

PRESCOTT CITY COUNCIL
REGULAR COUNCIL MEETING
PRESCOTT, ARIZONA
NOVEMBER 28, 2006

A REGULAR MEETING OF THE PRESCOTT CITY COUNCIL WAS HELD ON TUESDAY, NOVEMBER 28, 2006, in the Prescott Municipal Building, 201 S. Cortez Street, Prescott, Arizona.

Mayor Simmons opened the meeting at 3:00 P.M. and led 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

Manager Steve Norwood mentioned a public meeting would be held at the Abia Judd Elementary School on Thursday, November 30th from 6:00 to 8:00 P.M. to inform area residents of the final plans and traffic control plan for the Iron Springs Road project; Fann Construction would be in attendance and had been issued a Notice to Proceed to begin the project Monday, December 4. Also, a lot of activities were planned for the Christmas season in the downtown area -- the Christmas Parade and Courthouse lighting on Saturday, December 2, the Acker Musical Showcase on Friday, December 8, the Dickens of a Holiday on Saturday, December 9. The Holiday Light Parade had been held last Saturday.

Councilman Blair acknowledged the Prescott High School football team made it to the second round playoffs in the State high school finals.

Mayor Simmons thanked Mayor Pro Tem Roecker for presiding over the meeting last week while he went elk hunting (unsuccessfully).

I. PUBLIC COMMENT:

A. Shmaine Posey regarding rental rates at the Elks Opera House.

Ms. Posey read a prepared statement, Exhibit A attached hereto.

Councilman Bell asked if the group paid privilege tax to the City and it was determined they did not.

Councilman Luzius asked Ms. Posey to expand on her comment that there was a bad taste in the community for the theater and the city and Ms. Posey replied there were many individuals who tried to talk her out of using the Elks because the City didn't seem interested in putting any money into it and they were the only group to use it the first three years.

Councilwoman Suttles remarked the Elks Theater was to become a stand alone facility and the City had named a full time manager only a year ago; the City was trying to fix it up and needed to set a rate structure. She added there should be negotiating on both sides and asked if Ms. Posey had talked to anyone.

Ms. Posey replied she had discussions yesterday with the City Manager and Mic Fenech and there was a deal on the table; she had received some information today about 1-1/2 hours before the meeting that she hadn't been aware of and felt she had to come and defend her situation and explain all the things that were said.

Councilwoman Suttles added she hoped Ms. Posey would stay in negotiations with the City because what she did was very important; but she had to realize the City had to try to get the theater into usable shape.

Manager Steve Norwood explained staff realized the offer they sent the group was high and Ms. Posey knew the amount she had previously paid wasn't possible; in the past there wasn't a strong commitment to renovate the Elks Theater, but now the Council wanted it to be turned into an asset for the downtown; restroom and dressing room improvements had been made and the theater was much nicer today than it had been previously; a full-time manager was added last year and improvements cost money; there was an \$80,000 subsidy from the General Fund and Council had made it clear staff was to narrow that funding; as a result a new fee schedule was established and they had received very little objection to the new rates by other users of the facility.

Mr. Norwood continued that based on the fact that Ms. Posey had numerous local kids involved and she did programs at Prescott Unified School District she was offered a 25% discount, but the offer wasn't acceptable and she requested a 75% discount which staff was not comfortable with and that was the deal that was on the table mentioned by Ms. Posey. The discount had not been offered to anyone else.

Councilmembers and staff discussed other facilities in Prescott and rental prices, but the facilities were not comparable.

Mr. Fenech commented there were avenues Ms. Posey could explore, such as the Acker Trust that provided money for musical activities for children and they could be approached to assist Ms. Posey and possibly help her fund her productions; staff had also offered a number of ways she could reduce costs and he felt their fees were fair and staff wanted to work out the issues.

Councilman Roecker asked if Ms. Posey still owed \$600 as mentioned in staff's letter and Ms. Posey replied she had paid everything; Mr. Fenech clarified Ms. Posey paid the \$410 for ticket fees but there was \$150 in damages that were still outstanding.

