

PRESCOTT CITY COUNCIL
COMBINED STUDY SESSION/
REGULAR MEETING/SPECIAL
MEETING
PRESCOTT, ARIZONA
JULY 11, 2006

A COMBINED STUDY SESSION/VOTING MEETING/SPECIAL MEETING OF THE PRESCOTT CITY COUNCIL WAS HELD ON TUESDAY, JULY 11, 2006, in the Prescott Municipal Building, 201 S. Cortez Street, Prescott, Arizona.

Mayor Simmons opened the meeting at 3:00 P.M. and asked Councilman Roecker to lead the Pledge of Allegiance.

Mayor Simmons asked City Clerk Elizabeth Burke to call the roll, which was as follows:

Present:

Mayor Simmons
Councilman Bell
Councilman Lamerson
Councilman Luzius
Councilman Roecker
Councilwoman Suttles

Absent:

Councilman Blair (excused)

SUMMARY OF CURRENT OR RECENT EVENTS

Manager Steve Norwood mentioned the Manzanita Grille at the Antelope Hills Golf Course was doing very well and reported sales in June 2005 were \$71,000 when it was the Sand Trap Restaurant and sales for June 2006 were \$107,000. A final decision had not been made as to whether the City would continue to run the restaurant or not and it would be coming to Council in October for discussion.

I. PUBLIC COMMENTS:

A. Darcie Metzger regarding the congregating/loitering of people looking for day work.

Ms. Metzger mentioned this was her second time before the Council on this subject and the group of men looking for day work was no longer loitering in front of the businesses but was now located along Lincoln Avenue at Grove Avenue. It was still a problem in her neighborhood; children were uncomfortable walking in the area; the property was city right-of-way; if it were teenagers loitering on the corner it probably wouldn't be tolerated; the men could look for work elsewhere; she had not heard from the Police Department as was stated the last time that they would be in contact with her; and she hoped a solution could be worked out.

II. PRESENTATIONS:

A. Presentation by Randy Oaks, Police Chief, regarding congregating/loitering of people looking for day work.

Chief Oaks acknowledged this was an ongoing and growing problem; the property was city property; the men were seeking employment; the problem is mostly in the mornings and the size of the crowd varied from 20-35 people; the Police Department hadn't received any complaints about the situation but had received a couple e-mails regarding the situation.

Chief Oaks continued, stating that the Police Department:

- had contacted the Immigration Department but they didn't want to deal with it;
- had researched statutes which were not clear and the Police Department lacked the ability to enforce local immigration laws;
- responded to 98 calls for service on Grove Avenue in 6 months. Most were traffic related.

Their problems were:

- the Federal Government did not provide assistance or want to deal with immigration issues;
- The Police could not establish how an illegal alien got into this country;
- Police Officers made regular visits to the property and Officer Jerry Islas had informed them of rules they needed to follow. They had been warned about littering; had been told not to loiter; not to block the sidewalk; and to stay out of the street and they were abiding by that.
- The Police Department could only enforce local laws.

Attorney Gary Kidd explained Prescott was not the only city to encounter problems with enforcement. This was a national problem and there currently were no laws that would hold up in court and there was very little cooperation by State and Federal agencies.

Attorney Kidd was encouraged to look for ways to approach the problem on a local level to attempt to resolve the issue.

III. REGULAR AGENDA:

Mayor Simmons announced Item N., regarding annexation fees, was being removed from the agenda.

A. Public Hearing and Consideration of a liquor license application from Carmella Eva Duncan, Agent for Pasquale's Place, Inc., for a Series 12, *Restaurant*, License for Pasquale's Place to be located at 148 N. Montezuma Street.

Clerk Elizabeth Burke explained this was a new restaurant where the Deluxe Liquor Store and Uncle Sal's Deli had previously been located. The property had been posted and no complaints had been received.

