthy asked if there could be a sale of certain trust lands if the federal government would compensate at fair market value or above, or if that was off the table. Ms. Atkins responded that she did not believe funds were available to purchase the land. It was contemplated as a condemnation and the State Land Department disagreed, which was why they were looking at the in lieu process.

Councilmember McCarthy then asked if Senator McCain were to find some money, if the State Land Department would refuse to sell the land. Ms. Atkins indicated that if the land were to be sold, it would have to go to auction, and there was no guarantee who would acquire it.

Councilmember Overton asked for clarification about lands in Coconino County being the most promising. Ms. Atkins responded that was not correct. They looked at lands all over the state and had identified some areas in a draft that was released before they had an opportunity to discuss it with the Forest Service. Since conversations about the draft had stopped, they had not done any further due diligence.

Councilmember Overton commented that the in lieu of process seemed to be a consolidation effort. There had to be a correlation between what State Trust Land already had in possession and what the potential in lieu might be.

Ms. Atkins responded that as the fiduciary for the beneficiaries, it was important to maintain part of their portfolio in northern Arizona. There were two categories of federal land—either land managed by the Forest Service or land managed by the Bureau of Land Management. A lot of the land was checkerboard with private land, so there were not a lot of contiguous sections. It was also not their intent to have the land solely come from northern Arizona. They looked throughout the state, and where they have checkerboard, for the ability to select in lieu to enhance the holdings of the Trust.

Councilmember Overton commented that if the growing community started to exceed its urban growth boundary and its city limits, and even one section was taken, it would have a significant impact on the community.

Ms. Atkins thought that the history of working with both the City and County was one of compatibility, and it was foolhardy for the State Land Department to not be in alignment with that. Councilmember Overton concurred.

Supervisor Archuleta thanked Ms. Atkins for being at the meeting and asked where she saw the process going from the State's perspective. Ms. Atkins responded that they would be happy to discuss when they are at the point where Senator McCain and Congressman O'Halleran indicated we were moving forward.

Supervisor Archuleta asked if the lands on the map around Flagstaff and in the county were off the table, and if looking at other lands throughout the state would be fine with her. Ms. Atkins replied that there was no table for any map to be on or off at this point until they have an indication from the delegation that the conversation was ready to move forward. Then they would do their due diligence with the communities where they think there would be an alignment advantage with the Trust and those communities throughout the state. It would be a large piece of property going from the State to the Tribe, and they do not want to stand in the way of that happening. They want to see that resolved as well. It was in the interest of the Tribe and the beneficiaries of the State Land Trust.

Vice Mayor Whelan asked her how many people she could handle at the table when the

discussion moved forward, as well as who she would like to see at that discussion. Ms. Atkins responded that she appreciated the cooperation between the City and the County, and did not see any reason that they all should not be together when discussing what happens within Coconino County.

Vice Mayor Whelan asked if that would include the Hopi and the Navajo. Ms. Atkins did not know; in the end her job was to make sure that the Trust was adequately compensated for the lands used to resolve this issue.

Councilmember Barotz asked if there was any type of process that had to be followed in regard to selecting the in lieu parcels. Ms. Atkins indicated it was solely within her discretion.

Supervisor Babbott asked how many total acres around the Hart, Aja, and Canyon ranches were being contemplated to transfer in lieu of to the Hopi and if we knew the approximate value to value equation we were trying to match. Ms. Atkins said they did not know the value since the last time it was contemplated was several years ago, but it was generally 140,000 to 150,000 acres.

Supervisor Babbott then asked what the process was for the State Land Department to understand the value. Ms. Atkins indicated that the land would have to be appraised and they would need to devise a process. The value of the in lieu land would need to be replaced. She was not sure if that would all come through her office.

