

PRESCOTT CITY COUNCIL  
REGULAR COUNCIL  
MEETING  
PRESCOTT, ARIZONA  
NOVEMBER 14, 2006

A REGULAR VOTING MEETING OF THE PRESCOTT CITY COUNCIL WAS HELD ON TUESDAY, NOVEMBER 14, 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 Luzius 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 Blair  
Councilman Lamerson  
Councilman Luzius  
Councilman Roecker  
Councilwoman Suttles

Absent:

None

**SUMMARY OF CURRENT OR RECENT EVENTS**

Mayor Simmons remarked he was in the Veterans Day parade on the grounds of the Veterans Administration facility on Saturday and it was a large parade and he encouraged everyone to attend it next year.

**I. PUBLIC COMMENTS:**

**A. Cal Cordes – Minor League Baseball.**

Mr. Cordes (140 S. Pleasant Street) urged Council to not take away the historic playing area of the (Mile High Middle School) students or the rodeo grounds to build a minor league baseball stadium. Yavapai College and Prescott High School played baseball and were in the finals, and attendance was not anywhere near the 3,000 people a Class A Minor League team was expected to attract; that was just someone's dream and the \$25 million a stadium would cost could be better spent on other needs in the community. Minor League players would be here for only 4 or 5 months while college players were here for 9 months; he hoped the study would be closely scrutinized and suggested spending money at Pioneer Park on a 4-plex field;

there were some fields where baseball was played on one and softball on another and the two didn't mix and should be separated.

Councilman Luizius agreed with Mr. Cordes and said he didn't want to see a stadium at Mile High track or at the rodeo grounds and he wasn't interested in having the taxpayers pay for a stadium; he agreed Prescott had good local teams to support.

**B. Mary Young – Update on the Festival of Trees project.**

Ms. Young explained this was a new Christmas event and the idea was to partner a downtown business with a non-profit organization to place a decorated tree in a business and then auction it off for the non-profit organizations. There were 35 businesses and non-profits signed up for this year and the Prescott Downtown Partnership and Chamber of Commerce had assisted them greatly. There was a tree at Hotel St. Michael that would be decorated with etched ornaments and the etchings were of historic buildings and would become collector's items; the bidding process would be about two weeks long, beginning with the Courthouse Lighting on December 8 and extending into the weekend of December 16.

**II. PROCLAMATIONS:**

**A. November 2006 – *Honor Our Veterans Month.***

Councilman Bell read the Proclamation.

**III. PRESENTATIONS:**

A. Presentation by Northland Cares re World AIDS Day activities in the community.

Michael Ruble gave a brief presentation on activities that would be taking place on World AIDS Day and Northland Care provided cutting-edge outpatient medical services and supported those living with AIDS and invited everyone to attend and become knowledgeable about AIDS in the community.

Gerry Garvey, Coordinator for Yavapai County Health Services said there were 11,000 HIV positive people in Arizona and 600 of them lived in Northern Arizona; over 2,000 high risk people had been tested last year and 130 tested positive. Anyone with HIV/AIDS was entitled to care and treatment and no one was turned away.

Courtney Osterfelt explained the Youth Outreach Program that was aimed at educating teens about HIV and AIDS, pregnancy and sexually transmitted

diseases; adding that approximately 50% of those diagnosed were under the age of 25.

Councilman Roecker asked the cost of treatment per patient and Ms. Garvey replied funding had been flat so as the number of patients increased the funding became less per patient and they attempted to get patients into other medical programs that could help them.

Mr. Ruble concluded saying he found the statistic on the Internet that the average cost per month was \$6,000 for someone living with HIV/AIDS.

## **B. Presentation on Water Conservation Program Update.**

Shaun Rydell, Water Conservation Coordinator, gave a brief background of the Water Conservation Program beginning with the appointment of a committee in 2004. The committee met once a month and identified goals and objectives and implemented strategies. The committee conducted its activities according to the following guidelines:

- Goal:
  - To promote water conservation by all users and providers in the City of Prescott water service area.
- Objective:
  - To reduce total annual water consumption with emphasis on water demand during the summer peak use period.
- Strategies:
  - Extensive water conservation education and publicity (awareness)
  - Water conservation incentive programs (utility bill credit)
  - Revised and improved conservation regulations and enforcement.
  - Research of structures water rates (tiered rate structure)

Ms. Rydell said the Water Smart brand had been adopted for the conservation program and mentioned the programs that were available to the residents and the educational opportunities to get the water conservation message to the public and the on-going efforts to make people aware of how they could save water and lower their water bills.