Councilman Roecker added the letter mentioned she had asked mothers with children under five years old to sit in the balcony although she had been warned not to due to safety issues and Ms. Posey replied she had not gotten the warning and asked the mothers and young children to sit in the balcony because of the noise while they were trying to use the sound system which they had to provide themselves because the Elks Theater didn't have a sound system.

II. PROCLAMATIONS:

A. November 28, 2006 – *West Yavapai Guidance Clinic Day.*

Mayor Simmons read the proclamation and presented it to Larry Green, Debbie Horton, and Danny Brown.

Larry Green thanked the Council on behalf of the volunteer Board of Directors, 251 employees, the 6,000 people they served on an annual basis, and for the proclamation in honor of their 40th year of service to the community.

III. PRESENTATIONS:

A. Presentation to Mayor and Council by Arizona Skyfest '06.

Jane Lawler, Bill Rummer, Tom Parks, representing the Arizona Skyfest, came before the Council. Ms. Lawler explained the Arizona Skyfest was a signature event highlighting the City of Prescott and the Prescott Municipal Airport and attracted 25,000 spectators from Prescott, the tri-city areas, statewide and from neighboring states. The event was gaining national attention with award winning posters and a reputation for being a friendly place with an air show event. The 2007 Arizona Skyfest event would be held October 6 and performers actually contacted the organizers and requested to be in the show.

A poster was presented to Council in appreciation of their support and commitment to this event which was an economic benefit to the airport and city.

IV. CONSENT AGENDA:

Councilwoman Suttles MOVED to ADOPT the Consent Agenda, Items IV-A through IV-D, which was SECONDED by Councilman Blair. The motion passed unanimously.

- A. Ratify emergency procurement of a replacement 100KW generator for the Willow Lake Regional Wastewater Lift Station from Empire Power Systems in the amount of \$30,587.98.
- B. Approve acceptance of 410-federal grant funds in the amount of \$60,000.00 from the Governor's Office of Highway Safety to be used during the period of October 2006 through September 2007 for continued operation of the Tri-City DUI Task Force.
- C. Award bid for three communication towers to Communications Services Incorporated in the amount of \$288,660.00, plus tax.
- D. Approve Minutes of the Prescott City Council Joint Study Session/Special Meeting of November 7, 2006 and the Prescott City Council Regular Voting Meeting of November 14, 2006.

V. REGULAR AGENDA:**A. Appointments to Industrial Development Authority.**

Clerk Elizabeth Burke explained there were three terms that had expired and two of the members were interested in being reappointed and the third member could not be contacted; the request was to reappoint the two interested members and appoint the third member at a later date.

Councilman Blair asked Steven Burton to explain what the Industrial Development Authority did. Mr. Burton explained the IDA gave approval for a financing company to provide financing on a qualified bonding basis which made interest income to the financing party tax exempt. He gave as an example—if the interest rate was 8% and the tax rate to the financing company was 40% of that, they would basically provide financing for certain types of things on a tax free basis, so maybe they would get a 5 or 5-1/2% rate. The financing for the Prescott Resort was done under an exempt financing bond, Prescott College, and The Willows also went through the IDA. The local board sat as a steward for the city and heard the requests and made a recommendation to the City; they made sure the project was viable and the financing company credible; the City didn't have any risk of default in the financing relationship.

Councilman Bell MOVED to ACCEPT Council Appointment Committee recommendation to reappoint Steven Burton and William Hepburn to the Industrial Development Authority, terms to expire November 2012, which was SECONDED by Councilman Blair. The motion passed unanimously.

B. Public Hearing and consideration of a liquor license application from William G. Tracy, Agent for Dinner Bell Café, Inc. for a new Series 12, Restaurant, license for Bill's Place, to be located at 107 S. Cortez Street.

Clerk Elizabeth Burke explained today was the public hearing on an application for a liquor license for Bill's Place to be located at 107 S. Cortez Street; there had been a Series 12 license at this location for several years; the property was posted on October 31 and no comments had been received; the applicant was in attendance today.

