

PRESCOTT CITY COUNCIL  
REGULAR COUNCIL MEETING  
PRESCOTT, ARIZONA  
DECEMBER 12, 2006

A REGULAR MEETING OF THE PRESCOTT CITY COUNCIL WAS HELD ON TUESDAY, DECEMBER 12, 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 Lamerson 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

Mayor Simmons announced Assistant to the Manager Laurie Hadley had finished her Masters Degree at NAU yesterday after six years of hard work.

**I. PUBLIC COMMENT**

**A. James Oleary – Public safety re stop light installation.**

Mr. Oleary thanked Councilmen Lamerson and Roecker for helping him get a project accomplished relating to the traffic control device at The Crossings on Willow Creek Road; it had come to his attention three years ago that a light would be put there and the developer had contributed the infrastructure and a \$50,000 contribution to the cost of the light. The traffic warrant system was used to decide when and if a light was needed in a particular area and he thought the criteria should be reviewed as the warrant depended on the number of accidents and number of vehicles using the roadway.

Mr. Oleary urged Council to see that development fees were used quickly and review the warrant system; the public works department bid for putting in the light was very high and he knew of another city that put in their own lights and saved a lot of money and maybe Prescott could do the same

and the public works department did a fantastic job putting in this particular light.

Councilman Blair added Ken Sarvis and his crew did a great job and it was a huge savings to the City.

## II. PRESENTATIONS

### A. **State Representative Lucy Mason re her recent appointment as Chairman of the State Legislature's Water and Agriculture Committee.**

Representative Lucy Mason explained she was recently appointed as Chairman of the Water, Agriculture and Energy Committee and

- the rest of the members had not yet been appointed;
- they would discuss many issues including a variety of water issues;
- in the last three years the Legislature had passed 25 bills on water issues that made it into law and that was a large number;
- encouraged Council to bring concerns and issues to her on her cell phone, to stay aware of the legislation as it went through the committee process and let her know how the proposed bill might affect Prescott, positively or negatively;
- the committee would be working Senator John McCain about what they should be doing in District 1, with Verde Valley and the Big Chino basin as some of it came under Federal jurisdiction;
- there needed to be a cohesiveness between the Federal, State and local jurisdictions;
- the committee process would be open and public;
- she encouraged the various water groups in this area to get together and have discussions as they were all working on many of the same issues and she would be happy to facilitate those meetings and encouraged Council to participate in them.
- Prescott's issues would be discussed in the committee, as would other areas because the committee needed to hear all the issues from all around the state;
- she requested the attorney to scrutinize the bills to make sure they were worded appropriately to accomplish their intended goal.

Councilmembers said they were pleased she was the Chairman of the committee and would be available to them and thanked her for attending today's meeting.

**B. Presentation to the City Council by Brianna Vicente, Prescott High School Junior Class Student Council Vice President.**

Brianna Vicente explained her idea of having a party and the guests bringing one unwrapped toy to be given to underprivileged children at Christmas; her classmates heard about the idea and brought her toys even though they were not attending the party and it was her dream to make this a statewide and even national event. She said that she hoped to one day start the Brianna's House for Kids where kids would have a place to go, enough to wear and enough to eat; she thanked her classmates and teachers and presented Council with over 200 toys for needy children.

**C. Presentation by Prescott Area Coalition of Tourism.**

Gary Edlebrock mentioned lodging tax revenues were up 67% since PACT had managed the program, and up 14% from last year; this was better than the State or the County did; they had been recognized by Best Practices and it couldn't have been done without Council support; PACT had received funding from the City (½ of the amount collected from the bed tax) and other sources.

John Luetz, marketing chair, added paid ads, public relations and other promotional elements had paid off; they were using many media sources to such as press releases, a calendar of events, brochures, a website that had over 305,000 visitors, and these had all helped increase bed tax funds; Prescott was a distinctive destination.

Susan Schepman explained how they used partnerships to leverage the available resources, such as sharing the costs of ads with groups like Frontier Days Rodeo, Yavapai College, and the Yavapai Prescott Indian Tribe.