Councilman Blair requested more communication occur with commercial users such as the school district, the Veterans Administration and Yavapai Regional Medical Center to look at their systems and ways to use less water.

Councilwoman Suttles asked if the other area municipalities were involved and Ms. Rydell mentioned the Central Yavapai Water Conservation Partnership was recently formed and they were focusing on sharing resources and costs.

When asked what she would like to see happen in Prescott, she replied she would like to see all the old toilets in Prescott replaced for free and the amount of savings over a few years would be amazing.

Councilman Luzius commented the Council should give her their support and it was estimated the construction industry would use 100,000,000 gallons on dust abatement this next year.

#### **IV. CONSENT AGENDA**

Mayor Simmons announced Item T was being removed from the Consent Agenda for discussion.

Councilman Roecker MOVED to ADOPT the Consent Agenda, Items IV-A through IV-W, excluding Item T, which was SECONDED by Councilman Lamerson. The motion passed unanimously.

- A. Authorize purchase of five (5) Communications Center Base Stations and related equipment from RELM Wireless Corporation, under GSA contract #GS06T03BND7002 in the amount of \$68,809.07.
- B. Authorize purchase of ten (10) Panasonic computer systems from Portable Computer Systems in the amount of \$70,428.54.
- C. Authorize purchase of ten (10) mobile data radio modems and a data base station with related equipment from DataRadio Corporation, in the amount of \$55,766.80.
- D. Authorize purchase of Message Switch Software from Application Data Systems, Inc. in the amount of \$26,900.00.
- E. Award CDBG construction contract to Frontier Excavation for excavation and grading of three Habitat for Humanity lots located at 229, 233 and 235 Meany Street in an amount not to exceed \$58,478.40 (CDBG Contract #140-05).
- F. Approve Plat Revision of Centerpointe West Business and Medical Park, creating five individually-owned pads and common areas, zoning is Industrial Light (IL), applicant is Dan Olivas (RE06-030).
- G. Approve Plat Revision of Centerpointe East Commercial Center, creating sixteen individually-owned pads and common area, zoning is Industrial Light (IL), applicant is Bill Watson (RE06-035).

- H. Approve Final Plat for North Lake Unit 2, a 20-lot subdivision located near Jerry and Samantha Streets, zoning is Single-Family 6 (MH), applicant is Vince Fornara (FP06-019).
- I. Adopt Ordinance No. 4565 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona awarding a lease of City-owned property known as 1475 N. Sundog Ranch Road to Cingular Wireless, LLC for wireless communications facilities.
- J. Approve purchase of vehicles identified in the Council Agenda Memo of November 7, 2006, and authorization to issue purchase orders to Five Star Ford and Galpin Ford in the amounts of \$197,838.23 and \$53,380.97, respectively.
- K. Adopt Ordinance No. 4566 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the sale of miscellaneous surplus property, referred to as the Vodavi Phone Systems, and authorizing the Finance Director to execute any and all documents to effectuate said sales.
- L. Authorize payment to Tech Logic in the amount of \$73,753.00 for purchase and installation of a vertical book drop system.
- M. Approve purchase of a Caterpillar 930G loader from Empire Machinery in the amount of \$135,605.44, for the Transfer Station.
- N. Approve purchase of four solid rubber tires from SETCO, Inc. in the amount of \$23,379.58 for the Transfer Station.
- O. Approve Amendment Two to Contract No. 2004-218 with HDR Engineering for transfer station expansion design in the amount of \$26,500.00. (power plan, drainage/site design for training center and Storm Water Pollution Prevention Plan)
- P. Award bid for one Caterpillar 414E IL industrial tractor to Empire Machinery, in the total amount of \$65,947.23, for Wastewater Operations.
- Q. Approve purchase of a refurbished 2005 Powertrack 600 power screen from S & L Equipment in the amount of \$70,000.00 including tax, for the Streets Division.
- R. Approve Amendment Four to Contract No. 2004-189 with Stantec Consulting, Inc. for pavement management system services in the amount of \$24,795.00.