Vice Chairwoman Fowler commented that the State would not take any action or conduct any studies until Senator McCain's office said to move forward. Mr. Matiella from Senator McCain's office had informed them that it was now in their hands, so she asked what that meant as far as the process since they were now in control of the timeline. She mentioned economic development as an issue and wasn't sure how that was being considered in the process. This was a longstanding issue that needed to be resolved, but instead of taking a leadership role, it was brought back locally to the County, City, and community. They appreciated being involved, but the tribes were not at the table and they had a vested interest. She was not sure what was envisioned as the next steps.

Mr. Matiella indicated that the response in Senator McCain's letter seeking guidance from the City and County would be a good first step. The roundtable discussion she was describing was an admirable first step. Senator McCain's office had been attempting to facilitate the research behind this effort and this was where we were. Broadly speaking, they had until 2022 until the plant closed. Trying to find money within that time and getting it passed through a Congress that was not favorable to spending was not something they could count on. It would be in the hands of the northern Arizona community to define the next steps.

Supervisor Parks conveyed that he was trying to figure out the timeline. There needs to be an appraisal of the State Trust Lands; an appraisal of the federal lands; a stakeholder meeting with the State Trust, Senator McCain's office, the Hopi Tribe, Federal Government, including the Forest Service and Bureau of Land Management; then after a deal was considered, a public process including the City and County.

Mr. Matiella indicated that he and Ms. Atkins were struggling with a response. They were hearing from the City and County a demand for consultation and process. Their process was to research the issue first and bring some options to the locals. That was interrupted, they would rely on the City and County jointly, perhaps in the response to Senator McCain and Congressman O'Halleran, to describe how they would like to move forward, what was in our comfort zone, and what was within the planning processes.

Supervisor Parks stated his comfort zone would be that the State of Arizona and the Hopi Tribe figure it out. Ms. Atkins indicated that was about two-thirds of the answer. While the Hopi Tribe would be the recipient of State Trust Land, the Trust would be left without anything to show for those acres. There has to be compensation to the State Trust.

Supervisor Parks indicated he understood that. He asked if the legislation goes through, if the federal government was going to be amendable to a trade with the State Trust. Mr. Matiella asked if the question was what was the delay. If so, then it would be the need to have consultation with the local communities. He asked if this satisfied that consultation requirement and maybe they could go back to looking at other lands statewide or if that was something they wanted to discuss amongst themselves.

Mayor Evans believed the conversation with the community was missing from the timeline. The community would want to have a hands-on approach to identify the appropriate state and federal lands. She thought tonight was the first step to discuss what is and what is not, but she believed the community would like to weigh in on the appropriate land before they got further down the road.

Ms. Atkins indicated that the State Trust Land had already been identified, but not the federal land.

Chairman Ryan mentioned they were looking at this as theoretical lands and the potential impact to the communities when viewing those lands from a planning perspective. There was also concern for wanting a public process. In the past, the City and County had supported land exchanges, but usually it was through the planning process and they could look at particular uses or impacts to the community. When they did not know what was going on and invited representatives for the meeting today, it was needed for the sake of the community to understand if there was a proposal, what it was, and at what stage the proposal was. It has been learned tonight that there were land and land uses that were valued, and people wanted to express comments associated with that. Through that they may also learn about other areas that they may not have considered. As far as the timeline, we were in a pause because we asked Senator McCain's office and the State Land Department to come and explain what was happening. It is a regional issue and other communities needed to have input or guide the process, along with working together at the congressional level with the Navajo and Hopi to come to agreement. He did not see the City and County driving that process.

Ms. Atkins conveyed that she did not see any State Commissioner that was doing their fiduciary duty allowing the federal government to come in and condemn a trust asset. The work the delegation had been doing on in lieu, since the State was prohibited by the constitution from doing exchanges, seemed to offer an opportunity to move beyond that obstacle.

Councilmember Barotz stated that the central challenge seemed to be identifying what lands the federal government would put up for the in lieu process. She did not think the City and County alone, without the help of other agencies, were capable of identifying the lands and values. What is known is what the community would like off the table, but we do not know what could be on the table since the lands did not necessarily have to be in the Flagstaff area or Coconino County.