**D. Presentation by Big Brothers Big Sisters.**

David Seigler and Susan Stewart-Rickelman made a short presentation regarding the Big Brothers Big Sisters organization which was started in Prescott in 1971 and many matches had been made since that time; statistics showed 39% of kids in this program were less likely to get into trouble, 46% were less likely to use drugs; this was the first time in 35 years they had more boys waiting for a big brother; there were 291 boys on the list currently; they needed people to step up for a couple hours a month to help out; they had many programs, such as high school kids that mentored younger ones and the Cops for Kids program and Council was encouraged Council members to be leaders and show the community that the Councilmembers wanted to have an impact on the next generation.

Mayor Simmons recognized Representative-Elect Andy Tobin as being present.

**E. Presentation on FY2006 CAFR (Comprehensive Annual Financial Report) & Bond Rating.**

Budget/Finance Director Mark Woodfill gave a short presentation regarding the annual financial report for Fiscal Year 2006 ending June 30, 2006, which was the official audited financial state for the city and included an introduction, a financial section and a statistical section; it was not a budget projection or efficiency or effectiveness report. Copies were available at the Clerk's office, in the lobby of City Hall, at the Public Library and on the city website; it was also available on disk.

Mr. Woodfill concluded saying there was other good news recently that the City had improved their credit rating from A to A+ and that had been upgraded to AA which would be helpful when new debt was issued in the future, and improving the City's credit rating had been a Council goal.

**F. Presentation by City Manager of Raving Fan Awards to Library employees**

Manager Steve Norwood explained the City started a new program a year ago to commend City employees who perform above and beyond their job duties and thanks to library employees the grand reopening of the Prescott Public Library went very smoothly; a letter of recognition would be placed in their personnel file, they would receive a copy of the Raving Fan book, and receive a certificate to a local restaurant.

Recreation Services Director Jim McCasland mentioned how staff had moved everything out of the library for the expansion project, operated out of various facilities around Prescott, and then moved everything back in and recognized Library Network (computer), Cory Christians, Charles DeMarco, Kathy Hellman. General Library staff – kept library services going – Russ Miller, Roger Saft, Sharon Seymour, Bob Toland, Teresa Vonk, Lisa Zierki. He said that these people make everyone look good.

**G. Intro of new police department employees**

Chief Randy Oaks said they were aggressively recruiting employees because they were shorthanded and introduced eight new members of the Prescott Police Department. They were Penny Khalifeh, records clerk; Ted Roluffs, Community Service Work Program Monitor; Officers Christopher Porras, Randy Workman, Chad Langley, Douglas Hawk, Andrew Meyers and Robert Coker. There were still ten vacancies and they had seven people ready to start the Police Academy in January.

### III. CONSENT AGENDA

Councilwoman Suttles MOVED to APPROVE the Consent Agenda, Items A through F, which was SECONDED by Councilman Lamerson. The motion passed unanimously.

- A. Approve contract with AppleBee Roofing for roof repair services in an amount not to exceed \$30,988.53.
- B. Approve acceptance of a Homeland Security Grant in the amount of \$87,800.00 for all hazards preparedness.
- C. Authorize entering into a contract with Wil and Deborah Baril (Café Libre) for the purpose of providing coffee and refreshment services at Prescott Public Library.
- D. Adopt Resolution No. 3787 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the City of Prescott to enter into an amendment to Intergovernmental Agreement #03-087 with the Prescott Unified School District (PUSD) for maintenance and use of certain properties belonging to PUSD and the City of Prescott to provide for joint maintenance of that certain property commonly known as the Community Nature Center and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.
- E. Approve purchase of vehicles listed in the Council Memo dated November 29, 2006, (eleven vehicles in total) through the Arizona Counter Drug Procurement 1122 Program for an amount of \$240,179.39.
- F. Approve Minutes of the Prescott City Council Special Meeting of November 21, 2006 and the Prescott City Council Study Session of November 21, 2006.

### IV. REGULAR AGENDA

- A. **Adoption of Resolution No. 3790** - A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the City of Prescott to amend Development Agreement No. 05-238 with Lowe's HIW, Inc. by approving the First Amendment to Economic Development Agreement, which is attached hereto and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.