Carmella Duncan, applicant, extended an invitation to everyone to check out their menu which would include Italian, Greek and German food, would be open from 10:30 A.M. to 6:00 P.M. and closed only on Sunday, and they would be opening very soon.

Council commended her for the remodeling of the building which greatly improved the corner of Montezuma and Willis Streets.

Councilwoman Suttles MOVED to CLOSE the public hearing, which was SECONDED by Councilman Roecker. The motion passed unanimously.

Councilwoman Suttles MOVED to APPROVE the liquor license application from Carmella Eva Duncan, Agent for Pasquale's Place, Inc., for a Series 12, *Restaurant*, License for Pasquale's Place to be located at 148 N. Montezuma Street, which was SECONDED by Councilman Lamerson. The motion passed unanimously.

B. Public Hearing and Consideration of a liquor license application from Glenn Allen Edmondson, Agent for Albertson's L.L.C., for a Series 09, *Liquor Store*, License for Albertson's #953 located at 174 East Sheldon.

Clerk Elizabeth Burke explained the application was a person transfer of the license and changed the ownership to a new corporate name. The property had been posted and no complaints were received.

Councilman Roecker MOVED to CLOSE the public hearing, which was SECONDED by Councilwoman Suttles. The motion passed unanimously.

Councilman Roecker MOVED to APPROVE the liquor license application from Glenn Allen Edmondson, Agent for Albertson's L.L.C., for a Series 09, *Liquor*

Store, License for Albertson's #953 located at 174 East Sheldon, which was SECONDED by Councilwoman Suttles. The motion passed unanimously.

C. Public Hearing and Consideration of two liquor license applications from Stephen Michael McKinney, Agent for Smith's Food and Drug Centers, Inc., for Series 9, *Liquor Store*, Licenses for Fry's Food and Drug #77 located at 3198 Willow Creek Road and for Fry's Food and Drug #116 located at 950 West Fair Street.

Clerk Elizabeth Burke explained two liquor license applications had been received for the two Fry's locations; the licenses were awarded through a State liquor license lottery and the current licenses would be inactivated.

Councilwoman Suttles MOVED to CLOSE the public hearing, which was SECONDED by Councilman Roecker. The motion passed unanimously.

Councilwoman Suttles MOVED to APPROVE the liquor license applications from Stephen Michael McKinney, Agent for Smith's Food and Drug Centers, Inc., for Series 9, *Liquor Store*, Licenses for Fry's Food and Drug #77 located at 3198 Willow Creek Road and for Fry's Food and Drug #116 located at 950 West Fair Street, which was SECONDED by Councilman Lamerson. The motion passed unanimously.

D. Adoption of Resolution No. 3767 - A resolution of the Mayor and Council of the City of Prescott, Arizona authorizing the potential development of a Sister City relationship with a city in El Salvador.

Manager Steve Norwood commented Prescott had a long-standing Sister City relationship with Caborca, Mexico and adoption of this resolution would not change that; it would add another city to the program and it was common to have more than one sister city; a city in El Salvador had not been selected but adoption of the resolution would allow the exploration of that to see if there was mutual interest.

Ed Williams, Sister City organization representative, commented the program with Caborca, Sonora, Mexico, was going well and the Sister City program promoted international understanding; it was started 50 years ago by President Dwight D. Eisenhower; and they supported the resolution and would lend assistance to expand the Sister City program.

Enrique Melendez, Consul to El Salvador, thanked Mr. Williams for his comments and said El Salvador could bring a different flavor to the program; the country had different foods, different customs, and had a different mix of people and he would meet with Mr. Williams and Bob Greninger tomorrow. He was very excited

about it and hoped this was the beginning of a new relationship; and he suggested the city of Suchitoto as the city to adopt as a Sister City.

Councilman Lamerson MOVED to ADOPT Resolution No. 3767, which was SECONDED by Councilwoman Suttles. The motion passed unanimously.