Councilman Blair asked if the Clerk had reviewed the number of licenses in the downtown area and Ms. Burke replied there were 44 licenses in an area bordered by Marina Street on the East, Santa Fe Depot Marketplace on the North, Summit Street on the West, and Carleton Street on the South.

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

Councilman Roecker MOVED to APPROVE a liquor license application from William G. Tracy, Agent for Dinner Bell Café, Inc. for a new Series 12, Restaurant, license for Bill's Place, to be located at 107 S. Cortez Street, which was SECONDED by Councilman Blair. The motion passed unanimously.

Bill Tracy described his business as a pizza restaurant where they would have slices of pizza available for serving in two or three minutes, as well as other food dishes.

C. Authorization to enter into a construction contract with FCI Constructors, Inc. for the Fleet Maintenance Facility using the Construction Manager at Risk form of procurement, not to exceed the already-budgeted amount for construction and equipment of \$4,362,843.00, with a guaranteed maximum price of \$4,030,000 for construction.

Councilman Bell declared a conflict of interest as he had financial involvement in the project.

Administrative Services Director Mic Fenech explained the item was to authorize entering into a construction contract using the Construction Manager at Risk form of procurement; the contract was in a not to exceed \$4,362,843.00 format, with a guaranteed maximum price of \$4,030,000.

Councilman Blair supported the project and asked how the entire complex would look and Mr. Fenech replied they looked at the architecture of the Public Works building and designed the Fleet Maintenance building to have a cohesive look and the cul-de-sac would look like it belonged together.

Councilman Blair MOVED to AUTHORIZE entering into a construction contract with FCI Constructors, Inc. for the Fleet Maintenance Facility using the Construction Manager at Risk form of procurement, not to exceed the already-budgeted amount for construction and equipment of \$4,362,843.00, with a guaranteed maximum price of \$4,030,000.00 for construction, which was SECONDED by Councilwoman Suttles. The motion passed unanimously 6-0 with Councilman Bell abstaining.

- D. Adoption of Resolution No. 3786 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, urging the securing of our borders against foreign terrorists and illegal aliens, and encouraging and endorsing the enactment of effective illegal immigration legislation designed to effectively stop further illegal immigration and to reduce and eliminate the substantial numbers of people who are present within our national, state and local borders illegally.**

Attorney Gary Kidd explained the resolution dealt with illegal immigration and Section 1 urged the Federal Government to secure the U.S. borders from the flood of illegal immigrants, criminals and terrorists; Section 2 related to not granting amnesty to illegal aliens, enforce immigration laws, and remove illegal aliens from the U.S., the State of Arizona and the City of Prescott; Section 3 related to the joint cooperative efforts to secure the State borders and the borders of the City of Prescott, and asked for legislation to clearly authorize the State of Arizona and City of Prescott to enforce existing immigration laws, including laws pertaining to illegal presence, social security and related federal benefits fraud and laws regulating illegal aliens in the workplace including illegal hiring; and Section 4 urged the Federal Government to pass laws to give local and state agencies the ability to enforce laws and to provide funding and resources to assist local and state agencies in their enforcement efforts.

Councilman Lamerson said he supported the resolution and supported the Council sending the resolution through the Legislature, to the Speaker of the House, to local agencies, to the Governor and Federal agencies as written.

(Colonel) Albert F. Rodriguez, provided Council with information, attached hereto as Exhibit B.

Colonel Rodriguez said he represented the Veterans for Secure Borders, which Bob Park was part of and he was also the founder of Don't Speak for Me; he was retired U.S. Military and thanked the Council for allowing him to speak; he

concluded saying the American/Hispanics believed in the resolutions and the ballot measures.

Sister Ann Fitzsimmons, 229 N. Summit, said she had to leave last week before the resolution was discussed and wanted to discuss the language in the resolution; she objected to the language saying it contained exaggerations and generalizations, gave the impression that all who were here illegally were criminals and terrorists and committed rapes, were drugs users or dealers, etc. She said it was true that some did do these things but most that came legally or illegally were not criminals; most wanted to support their families; she requested Council pass a resolution that excluded the exaggerations and generalizations and stated viable statistics and true facts.