- S. Approve issuance of a purchase order to Mohave Educational Services Cooperative for improvements to the detention basin at Willow Creek Road and Montana Drive, in the amount of \$112,547.42.
- U. Approve Contract Amendment No. 1 to City Contract No. 2007-004 with International Surfacing Systems for the FY07 Rubber Chip Seal Project, in the amount of \$44,539.76.
- V. Rescheduling of Meetings:
  - 1. Cancel 12/26/06 Meeting – Holiday - Combine with 12/19/06
  - 2. Cancel 01/02/07 Meeting – Holiday – Combine with 01/09/07
- W. Approve Minutes of the Prescott City Council Special Meeting (Executive Session) of October 17, 2006, the Prescott City Council Study Session of October 17, 2006, and the Prescott City Council Regular Voting Meeting of October 24, 2006.

Mayor Simmons presented Item T for discussion:

- T. Award an engineering services contract to Parsons Transportation Group for Phase I project development of the Side Road/State Route 89A interchange, in the amount of \$653,501.09.

Councilman Luzius commented the citizens were being asked to spend close to \$14 million on this intersection and he understood some of the money would come back to the City as the area was developed and asked what proportion might be reimbursed and if there was any schedule Mr. Nietupski responded that a schedule for allocation of contributions had not been developed; the funds would be recovered through the formation of an improvement district or reimbursement district and with as each new development occurred an analysis would be done and the impacts on the intersection would determine the amount of the contribution or reimbursement.

Councilman Luzius added it was a State Highway and the City was now asked to improve it; if it had been done when the roadway was built the City wouldn't have to do it today and Mr. Nietupski replied it was part of the settlement agreement with Country Dells and area development was responsible for the need for the interchange and he didn't believe the ADOT would contribute.

Councilman Lamerson asked if an improvement district was formed by the municipality or if it had to go to the voters. Mr. Nietupski replied the City would have options in regard to that and it was several years away from construction or deciding what method would be employed.

Councilwoman Suttles MOVED to AWARD an engineering services contract to Parsons Transportation Group for Phase I project development of the Side Road/State Route 89A interchange, in the amount of \$653,501.09, which was SECONDED by Councilman Blair. The motion passed unanimously.

**V. REGULAR AGENDA:**

- A. Authorize purchase of two (2) 2006 Honda ST1300P Motorcycles with emergency equipment from North Valley Motorsports, Inc. in the amount of \$39,467.96.**

Police Chief Randy Oaks answered a question from the Study Session on where the motorcycles were manufactured, which was in Japan.

Councilwoman Suttles MOVED to AUTHORIZE purchase of two (2) 2006 Honda ST1300P Motorcycles with emergency equipment from North Valley Motorsports, Inc. in the amount of \$39,467.96, which was SECONDED by Councilman Bell. The motion passed 6 – 1 with Councilman Luzius casting the dissenting vote.

- B. Approve Final Plat for Sienna @ Blooming Hills comprising 6 lots on 3.77 acres, located on Tamarack Lane north of Rosser Street and west of Blooming Hills Drive, zoning is SF-18, applicant is Mike Crimmins, owner (FP06-016).**

Councilman Luzius declared a conflict of interest as his wife was employed by the developer.

Councilman Roecker MOVED to APPROVE the Final Plat for Sienna @ Blooming Hills comprising 6 lots on 3.77 acres, located on Tamarack Lane north of Rosser Street and west of Blooming Hills Drive, zoning is SF-18, applicant is Mike Crimmins, owner (FP06-016), which was SECONDED by Councilman Blair. The motion passed 6-0 with Councilman Luzius abstaining.

- C. Public hearing and consideration of a liquor license application from Leticia Terriquez Serratos, for a new Series 10, Beer and Wine Store, license for La Tienda Mexicana – Prescott Mini Mart, located at 1211 East Gurley Street.**

Clerk Elizabeth Burke reported the Public Hearing would be held today to consider the liquor license application for La Tienda Mexicana – Prescott Mini Mart located at 1211 East Gurley Street; the property was posted on

October 17 and removed November 8 and no comments had been received.

Councilman Luzius commented Attorney Kidd provided a memo regarding the State Statutes and a list of items to consider in approving or denying a liquor license:

- Reason Number 1 – The Council denied a previous application for this location.
- From the List provided - Number 2 - The number and series of licenses in close proximity. There were 8 establishments in a one-half mile radius. There was an overabundance of liquor outlets in this area.
- From the List provided - Number 7 – Effect on vehicular traffic in close proximity.
- From the List provided - Number 9 – The effect or impact of the proposed premises on businesses or the residential neighborhood whose activities might be affected by granting the license. There was a murder in this area a couple weeks ago and was a high crime area and suggested the license not be approved.