- E. Adoption of Ordinance No. 4545 - An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, levying upon the assessed valuation of the property within the City of Prescott, subject to taxation, a certain sum upon each one hundred dollars (\$100.00) of valuation sufficient to raise the amount estimated to be required in the annual budget, less the amount estimated to be received from other sources or revenue; providing funds for various bond redemptions for the purpose of paying interest upon bonded indebtedness, and providing funds for the general municipal expenses, all for the Fiscal Year ending the 30th day of June, 2007.**

Budget/Finance Director Mark Woodfill explained the ordinance would set the property tax levy, with the primary tax levy at \$1,128,971 and the secondary tax levy (for retirement of debt) at \$1,706,825. The Public Hearing and adoption of the final budget was accomplished on June 27.

Councilman Roecker MOVED to ADOPT Ordinance No. 4545, which was SECONDED by Councilwoman Suttles. The motion passed unanimously.

- F. Adoption of Resolution No. 3768 - A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona (the "City") authorizing an application to the Greater Arizona Development Authority for financial assistance pursuant to Title 41, Chapter 10, Article 8, Arizona Revised Statutes.**

Budget/Finance Director Mark Woodfill explained an application for funding of the fleet maintenance facility was approved by GADA (Greater Arizona Development Authority) last fall but the project had undergone some design changes and was not started as planned so staff withdrew the project. Included in the FY2007 budget were improvements to the transfer station which would be eligible for GADA funding as well, and the adoption of Resolution No. 3768 would authorize a new application for the next GADA funding cycle.

Councilman Luzius asked if the improvements to the transfer station included a hazardous material facility and Mr. Woodfill replied it did not. Manager Norwood added there would be a pilot program this year for hazardous materials.

Councilwoman Suttles MOVED to ADOPT Resolution No. 3768, which was SECONDED by Councilman Roecker. The motion passed unanimously.

- G. Authorize purchase of Kimball Modular Furniture under Arizona State Contract #12492 from Transact Commercial Furnishings, Inc. in an amount of \$46,224.38 for placement in the remodeled dispatch area and supervisor's office located in the Police Headquarters Building at 222 S. Marina Street.**

Chief Randy Oaks explained the space previously used by Dispatch was being remodeled following the move of the dispatch center to the new Regional Communications Center on Cortez Street. The newly remodeled space would be used by 14 Community Service officers and traffic officers and the furniture would include 14 workstations and chairs.

Councilman Luzius MOVED to AUTHORIZE the purchase of Kimball Modular Furniture under Arizona State Contract #12492 from Transact Commercial Furnishings, Inc. in an amount of \$46,224.38, which was SECONDED by Councilman Bell.

Councilman Roecker asked if there were any local providers and Chief Oaks responded the furniture was being purchased off State Contract and there were no local firms that provided modular furniture.

Mayor Simmons called for the vote on the motion, which passed unanimously.

- H. Award of bid for New Asphalt Pavement Construction of Unpaved Roadways Projects to Vail Contracting, Inc. in the total amount of \$726,688.70.**

Engineering Services Director Mark Nietupski explained the project was to pave three different street sections and one alley, drainage work, and install a 6" water main with new services and an 8" sewer main and new services. The streets affected were Panarama Drive from Kelmo Drive to Frederick Lane and cul-de-sac from Frederick Lane to the north end; Middlebrook Road from Cypress Drive to the low-water crossing; Frisco Peaks Drive from Willow Creek Road to the south end; and the alley bounded by Montezuma, Cortez, Sheldon and Willis Street. The work would start in July and be completed in November.

Councilman Luzius asked why the alley wasn't part of the off-site improvements for the Summit Bank that was under construction and Mr. Nietupski responded it was in the capital program before the bank started construction.

Councilman Bell asked about the change of ownership of Vail's Grading and Paving and Mr. Nietupski clarified both Vail's Grading and Paving and Asphalt Paving and Supply (Prescott Valley) were both owned by an Idaho company and they would not be bidding on the same projects.