Economic Development Director Jane Bristol explained the Legal Department and staff had fine-tuned the addendum and the highlights were:

- Lowe's was required to open the store in 24 months of receiving all permits and approvals.
- Total reimbursed costs were changed to \$5 million maximum; costs being public improvements that would benefit Prescott for many years.
- City would be reimbursed 100% if the store was not opened.
- The section on "force majeure" included a timeline for governmental approval of permits.
- The agreement served as a notice of lien against the property by the City. If Lowe's closed the store before the revenue from the store equaled the public investment, Lowe's would reimburse the City the difference between revenues received and infrastructure investment.

A new cost benefit analysis was handed out before the meeting today and Public Works had provided a memo answering questions that came up last week regarding sewer and water to Prescott Canyon Estates and ADOT financial participation.

Ted Anderson, Lowe's project manager, explained how they came up with the estimate of \$5 million and said they had used competitive bidding in October to come up with the estimate.

Councilman Blair asked if they would be looking at local contractors to work on the project and Mr. Anderson responded there would probably be local companies involved in the project.

Councilman Lamerson remarked the highway circumstances bothered him; Highway 69 needed to be fixed whether Lowe's went in or not and Councilwoman Suttles asked Mr. McConnell to respond to that and to the Prescott Canyon Estates water and sewer situation.

Mr. McConnell replied Prescott Canyon Estates was in the county but adjacent to the Lowe's site and it had been determined it was on city water and would benefit from the placement of a new water reservoir on property above them; there would be a greater quantity of water and City fire hydrants existed in the subdivision; they were also on city sewer but that would not change much; Highway 69 was in need of improvements and ADOT was working on widening the corridor from Cordes Junction to the intersection of Highway 69/89 in Prescott.

Councilwoman Suttles said she welcomed Lowe's to the community and hoped to see groundbreaking in January and an opening by next Christmas.

Mr. Anderson said Lowe's had worked with city staff, the Council, ADOT, and the State and he felt it was just the beginning of many new businesses along that corridor.

Councilman Blair asked if the Council would see color pallets or anything and Mr. Guice replied those were shown to Council when the development agreement was presented.

Councilman Luzius remarked they could hardly call \$2 million a small amount of money and it hadn't been the City's fault prices had gone up and he could not support raising the amount to be reimbursed.

James Knochel, 112 W. Whipple Street read from an article about Home Depot and how their sales had slowed down due to the slowdown in home sales; he was concerned for the small stores like True Value and Foxworth Galbraith; there already was a Home Depot and he asked why did Prescott need a Lowe's.

Councilman Blair asked to take out the word "First" amendment because it sounded like more were to come and MOVED to ADOPT Resolution No. 3790 (as amended), which was SECONDED by Councilwoman Suttles. The motion passed 6-1 with Councilman Luzius casting a NAY vote.

- B. **Public Hearing and consideration of a liquor license application** from Fady Masri, Agent for A & N Arizona Enterprises, Inc., for a new Series 10, Beer and Wine Store, license for **Prescott Quick Stop** located at 447 S. Montezuma Street.

Clerk Elizabeth Burke reported today was the public hearing on a liquor license application for Prescott Quick Stop; it wasn't a new license but a Series 10 could not be transferred and was referred to as a new license, it was a new agent and they were required to get a new license; the property was posted and no comments had been received.

Councilman Blair MOVED to CLOSE the public hearing, which was SECONDED by Councilman Lamerson. The motion passed unanimously.

Councilman Lamerson MOVED to APPROVE a liquor license application from Fady Masri, Agent for A & N Arizona Enterprises, Inc., for a new Series 10, Beer and Wine Store, license for Prescott Quick Stop located at 447 S. Montezuma Street, which was SECONDED by Councilman Roecker. The motion passed unanimously.

- C. **Public Hearing and adoption of Resolution No. 3788** – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, amending the General Plan Land Use Map pertaining to that certain property located on the Southeast corner of Willow Creek Road and Pulliam Drive described as Parcel No. 116-15-011A, Lot 1, Oak Knoll

Second Subdivision from Residential to Mixed Use in the City of Prescott. (GP06-001) (2069 Willow Creek Road/Hepburn)

Community Development Director Tom Guice explained the public hearing was continued from last week and he had no additional information to present.