Lou Smith, 2102 Stringfield Drive in Yavapai County (but owned property in the City of Prescott), suggested the Council pass the resolution as written or make it even stronger and commended Colonel Rodriguez for providing statistics on the criminal activity of illegal aliens; they were criminals because they broke the law to get into the United States; the resolution shouldn't be watered down and it might get politicians up and moving into action.

Councilman Blair remarked if he was pulled over by a police officer they would ask to see his license, registration and insurance but they weren't allowed to ask an illegal alien anything.

Mayor Simmons acknowledged the presence of Representative Lucy Mason and Representative-Elect Andy Tobin in Council Chambers.

Bob Park, 4870 Butterfly Drive, remarked the police could enforce any law on the books and they could and should be asking about citizenship when they arrested someone; he left information for the Council this morning and hoped they would look through it.

Representative Lucy Mason, 13 N. Woodridge Circle, commented from the State perspective they wanted to hear the concerns Prescott had and it needed to be an honest format of what they were directly dealing with on a daily basis and that would be helpful in building the laws; she was very concerned about the criticism that the State was not taking any action regarding illegal immigration and wanted residents to know the Legislature worked diligently last year on the issue which was very complex. They had worked on them day and night, months on end, and would continue to do so; the Legislators needed to be support and asked the Council to provide information relevant to Prescott, such as what it cost the city for the incarceration of illegal aliens; what were the costs to the educational system; what were the budget implications.

Ms. Mason continued there had to be a cohesive plan with the Federal Government and Arizona voters had spoken up at the last election and let the State know what they wanted. The Legislature had been working with

Congressmen Rick Renzi and John Shadegg, and Senators John McCain and Jon Kyl on what made sense between the State and Federal governments; the resolution was important and hoped other council's around the state would follow Prescott's example and let the Legislature know of their concerns and thanked the Council for letting her speak today.

Mayor Simmons suggested attaching a letter to the resolution to provide information from the hospital and school district regarding impacts on them.

Councilman Luzius read the following –

"In the first place, we should insist that if the immigrant who comes here in good faith becomes an American and assimilates himself to us, he shall be treated on an exact equality with everyone else, for it is an outrage to discriminate against any such man because of creed, or birthplace, or origin. But this is predicated upon the person's becoming in every facet an American, and nothing but an American... There can be no divided allegiance here. Any man who says he is an American, but something else also, isn't an American at all. We have room for but one flag, the American flag... We have room for but one language here, and that is the English language... and we have room for but one sole loyalty and that is a loyalty to the American people." Written by Theodore Roosevelt, 1907

James Quinlan, 126 N. Summit Street, said statistics by themselves were dangerous, misleading and not informing and it had been stated today that 12 people were killed every day by illegal aliens; what Lucy Mason was asking Council for was to make sure to state what Prescott was contending with and no statistics about Prescott had been presented -- how many illegal aliens were in the City; what percentage had committed a crime and how did that measure against other segments of the population; there were no statistics available; the resolution was based on generalities, not facts, and he wondered if there was any information the Council had on how Prescott was impacted and how illegal immigrants compared with overall statistics; crime wasn't invented by illegal aliens, crime was crime and he would like to see something that made sense.

Mayor Simmons remarked there had been one murder recently and that was one too many.

Councilman Luzius added illegal aliens, illegal immigrants, undocumented people had committed a crime by just being here; he was the son of immigrant Irish/Scottish people and they went through Ellis Island and did all the paperwork and became legal citizens.

Representative-Elect Andy Tobin applauded the Council for taking steps to create a resolution and agreed with what Representative Lucy Mason said and asked the Council to give them specific direction; the Federal Government had failed and there was a sense of frustration among the citizens and they wanted something done; the Prescott City Council had stood up and said it was their job,

too. He supported the Council and the resolution; drug and crime were involved and he hope the residents of other cities would do the same thing and the League of Cities should be involved; he intended to stand up for Prescott.