Councilman Bell MOVED to AWARD the bid for New Asphalt Pavement Construction of Unpaved Roadways Projects to Vail Contracting, Inc. in the total amount of \$726,688.70, which was SECONDED by Councilwoman Suttles. The motion passed unanimously.

I. Award of a job order contract for the Lee Boulevard Detention Basin Modification Project to Mohave Educational Services Cooperative, in the amount of \$129,487.29.

Engineering Services Director Mark Nietupski explained this project was part of the Economic Development contract for the mall; this was bid last fall and the combined with two other projects; one of the three projects was completed (Willow Lake Villas detention basin); this project bid at \$127,000 and was deferred to the FY07 budget. Staff was recommending the award of this project to the Mohave Educational Services Cooperative in the amount of \$129,487.29, with Centennial Contractors Enterprises providing the construction. The project would begin in August and be completed by November.

Councilman Luzius asked why the water impact fees would be paid by the City and Mr. Nietupski responded the one-inch water meter would be used for landscaping and the City would pay the \$15,000 charge for the irrigation meter and the landscaping would consist of drought tolerant plants.

Councilwoman Suttles MOVED to AWARD a job order contract for the Lee Boulevard Detention Basin Modification Project to Mohave Educational Services Cooperative, in the amount of \$129,487.29, which was SECONDED by Councilman Roecker. The motion passed unanimously.

J. Award of bid for the ACFC-Asphalt Rubber 2007 Overlay Project to Fann Contracting, Inc. in the total amount of \$767,899.00, and authorizing night work between the hours of 6:30 PM and 6:30 AM.

Engineering Services Director Mark Nietupski explained an overlay of an asphalt concrete friction course would be placed on Gurley Street from Josephine Street to Grove Avenue; Gurley Street from Cortez Street to Marina Street; Gurley Street from Arizona Avenue to Butterfield Drive; Willow Creek Road from Green Lane to Mitchell Road; and Willis Street from the Granite Creek Bridge to Marina Street. Adjustments to manhole covers, valve risers, survey monuments and sewer cleanouts as well as new striping and pavement markings would follow the overlay project. The milling and overlay work was to be performed at night

between the hours of 6:30 P.M. and 6:30 A.M. to minimize traffic impacts, while the service covers adjustment project would be done during the day with lane closures. If ADOT were to proceed with the Highway 89/69 intersection improvements in 2007 the overlay may not extend to Butterfield Road and that would be know in a few weeks.

Councilwoman Suttles asked if the streets would all be under construction at the same time and Mr. Nietupski responded the contractor would submit a schedule for the project and would probably do one area at a time; the overlay was a very thin layer of asphalt and wouldn't take long to put down.

Councilman Bell asked how much would be deleted from the project if ADOT was to proceed with the intersection improvements, and Mr. Nietupski replied the amount would be approximately \$50,000.00.

Councilman Luzius MOVED to AWARD the bid for the ACFC-Asphalt Rubber 2007 Overlay Project to Fann Contracting, Inc. in the total amount of \$767,899.00, and authorizing night work between the hours of 6:30 PM and 6:30 AM, which was SECONDED by Councilman Bell. The motion passed unanimously.

K. Award of bid for the FY 07 Rubber Chip Seal Pavement Preservation Project to International Surfacing Systems, Inc. in the total amount of \$1,221,122.44.

Engineer Services Director Mark Nietupski explained this project was a very ambitious undertaking and the streets south of Gurley Street and west of Mt. Vernon Street would have a rubberized chip seal application. The bid was within the budgeted funding and under the engineer's estimate of \$1,547,534.00 and would begin in July and be completed in September.

Manager Steve Norwood reminded the Council one of their goal priorities was to concentrate on local streets and not just the arterial streets.

Mr. Nietupski clarified that Granite Street which was listed would not be done.

Councilman Lamerson MOVED to AWARD the bid for the FY 07 Rubber Chip Seal Pavement Preservation Project to International Surfacing Systems, Inc. in the total amount of \$1,221,122.44, which was SECONDED by Councilwoman Suttles. The motion passed unanimously.

