



STORM CLOUDS DARKEN OVER THE PEAKS AS FLAGSTAFF DEBATES WATER FOR SNOWBOWL 2

by KYLE BOGGS • photo by SHANE McDERMOTT

On August 30, close to 800 people packed into Sinagua High School's auditorium, where the City Council held a special meeting to decide whether or not to amend the City's water contract with Arizona Snowbowl. Scanning the dark room, from peach colored walls through the scarcely vacant maroon stadium seating, it housed a crowd that was not only Flagstaff, but a cross section of Northern Arizona, in all its colorful glory. There were students, Flagstaff citizens young and old, local social and environmental activists, Native Americans representing regional tribes spanning hundreds of miles. There were snowboarders and skiers, business owners, city staff and members from various boards and commissions.

Nowhere else but Flagstaff will you find a cowboy sitting next to a man in a shirt and tie, next to a man with dreadlocks, next to a Native elder, next to a woman wearing a Crass sweat-shirt. Many folks who supported Snowbowl and snowmaking on the San Francisco Peaks wore small signs that said "Vote Snow," while many from the opposition wore a modified version: "No Snow."

And, it seemed, everyone wanted to speak. The meeting lasted roughly 7½ hours, ending about 12:30AM. *The Noise* observed roughly two-thirds of those in attendance were opposed to an amended contract with Arizona Snowbowl.

Before public comments, Councilwoman Celia Barotz grilled the City's Utility Manager, Randy Pellatz about future water availability. "Unequivocally can you say that there is no way, without a shadow of a doubt, that this will affect our water supply? How do you reconcile this proposal with the City's commitment to sustainability? It seems they are not consistent." Her questions were greeted immediately by cheers and applause from the audience. When pressed to answer the first question, Mr. Pellatz replied "No" — he could not guarantee that selling drinking water to Snowbowl wouldn't impact future water supplies.

Similarly Councilman Art Babbott said, "We need to think of this discussion not in the 2 to 5 to 10-year window, but in the 10 to 20 to 100 year window." These sentiments had been brought up previously when the question of which water to sell to Snowbowl was introduced to the Water Commission the month before. Jim McCarthy, from the Planning and Zoning Commission and a nonvoting member of the Water Commission, said that even 100-year plan was not enough — that the City, if it were interested in sustainability, needed to look 500 years ahead. "Flagstaff's population could easily double in the next several decades," he explained to *the Noise*. "One hundred years is not sustainable."

On the formal agenda, made available to the

public a few days before the meeting, the City Council was to decide on one of three options.

A) To replace the existing agreement to allow Snowbowl and the federal government the option to use either reclaimed water, reflecting the original contract voted on in 2002, or recovered reclaimed water — defined as potable, or of drinking quality.

B) To stick with the original contract to provide treated effluent, or reclaimed water, as a source of snowmaking.

Or C) To amend the current contract, and sell Snowbowl drinking water.

If the City voted to approve the use of drinking water, the current lawsuit challenging the Forest Service's compliance with the **National Environmental Policy Act** — for adequately addressing the human health risks of using 100% reclaimed water on the Peaks — would be for naught. It would have been a decision essentially in Snowbowl's favor, for it could then begin construction immediately on a pipeline and snowmaking machinery.

However, on the night of the meeting, the agenda reflected a blank "Option D" which apparently was a space reserved for City Council to take whatever option it desired. At the conclusion of a formal presentation given to the City by Snowbowl majority owner Eric Borowsky, which focused on the creation of jobs, the Flagstaff economy, and the benefits

of fire suppression, he said he would support "any other alternative that allows Snowbowl to start construction immediately."

Many who spoke during public comments in opposition to Snowbowl had a different idea for the "Option D." Many spoke of completely canceling the contract with Snowbowl and wouldn't support snowmaking on the San Francisco Peaks no matter what water was used.

In fact, many organizations and tribal governments submitted both independent and joint resolutions that reflected these sentiments. Organizations such as the **Sierra Club, Black Mesa Water Coalition, and Friends of Flagstaff's Future**, among 12 other organizations resolutely agreed: "The Department of Agriculture stated that the reason for this new potable water or recovered reclaimed water delivery contract is to appease Native American tribes who object to the use of reclaimed water. However, the Native American tribes, who comprise a large part of our community and economy, have consistently objected to snowmaking in general."

Earlier in the evening, Mayor Sara Presler stated: "All of us would really have liked USDA to be here tonight. I would just like to offer my dislike of their failure to attend, and let you know the Council and I through a letter did invite Deputy Secretary Merrigan."

The Hopi Tribal Council stated it "has since

1979 opposed any development on the Peaks and reiterates its unwavering opposition against the use of any water for making artificial snow."

Likewise, **The Inter Tribal Council**, which includes 20 tribes that reside in Arizona, resolutely "supports the decision of the Ninth Circuit Court of Appeals ruling to protect the sacred San Francisco Peaks from any proposed ski area expansion and snowmaking." This ruling was eventually reversed in 2008, and last summer, the Supreme Court declined to hear a subsequent appeal.