Councilman Lamerson agreed with Councilman Luzius and said the State Liquor Board didn't care what the City Council said and that was an insult; the Council said no once before and nothing had changed; it was in an area that had negative community involvement and ingress/egress onto Gurley Street was a problem.

Councilwoman Suttles asked Mr. Kidd if Council selected one of the criteria and denied the license, if the applicant could still go to the State Liquor Board and get a hearing. Mr. Kidd responded the Statutes listed a number of reasons the City Council could deny a license and Council has to determine if the license is in the best interests of the community or the surrounding area; Council made a recommendation that was forwarded to the State Liquor Board and the State Board made a final determination.

Councilwoman Suttles asked if the application were denied and a hearing was held before the State Liquor Board, if someone from the Legal Department had to go down to the Board to support Council's decision and Mr. Kidd responded it was up to the Council whether a member of the legal staff would appear before the State Liquor Board or not.

Councilwoman Suttles asked the Council if this was denied, did they want to expend man hours to defend it and Mayor Simmons said he was against that because the legal staff was buried and he wouldn't support asking them to attend the hearing.

Councilman Blair commented the Council require applicants to show up at the meeting and asked how the Council's recommendation was sent down to the State, through the Legal Department or City Clerk; and he could see the Council denying this as they had done 14 months ago and called the question.

Mr. Kidd commented they should open and hold the public hearing first. The public hearing was opened.

Leticia T. Serratos, the liquor license applicant, remarked there were other licenses around them and there had been a crime in the area but that didn't have anything to do with whether they had a license or not; they provided a service to the people; they did not affect public transportation because most customers walked to the store from their homes or from the motels in the area.

Councilman Blair MOVED to CLOSE the Public Hearing, which was SECONDED by Councilwoman Suttles. The motion passed unanimously.

Councilman Luzius MOVED to DENY the liquor license application from Leticia Terriquez Serratos, for a new Series 10, Beer and Wine Store, license for La Tienda Mexicana – Prescott Mini Mart, located at 1211 East Gurley Street, which was SECONDED by Councilman Lamerson. The motion passed 4-3 with Mayor Simmons, Councilmembers Blair and Suttles casting NAY votes.

**D. Public hearing and consideration of a liquor license application from Larry Dean Lamper, agent for Celtic Crossings Pub, Inc., for a new Series 12, Restaurant, license for Celtic Crossings Pub, to be located at 3250 Gateway Boulevard, Suite 400.**

Ms. Burke reported the Public Hearing would be held today to consider the liquor license application for Celtic Crossings Pub to be located at 3250 Gateway Boulevard, Suite 400; new, Series 12 Restaurant license; the property was posted on October 18 and removed November 8 and no comments had been received.

There being no public input Councilwoman Suttles MOVED to CLOSE the Public Hearing, which was SECONDED by Councilman Lamerson. The motion passed unanimously.

Councilman Luzius MOVED to APPROVE the liquor license application from Larry Dean Lamper, agent for Celtic Crossings Pub, Inc., for a new Series 12, Restaurant, license for Celtic Crossings Pub, to be located at 3250 Gateway Boulevard, Suite 400, which was SECONDED by Councilman Lamerson. The motion passed unanimously.

Larry Lamper, applicant, explained they were opening a Celtic restaurant with a pub, food, spirits, music and heritage from the Celtic Isles and hoped to be open by the end of the year.

**E. Public hearing and consideration of a liquor license application from Eriko Horikawa, agent for Esoji, LLC, for a new Series 12, Restaurant, license for Esoji, to be located at 220 West Gurley Street.**

Ms. Burke reported the Public Hearing would be held today to consider the liquor license application for Esoji, to be located at 220 West Gurley Street; the property was posted on October 20 and removed November 13 (due to the Friday holiday) and no comments had been received.

There being no public comments, Councilwoman Suttles MOVED to CLOSE the Public Hearing, which was SECONDED by Councilman Lamerson. The motion passed unanimously.

Councilman Roecker MOVED to APPROVE the liquor license application from Eriko Horikawa, agent for Esoji, LLC, for a new Series 12, Restaurant, license for Esoji, to be located at 220 West Gurley Street, which was SECONDED by Councilwoman Suttles. The motion passed unanimously.