Councilwoman Suttles asked if the neighborhoods were aware of the work to be done and Mr. Nietupski responded flyers would be given to each resident on each street and the project schedule would have to be flexible due to the weather as the chip seal could not be applied to a wet street.

Mayor Simmons asked if the chip seal would be put on concrete and Mr. Nietupski responded it could only be applied to an asphalt base.

L. Adoption of Resolution No. 3769 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, approving an Intergovernmental Agreement for the establishment of Unified Emergency Management with Yavapai County for Fiscal Year 2007.

Fire Chief Darrell Willis explained the City entered into an annual Emergency Management contract with Yavapai County; the contract was exactly the same as last year and it established a unified system throughout Yavapai County; the City paid \$14,254 each year and the services included training of personnel, updating the emergency plan, providing technical assistance and resources in the event of an emergency, and completing and submitting all reports required by the State or Federal agencies. An example of the agreement was the coordination, cooperation and advance planning for a wildfire in the Prescott area. The agreement allowed a faster and more efficient response to a disaster and staff was recommending Council adopt the resolution.

Councilman Roecker added it assured everyone was on the same radio frequency.

Councilman Roecker MOVED to ADOPT Resolution No. 3769, which was SECONDED by Councilwoman Suttles. The motion passed unanimously.

M. Approve Contract No. 2007-002 for outside legal services for the Gila River Adjudication with Fennemore Craig, in an amount not to exceed \$30,000.00.

Attorney Gary Kidd explained this item was a renewal of an existing, ongoing contract relating to the Gila River Adjudication case with statewide ramifications in terms of long-term water rights. Prescott was involved because of the Verde River and Agua Fria basins. Fennemore Craig represented other entities in the litigation and was well informed and staff was recommending approval.

Mr. Kidd clarified the City of Prescott had used outside legal counsel for this issue to ensure the city's water rights and interests were protected and felt the lawsuit would continue for several more years; some entities had already settled and it was anticipated part of the adjudication affecting Prescott would occur this Fall which required greater legal involvement than in the past.

Speaker comments:

Howard Mechanic, 309 Bloom Place, asked how many other municipalities Prescott was sharing attorneys with and Mr. Kidd responded there were four or five other entities using this firm and the firm had to do a conflict check to make sure there was no conflict of interest in their representation; Prescott would have to hire another law firm if a conflict of interest were found.

Councilman Luzius MOVED to APPROVE Contract No. 2007-002 for outside legal services for the Gila River Adjudication with Fennemore Craig, in an amount not to exceed \$30,000.00, which was SECONDED by Councilman Lamerson. The motion passed unanimously.

Item N. removed from agenda:

- N. Adoption of Resolution No. 3761 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, rescinding Resolution Number 3582 and adopting a new resolution establishing and adopting a Council Policy on Application and Review Fees for Annexations.
- O. Adoption of Ordinance No. 4539 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, setting a Special Election to be held on November 7, 2006, to vote on municipal measures.**

Manager Steve Norwood commented staff and Council had been discussing Public Safety needs for several months; a downtown fire station, renovation and expansion of the public safety training center and the renovation of another station; Council directed staff in March to prepare a public safety project list and a sales tax funding program; the Special Election would be held in November and Council had indicated raising the sales tax by .3% which would keep Prescott's sales tax rate the lowest in area; the tax would be for a 10 year period and the revenue's would be used to pay cash for those facilities on the list.

Council comments:

Councilman Lamerson – does not support a sales tax increase for public safety. The City should extend the sales tax base instead of raising sales taxes.

Mayor Simmons – He agreed with Councilman Lamerson and also was not in favor of a sales tax election.

Councilman Bell – He agreed and said there was nothing wrong with having the lowest sales tax rate in the area.