Dr. Joe Shirley Jr., President of the Navajo Nation said in a statement: "Navajos are united in their opposition to the use of any water source to make artificial snow for the purpose of skiing. You may count me first among them."

Carletta Tilousi of the Havasupai Tribal Council reminded those in attendance, specifically directing her comments toward Snowbowl, "You knew there wouldn't be sufficient snow every year when you bought the resort," referring to an Environmental Impact Statement from 1977 which warned that owners should take appropriate management steps to account for inconsistent snow seasons.

Kelvin Long, executive director of ECHOES (Educating Communities while Healing and Offering Environmental Support) asked the City to look at this as an opportunity to heal relationships between the City and regional native tribes and nations. He also mentioned how the issue appears from a human rights perspective, relating the issue to the United Nation's recent Clean Water Resolution. "Children die every day because they don't have access to clean water, and here we are discussing water used for recreation."

Klee Benally of the Save the Peaks Coalition also looked at the issue from a human rights perspective. Mr. Benally brought up the fact that the City unanimously voted to challenge Arizona's hotly contested immigration bill, **SB1070**. He said canceling the contract with Snowbowl would be another way for the City to align itself with human rights.

City Council, after hearing from everybody who wanted to speak, decided to reconvene the following Thursday for a vote. In a move that caught everybody still in attendance by surprise, Ms. Presler made a motion to add to the agenda an option of canceling the contract completely. While Mr. Babbott accused her of playing politics, she said she thought it would be worth talking about since it came up so much through the public comments, citing the blank "Option D" on the agenda. The Council immediately voted down the motion.

That Thursday, September 2, City Council voted to maintain the current contract and not sell drinking water to Snowbowl. Those who voted in the minority were **Karla Brewster** and Ms. Presler. During this meeting, the public as well as council members were visibly stunned when **Alan Stephans**, a representative from the **Department of Agriculture** said the proposal to use drinking water did not originate from his department, as Snowbowl and others have maintained, but from Flagstaff city staff. There are only speculations as to who among city staff went to the USDA with an initial proposal.

Attorney **Howard Shanker**, who is litigating on behalf of individuals opposed to snowmaking with reclaimed water, told the *Daily Sun*: "I think the City Council decision today was a step in the right direction. I think it showed they're not just going to roll over for Snowbowl. At least for now, it showed they're not only paying more attention to the tribes, but to all people concerned with the allocation of scarce resources."

"If you attended that hearing," Mr. Borowsky told *the Noise*, referring to the initial meeting at Sinagua High School, "You had the privilege of listening to a bunch of uninformed, and mostly illiterate people ... It was the worst display of civic procedure I have ever witnessed. And I've been in Arizona since 1963, and have appeared before numerous city councils across the state. It was over seven hours long — the subject matter was supposed to be about the use of either reclaimed or recovered reclaimed water."

Other folks disagreed and appreciated the process. Mr. McCarthy said: "Public hearings are a messy process, and I've been to much worse ones. I think the City and the water commission should get credit for allowing everyone to talk, down to the very last person. So I think the City should get very high marks for listening to everyone on this issue, regardless of which side you're on."


Concerned citizen **Moran Rosenthal-Henn** said, "Hearing people is not a waste of time. Obviously people are very upset about this, and it is good public policy to listen to the citizens. Just because it wasn't in Borowsky's favor doesn't mean it wasn't the right action to take."

The Daily Sun agreed more with Mr. Borowsky, however, in its editorial "Snowbowl Hearing's a Mockery of Due Consideration," stating, "Few who witnessed all or part of the proceedings have much good to say about them — and that includes those on both sides of the issue."

"The thing I found particularly offensive," continued Mr. Borowsky, "is the mayor allowed five tribal officials to talk about no snowmaking for 10 to 15 minutes each. Now that's an issue the US Supreme Court and the 9th Circuit have already decided over four years of judicial proceedings. And yet the mayor wasted everybody's time allowing these people to talk about something the federal courts already decided. To make matters worse, when the chairman of the city's water commission, Patrick Hurley, tried to speak about the water commission's recommendations and proceedings, he was cut off. He may have got three minutes, but I doubt it."

A week later, Councilman **Scott Overton** proposed the City re-draft the contract with Snowbowl to start the clock over, giving it 20 years worth of reclaimed water rights starting now to make up for the lost years between today and when the contract was first signed in 2002. His proposal, he reiterated, had nothing to do with what sort of water was to be used. After all, he voted against drinking water. He wanted to put some provisions in the contract that he claimed would protect the City, among some other details.

Council voted Mr. Overton's proposal down, again deciding to stick with the original 2002 contract. Mr. Borowsky, on the other hand, feels optimistic and is planning to start construction in March.

However, if the Forest Service is found negligent of the NEPA process, Mr. Shanker maintains the City would no longer be under contractual obligation to the Snowbowl. 

Kyle Boggs is currently researching a book documenting the history of the Peaks controversy.

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