Supervisor Archuleta believed the settlement needed to occur and needed to occur soon. She understood there was a provision for the in lieu and asked if it had been used before. Ms. Atkins responded that it had not, but they were aware that it was a legislative proposal at the federal level that had been vetted over the last two years, so the framework was there. Mr. Matiella

added that it had not been used in this particular proposal, but it had been used before.

Supervisor Archuleta thought the state lands identified for the Hopi Tribe had already been identified and were not up for discussion. Ms. Atkins indicated they were identified in 1995-1996, and the identification of those lands had been fairly stable. The issue now is about the compensation to the State Trust.

Mr. Matiella added that initially the path forward was for Senator McCain's office to facilitate research with the State Land Department and federal land agencies to see what lands were available. That path was interrupted. When working with the City and County moving forward, because of Senator McCain's commitment to not advance legislation without consulting with the community, it would be helpful for Senator McCain to understand what that consultation looked like. Ideally it would be helpful for them to continue their research and come back with a more fulsome proposal.

Vice Chairwoman Fowler asked how many acres they were looking for within Coconino County. Ms. Atkins responded that they did not know because they did not know the value of the lands. It was not per acre, but per value. The value of the lands that would go to the Hopi Tribe would establish the value for the in lieu selection of federal lands.

Councilmember Putzova stated that the lands identified on the map were prematurely released to the public. She personally appreciated that because the community could get involved earlier. She understood that it created a bit of a crisis within the community and among various agencies, but she thought that was exactly why there needs to be collaboration early on and allow the community to give perspective on what lands were unacceptable. She understood the satisfaction with the process, but at the end of the day appreciated that the Council was given these maps and the public was aware that these lands were contemplated.

Mayor Evans hoped that as they move forward and potentially looked outside Coconino County for federal lands, that those communities were also brought into the process sooner rather than later. Ms. Atkins indicated that it was always their intent to do this publicly. Their actions were just preempted before they had a chance to sit down with the Forest Service and talk about those sections.

Mr. Blaschke introduced Stephen Pauken, City Manager, from the City of Winslow.

Mr. Pauken read a statement on behalf of the people of Winslow. The Mayor and Council became aware of the situation about the same time and same way as Flagstaff and Coconino County. Some of the legal staff were asking questions and meeting with people down in Phoenix about the issue last fall. They did not know until February what was going on, but knew there was legislation contemplated in the U.S. Senate. In February, Winslow received the letter that Flagstaff and the County had received, and simultaneously received a letter from the Chair of the Hopi Tribe with similar information and making the same request. He thanked everyone for allowing the City of Winslow to partner with them in any proposals and discussions moving forward.

This is a regional issue. Looking at state lands, the checkerboard was all over the place, and they were not an exception. The City of Winslow partnered actively with multiple interests around the area. They just opened 42 units of Hopi housing in Coconino County, and provided the utilities and other connections out there. Hopefully that process of continued housing would continue, and the City of Winslow would be cooperating. They had also partnered with the Little Colorado River CDC, which was an entity of the Navajo Nation, regarding property at one of their interstate interchanges that would be used for commercial development. They looked

forward to an active future of working together with their partners in the region. Like Flagstaff and the County, they also have similar concerns about water and economic development. He would be providing his Council with information regarding tonight's proceedings at their meeting tomorrow. They believed this was a regional issue, were pleased to be involved in the regional discussion, and looked forward to working with everyone and their representatives in congress.

Mr. Blaschke introduced Supervisor Jesse Thompson with Navajo County.

Mr. Thompson thanked the Council and Board for the invitation to be at the meeting. He acknowledged the presence of Supervisor Lee Jack, also from Navajo County. He stated that Navajo County was grateful for the opportunity to participate in this work session. For some of them, this was an issue that they were not too familiar with, so they were here to learn more. They supported an inclusive effort to resolve the land settlement. They looked forward to learning more and hearing further from the public, Navajo Nation, Hopi tribe, and elected officials.