Susan Perkins, 320 N. Mt. Vernon Avenue, commented she supported the resolution; she noted that when police officers had to take time to address issues regarding illegal aliens and crimes they were committing it took away from the protection and safety of legal citizens; the police department was down 17 police officers and the rest of the officers had to take the time to figure out whether a person was legal or illegal; the Federal Government needed to understand that people should be allowed to come, but should be legal.

Sister Fitzsimmons said she knew one person who had applied over and over again for citizenship and still hadn't been able to become citizen; it was very difficult for a person to become legal.

Jerry Brady, 1990 E. Shirley Lane, said that on November 15 President Bush gave a 30 day notice that local sheriff's would be authorized to enforce laws -- immigration offenses, legal or illegal aliens could be apprehended and detained until proper forms in place and that would be effective December 15.

Mr. Brady continued regarding insurgency activity in Yavapai County which was known to the U.S. Department of Dense since 1995 and an al-quaida connection since the late 1800s.

Attorney Gary Kidd read the following letter from Phil King (ex-Councilman):

November 26, 2006

Dear Friends:

Only a rare and significant occasion moves me to expound a public position regarding a proposed action of Council. While, as you know, I am not without opinions, in the past, it has been more seemly to express those privately and individually. Given the expressed, confused and baseless opposition to Council's proposed resolution this public expression of encouragement and support seems warranted.

With consideration of this current resolution, Council finds itself in good and proper company with such lights as Thomas Sowell, Victor Davis Hansen and indeed Linda Chavez. The proposed resolution correctly identifies three overlapping concerns: illegal aliens, criminals and terrorists. While not congruent it nonetheless remains true that many illegals commit criminal acts – the courts are full of such --- that many criminal enterprises easily cross our borders and that terrorist organizations find that porous border inviting. Simply reference the Spanish speaking Iraqi apprehended near Nogales. One doubts that his intentions were benign.

America traditionally has, and will continue, to welcome those who seek succor on our shores. Such add, through their diligence and efforts to advance and assimilate, to our national strength and vitality. The proposed resolution reflects not immigrant bashing but rather the proposed resolution represents a proper and dignified exercise of the right, indeed the obligation, to petition for redress of grievances. As such the efforts of Council to communicate these grievances to State government should be applauded by Prescott Citizens.

Long past is the time for debate or wordsmith. Now the time for action has come. Courage has many names and takes many forms. I thank you for yours and urge the unanimous adoption of the instant resolution. Sincerely, Phil

Councilman Luzius MOVED to ADOPT Resolution No. 3786, which was SECONDED by Councilman Lamerson. The motion passed unanimously.

E. Appointment of Mayor Pro tempore.

Councilman Roecker mentioned he had served as Mayor Pro Tem for the past year and MOVED to APPOINT Jim Lamerson as Mayor Pro tempore for a term of one year, starting tomorrow, which was SECONDED by Councilman Luzius. The motion passed unanimously.

F. Recess into Executive Session.

Councilman Blair MOVED to RECESS into Executive Session, which was SECONDED by Councilman Lamerson. The motion passed unanimously.

VI. EXECUTIVE SESSION:

A. Discussion or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee or employee of any public body, except that, with the exception of salary discussions, an officer, appointee or employee may demand that the discussion or consideration occur at a public meeting. The public body shall provide the officer, appointee or employee with written notice of the executive session as is appropriate but not less than twenty-four hours for the officer, appointee or employee to determine whether the discussion or consideration should occur at a public meeting pursuant to A.R.S. Section 38-431.03(A)(1)

1. Annual evaluation of City Clerk Elizabeth Burke.

VII. POST EXECUTIVE SESSION:

A. Consider annual salary for City Clerk Elizabeth Burke.

Councilman Bell MOVED to AUTHORIZE an annual salary of \$74,256.00 for City Clerk Elizabeth Burke, effective October 31, 2006, which was SECONDED by Councilman Luzius. The motion passed unanimously.

VIII. ADJOURNMENT

There being no further business to come before the Prescott City Council, Mayor Simmons ADJOURNED the meeting at 4:47 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 Regular Voting Meeting of the City Council of the City of Prescott, Arizona held on the 28th 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