Councilwoman Suttles asked if the sales tax election wasn't held, what level of service could be provided and Mr. Norwood responded Council funded the design of a downtown fire station, the design of a fire training center design, and the rehabilitation of one station and if the election were postponed or delayed, at least the design would be completed and if the election question didn't come back the needs would still be there. Sales tax revenues had been increasing but so had retirement costs and staff for police and the library.

Councilwoman Suttles – This was not the time to raise the sales tax rate.

Councilman Roecker – Believed in the concept but did not support it and it was appropriate to delay it.

Councilman Luzius – The residents had been taxed enough and he could not support raising sales tax rate.

Manager Steve Norwood acknowledged over the past several months Council had raised water rates and was looking at the impact fees – at least raising police and fire impact fees; importing water costs were much higher than expected; the needs didn't go away, Council was just deferring them and it was a positive step to do the design and refurbishment.

Speakers:

Howard Mechanic, 309 Bloom Place, asked the following questions:

- If the funds didn't come in and there were needs, what will you do about them? Road projects had been deferred and they needed to be done.
- What wasn't needed? Staff said the project list was needed and Council said they didn't want to do it.
- Why was the total amount in sales tax \$52 million which would cover all the list. None of the costs were from impact fees even though staff had said \$14 million of the projects would serve new growth.
- Why was staff proposing all funds come from sales tax and none from impact fees?
- If Council raised impact fees, which was to be discussed August 29, why was staff proposing to raise more than needed?

Manager Steve Norwood explained today's action was to call an election for November or not to proceed with an election and staff and Council had always said some of the projects would be funded through impact fees.

Councilman Roecker added there was some money in capital improvements for the projects and all the projects would get finished; that the downtown fire station would get built, it just wouldn't be this year.

Leslie Hoy, 1880 Coyote Road, said many important decisions were being made in the community that would affect the future of children and future children; that Manager Norwood had previously stated the City needed to annex when in reality it cost more to annex than it brought in and the City was suffering from that currently. She agreed with Councilman Roecker that the City needed to plan for the future. She felt the future should pay for itself and the Eastern part of the country had already dealt with that; she recommended residents read "Choosing our Community's Future" from Smart Growth America and keep a better quality of life in Prescott.

Ethan Edwards, Executive Director of Yavapai County Contractors Association, clarified Arizona was a sales tax state and annexation was important to Prescott because when a house was built in the County, even if the construction materials were purchased from a lumber yard in Prescott, Prescott didn't get one cent from the sale, it went to the County because the sales tax went to the property location. He thought a sales tax increase was the wrong way to go.

P. Approval of minutes of the Prescott City Council Study Session/Special Meeting of June 20, 2006, and the Prescott City Council Regular Meeting of June 27, 2006.

Councilman Lamerson MOVED to APPROVE the minutes of the Prescott City Council Study Session/Special Meeting of June 20, 2006, and the Prescott City Council Regular Meeting of June 27, 2006, which was SECONDED by Councilman Roecker. The motion passed unanimously.

Councilmembers took a short break at 4:35 P.M. before going into Executive Session.

Q. Recess into Executive Session

The Prescott City Council went into Executive Session at 4:43 P.M.

IV. EXECUTIVE SESSION:

A. Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property, pursuant to A.R.S. §38-431.03(A)(7).

1. Potential property purchase in West Prescott, west of Montezuma.

- B. Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation, pursuant to A.R.S. §38-431.03(A)(4).

- 2. Brogdon v. City of Prescott

V. POST EXECUTIVE SESSION:

- A. Reconvene into Regular Session.

VI. ADJOURNMENT

There being no further business to come before the Prescott City Council, Mayor Simmons ADJOURNED the meeting at 5:32 P.M.

ROWLE P. SIMMONS, Mayor

ATTEST:

ELIZABETH A. BURKE, City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Combined Study Session/Voting/Special Meeting of the City Council of the City of Prescott, Arizona held on the 11th day of July, 2006. I further certify the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____, 2006.

AFFIX
CITY SEAL

ELIZABETH A. BURKE, City Clerk