Councilmember Odegaard was glad Mr. Thompson came tonight. He thanked him for the work he had done as part of the Arizona Department of Transportation Board and thanked him for representing Flagstaff and their interests.

In preparation for the public participation portion of this item, Councilmember McCarthy indicated that he would like to know if there were parcels that were off the table or if there were some that might be acceptable. He would be interested in any information about the parcels as far as which were the most important and which might be able to be used for negotiation.

The following individuals addressed the City Council and County Board of Supervisors about the Navajo-Hopi Land Settlement Act:

- Jeff Goulden
- Jerry Showalter
- Marcy Ellis
- John Aber
- LeRoy Shingoitewa
- Alycin Gittlund
- Betsy McKeller
- Marilyn Weisman
- Jocelyn Gibbon
- Sam Janson
- Ed Capote
- Ken Lane
- Tyler Lenneer
- Peter Frederici
- Antoinette Labin
- Anthony Quintile
- Michael Smith
- Ann Whitby
- Justin Englis

The following comments were received:

- Supportive of the Hopi people getting the land as soon as possible but did not want to see Flagstaff's public lands traded as part of the deal.
- Loss of recreational and open space parcels would be a devastating blow to Flagstaff's residents, visitors, and economy.

- Open space and trails bring economic benefit through tourism.
- If the land swap is allowed to happen, the State's existing parcels, when combined with proposed forest service land, would give the State a vast amount of valuable land that could be sold for development and eliminate it from recreational use and open space.
- The public lands in and around Flagstaff are part of what makes Flagstaff a unique and vibrant community.
- Concerned that the State Land Department will be looking at the proposed federal lands only from a monetary value and whether it would be sold or traded off for residential or commercial development.
- The settlement had been on hold for 23 years, the time is appropriate to purchase the State Trust land outright, live up to the terms of the settlement agreement, and do away with the land swap proposal.
- The Navajo and Hopi tribes need this done now.
- The opportunity for settlement is long overdue but the opportunity to settle this should be spread much wider in a geographical sense so all could share in what the whole country needed to take responsibility for.
- Any potential for development at Oak Creek could have a consequential impact on the water.
- Highway 89A is overused and anything that might bring more traffic would be difficult.
- Thank you to the Board and the Council for advocating for a public process.
- In the 1990s when the parties were working toward a settlement, there was a significant public process, much public debate, and concerns of nearby communities and stakeholders were considered; what resulted was agreement that National Forest lands would not be transferred out of the public domain as part of the settlement.
- Ideally, the Hopi Tribe should receive the checkerboard State Trust Lands interspersed with the Hopi ranches through the friendly condemnation process envisioned by the settlement, and the State Land Department would be compensated for fair market value paid for by the Tribe with their land acquisition funds provided by the settlement, assuming the Tribe received the funds they were supposed to receive, and that it was adequate to compensate the State.
- If the transfer of public lands was the only way to do this, then all stakeholders needed to be included in the public process to identify which federal lands were or were not acceptable to transfer out of the public domain.
- The federal government needed to complete their obligation to the Tribe, however, a secretive deal to give away prime lands in Flagstaff was not the way to do it.
- The 1996 settlement act was about promises; communities in northern Arizona were consulted and involved, and made important contributions to the settlement, including expressions of support for the promises made by the federal and state governments. Only the Hopi had lived up to the promises. The Hopi Tribe did not ask for those forest lands and did not make those maps. The Tribe was not consulted and had never seen those maps. All they wanted were their lands on their Dry, Clear Creek, Hart, and Aja ranches.
- Please work with the Tribe and Congress to get the Hopi what they are owed.
- It is crazy that there would be consideration for giving land to the State Land Department that was outside the urban growth boundary of Flagstaff and not supposed to be built on.
- Please keep the Walnut Canyon Study Area protected.
- Supportive of the Hopi getting the lands that they wanted and was eager to see the Council and Board participate in that to push the federal government to make it happen.
- There has to be a way to purchase the land.
- The Hopi should get what they are owed, but not through giving away forest service land around Flagstaff, and not through the monetary value of public land.
- A good public process would be to include consideration of community interests associated with the land under discussion, including water supply, transportation, infrastructure, and community plans.