Ms. Horikawa explained they were opening a restaurant with Japanese food and would have a variety of specialty dishes.

**F. 2006 Tax Code Amendments:**

**1. Public Hearing.**

Budget/Finance Director Mark Woodfill explained there were four main amendments to the Model City Tax Code which were:

- Interest charged by City. The interest rate charged on delinquent balances would be changed from 1.5% per month to a floating interest rate set to the Internal Revenue Serviced short term interest rate plus 3%. The interest would also be compounded annually.
- Interest Paid by City. The City was required to pay interest on refund request at the same rate that the City charged on delinquent accounts. The interest would be paid from the date a valid refund request was received until the refund was paid.
- Refund Request. Currently a refund request required the taxpayer, who collected the tax from their customers, to show that the tax was returned to the customers. This change eliminates that requirement.

- Low Income Housing. Rent charged to low-income tenants was exempt from tax when the housing was restricted to tenants based on a maximum tenant income and the rent complied with federal low income housing rules.

Mayor Simmons added the Legislature made changes and they were reviewed by a Tax Code Commission and then were approved by the local municipalities.

Councilwoman Suttles MOVED to CLOSE the Public Hearing, which was SECONDED by Councilman Lamerson. The motion passed unanimously.

2. **Adopt Resolution No. 3785** – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, declaring as a public record that certain document filed with the City Clerk and entitled “*The 2006 Amendments to the City Tax Code of the City of Prescott, Arizona.*”

Councilwoman Suttles MOVED to ADOPT Resolution No. 3785, which was SECONDED by Councilman Roecker. The motion passed unanimously.

3. **Adopt Ordinance No. 4564** – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona relating to the Tax Code of the City of Prescott, Arizona; adopting “*The 2006 Amendments to the Tax Code of the City of Prescott, Arizona*” (which amends Sections 4-1-445, 4-1-540, 4-1-542 and 4-1-560, and amends Regulation 4-1-250.1) by reference and providing penalties for the violation thereof.

Councilwoman Suttles MOVED to ADOPT Ordinance No. 4564, which was SECONDED by Councilman Roecker. The motion passed unanimously.

- G. **Award a contract to Asphalt Paving & Supply, Inc. in the amount of \$59,852.50 for airport pavement improvements at Prescott Airport.**

Assistant Airport Manager Ben Vardiman explained the project was necessary to provide access for tenants to the runway.

Councilman Lamerson asked what would happen if the project wasn't done, was it a safety issue or due to growth. Mr. Kidd responded a lease had been around for a long time and originally both hangars were leased by one person and they rented one out, but then one hangar changed owners and they began to park equipment around the hangar and it blocked the path to the runway. Staff had tried to resolve the problem and concluded the best long term method was to make the improvements and

provide access for both hangars; the City would have been in breach of the contract as the lease allowed the renters to park things around the hangars.

Councilman Bell commented this item wasn't on the Study Session and Mayor Simmons replied it was an issue of time and needed to be put on the agenda quickly.

Councilwoman Suttles asked if all projects were going to be more money than the engineers estimate and Mr. Vardiman replied the bid was 28% above the estimated cost due the construction market and cost of materials, but with such a small contract, any variation can create a high percentage.

Councilman Lamerson MOVED to AWARD a contract to Asphalt Paving & Supply, Inc. in the amount of \$59,852.50 for airport pavement improvements at Prescott Airport, which was SECONDED by Councilman Bell. The motion passed unanimously.

Mayor Simmons announced at 4:30 p.m. the Council would take a short break and then recess into executive session.

The City Council reconvened and Councilman Blair MOVED to RECESS to Executive Session at 4:38 p.m., which was SECONDED by Councilman Luzius. The motion passed unanimously.

## **VI. EXECUTIVE SESSION:**

- A. Discussion or consultation for legal advice with the attorney or attorneys of the public body pursuant to A.R.S. Section 38-431.03(A)(3).
  - 1. Manzanita Grille.

## **VII. ADJOURNMENT**

The Prescott City Council reconvened Open Session and here being no further business to come before the Prescott City Council, Mayor Simmons ADJOURNED the meeting at 5:26 P.M.

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ROWLE P. SIMMONS, Mayor

ATTEST:

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ELIZABETH A. BURKE, City Clerk

**CERTIFICATION**

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Voting Meeting of the City Council of the City of Prescott, Arizona held on the 14th day of November, 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