- There are plans for the future of some of the land involved and anything that did not fit into those plans should be taken out of the process.
- The Hopi settlement is necessary, they deserve their land, and it needed to happen soon.
- If this is recognized as a social justice issue, maybe something would happen.
- Countless hours have been spent building and maintaining multipurpose use trails on the public land parcels are being discussed; the proposed land swap would undermine those efforts and set back the development of Flagstaff's outdoor tourist economy by making the trails no longer available to the general public.
- While resolving this ancient land dispute is a laudable goal, the parcels that had been brought up were not the best way to do that.
- How could the government so easily take the land away but have such a hard time giving back?
- It would be a shame if what was ultimately a federal responsibility to follow through on its promises were to be put on the shoulders of a single community like Flagstaff.
- There needs to be some other way to compensate the State Land Trust financially rather than with other public land.
- The Hopi are very civil and asked that they be considered when it comes to businesses and opportunities; they also had opportunities they wanted to pursue and need land for their people.
- The initial proposal showed that Senator McCain and the State Land Department were disconnected from their constituents and it should be removed in its entirety and a new solution developed that honored the promises made by the federal government to the Hopi people.
- Supportive of trading some national forest land that could be sold by the State Land Trust.
- The State Trust and Federal Government needed to practice the patience that had been forced upon the Hopi people for so long.

Written comment cards regarding the Navajo-Hopi Land Settlement were received from the following individuals:

- David Loof
- Sabrina Carlson
- David Allen
- Robin Schwartz
- Holly Troy
- Michele Roberts
- David Rakestraw
- Steve James
- John Mettier
- Sheila Walsh
- Zack Geiser
- James Rhodes
- Lehi Garrambone
- Austin Aslan
- Trent Rainordi
- John E. Creps, III
- Amity Collins
- Omar Martinez
- Jennifer Spinti
- Vance Peterson
- Leslie Armitage Demmert
- James M. Barich
- Stephanie Kunze

- Vanessa Nefflen
- Leszek Pawlowicz
- Tom Scheel
- James W. Moyer
- Christ Everett
- Terry White
- Rachel Tso
- Sharon Masek Lopez
- Gail Hughes
- Melissa Eckstrom
- Adrian Skabelund
- George Kimball
- Chris Huntley
- Haring S. Khalsa
- Michael Paul Whitefield
- Tom Scheel
- Marissa Scionti
- Levi Nash
- Stacey Hamburg
- Gurdarshan Khalsa
- Paul Bursi
- Melissa Verhalghe
- Tasha Griffith
- Chuck Bruni
- Kate Gales
- Mark Spinti
- Joel Kramer
- Peter L. Gomersall
- Eric Souders
- Jan Katherine Boyer
- Matthew Ziegler
- Henry Teller
- Chris Eaves
- Michael Admundson
- Susan Hueftle
- Hadassah Ziegler
- Clare Aslan
- Lee Williams
- Cynthia Summers
- James Madson
- Scott Countryman
- Kim Watson
- Seth Dyer
- Larry Holland
- Terry White
- Angie Moline
- Kenneth Schipper
- Kyle McKendree
- Tom Schneider
- Eleanor Francis
- Kimberlie Geile-Gonzalez
- Ian Harrison
- Penny Brauer

- Larry McFatter
- Walter Taylor
- Dennis J. Peat
- Keith Kehl
- Gary M. Howell
- Laura Chamberlin
- Jennifer L. Hamilton
- Deb Linda
- Dana Kjellgren
- Sharon Tewskbury-Bloom
- Jay M. Holt
- Craig Endicott
- Barbara Windes
- Betty Hoyt
- Frank H. Windes
- Steve McKellar
- Wm. Michael Wilson
- Jody Norris
- Stephanie Smith
- Bryan D. Griffith
- Valarie A. Bryant
- Theodore Lewis
- Lauren Green Chavez-Pardini
- Jane Brunson
- Joe Hazel
- Leslie Gilmore
- Stacy Stumpf
- Scott Heinsius
- Jane Reukema
- Shane Brandolini
- Heather Kadar
- Ian Harrison
- Mary DeJong
- Michael E. Smith
- Rebecca Best
- Hannah Telle
- Amber Reimondo
- Artec Durham
- Wes Childress
- Karen Enyedy

A break was held from 6:32 p.m. through 6:55 p.m.

Mr. Blaschke and Coconino County Intergovernmental Representative Nadia Pfenning-Ivanova, had been working on the language of the letter in response to Senator McCain and Congressman O'Halleran. Ms. Pfenning-Ivanova read the draft letter.

Councilmember Putzova wanted to get an answer regarding the possibility of drafting legislation to make the Hopi's whole, and then the federal government would owe the Arizona State Land Trust for the land that would be transferred to the Hopi. She thought it was an interesting idea since the Hopi Tribe had been carrying the burden of not being compensated for over 20 years. Mr. Matiella did not believe that congress had the ability to force the Arizona State Trust to give land to the Tribe, so legislation to that effect was probably not practical. Regarding the

question of just paying them, the political reality was that congress would not pass a large spending bill for the Hopi when they had already been compensated financially in the 1996 settlement. There were political challenges, which was why they went with the in lieu concept.

Commissioner Atkins added that they are not in a position to legally take a two-step process. Everything that left the portfolio had to be compensated at that time according to the State Constitution.

Councilmember Barotz suggested incorporating the in lieu language into the draft letter in the second sentence of the third paragraph. She was hearing from the public that there was a concern. She also suggested asking to clarify the process regarding exchange and in lieu.

Councilmember McCarthy asked if the State Land Department had the budget to thin the forest, keep it healthy, and prevent wildfire disasters. He was concerned that if those forest areas became state land, they would not be managed properly, increasing the risk for a potential fire. Commissioner Atkins indicated that they worked closely with the National Forest Service and the Bureau of Land Management and they did have the budget to do that. Anything that left the portfolio, whether land or resources such as thinning projects, had to be compensated. They preserved the portfolio in a way that enhanced it for future generations.

Councilmember Overton suggested in the second paragraph of the draft letter, when it discussed the stakeholders along the I40 corridor, that the City and County be specifically listed as designated stakeholders.

Mayor Evans thought the letter was problematic given the information they have received tonight. The issue was about the Hopi Tribe not receiving the land they should have received in the settlement. They had not heard a lot from the Navajo Nation and whether they were compensated from the settlement act. The current proposal was problematic because while the City and County were talking about exchanging federal lands for state lands, and there were other communities just as passionate about their forest service lands. There was mistrust about what the State Land Trust would do once they received certain lands. As other lands were identified, other cities and counties would be in a similar situation, so she was not sure that the in lieu concept was the best option.

I needs to be clear in the letter that resolutions is necessary and the Hopi need to receive what they were promised. If the concept in the original settlement was to condemn state lands, and now they are not and she wanted to know why. She asked if there was a process or some way to create a law and figure out how to condemn the land as that was the original intent with the settlement act. She thought it was important to put in the letter that time was of the essence for the Hopi because they were facing an economic crisis. They were trying to figure out what they were going to do to support their communities with the Navajo Generating Station closing. This is unnecessarily pitting communities and neighbors against each other. They all want a resolution for the Hopi, but are worried about the neighboring national forest; she thought that was why the original act did not include forest service land around the area.

Supervisor Archuleta thought the letter needed to be updated to reflect that there was a public meeting, input needed to be summarized, and the expectations identified regarding the process moving forward and what that entailed. They have heard from the public and had been asked to identify what consultation they felt was necessary.

Supervisor Babbott thought those were good observations and good places to start with the letter. He liked the comment about taking the provisions of the 1996 act that are valued, in general and that federal lands were off the table. It needed to be stated clearly that this was the

responsibility of the federal government and that it was not fulfilling that responsibility. It had been said repeatedly that the responsibility to solve this problem had now been put on local jurisdictions and local communities. It was ultimately not our responsibility.

Councilmember McCarthy agreed that the Hopi Tribe needs to be made whole and time was of the essence. Forest service lands around Flagstaff were off the table and a monetary solution needed to be explored.

## **6. Public Participation**

None

## **7. Informational Items To/From Chairman, Supervisors and County Manager/Mayor, Council and City Manager; requests for future agenda items.**

Councilmember Odegaard thanked everyone participating in this process. He also thanked the Mayor for providing leadership on this issue. He wanted the Board and Council to be prepared to be an active participant in this process. It was the local energy that could move this process forward.

Vice Chairwoman Fowler thanked the public for coming, expressing their comments, and coming out strongly. She also thanked the different agencies for coming out and expressing their positions. She wanted to make sure they were committed to being a partner and resolve this issue. She was afraid of the possibility that it would be kicked down the road again. She thanked the Board and Council for their support and being united on this issue.

Vice Mayor Whelan thanked everyone and said she was committed. She also thanked the County and the community.

Supervisor Babbott stated that one of the things the City and County did well and thoughtfully was regional planning, also understanding the values that drive the region, access to public lands, connectivity, recreation, and economic development.

Councilmember Barotz indicated thanks all around to everyone that participated tonight.

Ms. Andreani mentioned future items for a combined meeting—the census was an issue, along with fire preparedness and prevention.

Ms. Goodrich thanked both the Council and Board for the discussion. A follow-up joint meeting was tentatively scheduled on May 2, 2018.

Supervisor Archuleta thanked the Council for having the Board here tonight. It was a good illustration of what happened when the City and County collectively utilized their voices to advocate to the federal government.

She also indicated that she found it disturbing and unfortunate that Dortha Avenue was tagged with graffiti on numerous homes, vehicles, and trailers. She would like to see some additional patrolling of the area and thought it would be helpful if the graffiti was removed as soon as possible.

Councilmember Putzova thanked everyone for the meeting. She also thanked the person at the Forest Service who released the map, otherwise they would not be having this community

dialogue. Sometimes uncomfortable things for one jurisdiction were important for others. She thought we were better off for having tonight's conversation.

Supervisor Parks conveyed that he was struck tonight by the unanimity in the room. He thought a lot of progress was made for the City and County, and hoped some progress was made for the Hopi Tribe and State Land Department.

Councilmember Overton mentioned that Congressman Gosar, the Chairman of the Western Caucus, and other members were touring the area over the weekend. He was able to meet with the majority of them and forest health was the main topic. They were familiar with FWPP and 4FRI and the challenges those programs were seeing. There was a lot of work to do, but it was refreshing to hear that they were looking for a path forward.

Chairman Ryan thanked everyone for tonight's meeting; it was a stepping stone to moving in a productive direction. He stressed how important the public process was and thanked everyone for working together.

Mayor Evans thanked everyone who came out tonight, and also thanked staff at the City and County for all their work. She thanked the Board and Council for their active participation. At the next joint meeting, she wanted to hear about the County's tiny homes ordinance. She thought that was something that interested the City's constituents. She also wanted to let Supervisor Archuleta know that she had heard her concerns about the graffiti, but were slightly limited with the private property access and permissions needed. The City would do what they can to clean that up as soon as possible.

## **8. Adjournment**

The Flagstaff City Council/Coconino County Board of Supervisors Joint Work Session of March 12, 2018, adjourned at 8:38 p.m.

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MAYOR

ATTEST:

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CITY CLERK