Councilman Luzius was concerned about creating a bottleneck on Pulliam Drive and asked if the developer would give the City an easement of a small portion of the property to alleviate the problem; it was less than 100 feet from Willow Creek Road and he would vote against it unless the developer made that concession.

Mr. Guice remarked this would be brought back as a request to rezone the property and that would be a more appropriate time to discuss and negotiate Mr. Luzius' request.

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

Councilman Roecker MOVED to ADOPT Resolution No. 3788, which was SECONDED by Councilman Blair. The motion passed 6-1 with Councilman Luzius casting a NAY vote.

- D. **Public Hearing and adoption of Resolution No. 3789** – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, amending the General Plan Land Use Map pertaining to that certain property located adjacent to Willow Creek Road and south of Flora Street described as Parcel No. 116-17-270B, consisting of approximately 2.3 acres along the western portion of said parcel from Low-Medium Density Residential to Commercial within the City of Prescott. (GP05-004) (Boulders Office Park/First Assembly of God of Prescott Church)

Community Development Director Tom Guice said he had no new information to present today.

Councilman Blair clarified this item was a General Plan amendment and not about rezoning the property and Mr. Guice verified if the General Plan amendment was approved today it would come back January 16 with a rezoning request and preliminary plat.

Councilman Blair wanted to proactively rezone the church properties on Willow Creek Road at one time and he supported approving the amendment today. He said that people had to know that the overlay district placed a 300 foot commercial corridor on both sides of Willow Creek Road.

Mr. Guice explained the site was designated as Low-Medium Density Residential on the 2003 General Plan, and the Willow Creek Corridor Overlay District was approved in 1997 before the widening of Willow Creek Road.

Councilman Lamerson asked if the property owners were notified of the commercial overlay and Mr. Guice replied public notification was extensive and the overlay committee included people living or working in the area.

Councilman Roecker agreed with the concerns of the citizens and commented if the Council approved the General Plan amendment today to place commercial on the land use map and then on January 16<sup>th</sup> a supermajority vote failed on the rezoning request the property would end up still being SF-9 so what he asked why they should approve it today. to Mr. Guice replied if the General Plan Land Use Map was amended today to show commercial uses and the rezoning failed in January, another Council could consider commercial uses and it would be in compliance with both the General Plan and the Overlay District.

Mr. Roecker commented that put the citizens in limbo and it should be turned down today.

Councilman Blair tried to explain that approving the amendment didn't give the church the right to do anything on their property; there would still be many issues to resolve and it needed a master plan, traffic analysis, ingress/egress, etc., and approving the General Plan amendment would be good planning.

Councilman Luzius read the following taken from the General Plan, Section 4.4 Balancing Community Values: "Business development, neighborhood and environmental protection efforts will at times conflict. The challenge lies in the choices and tradeoffs the community must make when values conflict. In making these conscious community choices and tradeoffs, community wide interests and benefits will be primary criteria for resolving the conflict. When considering neighborhood conflicts not of a community wide impact, the concerns of the neighborhood will be the primary consideration." He wanted to see this defeated today.

Councilman Lamerson remarked people voted for the General Plan and it was designated Residential Office.

Councilman Bell said he looked at the property on Sunday and couldn't imagine single-family residential homes across from Walgreen's and Chili's; this was a commercial corridor and he supported the amendment.

Stan Hitson, representing the owners (Church) and Michael Taylor Architects, referred to the quote from the General Plan and said this was a

community-wide concern because of its intended use as medical offices; he had a letter from Kevin Keighron from Yavapai Regional Medical Center and they recruited physicians based on the City's population; more physicians would be needed as the population increased and they would be looking for office space and this property was in close proximity to the hospital; 44 property owners object, but the property was owned by the church congregation of over 200 members; it met the Willow Creek Road Corridor plan goals as being a major arterial, to function as a commercial corridor and to develop properties that would enhance the corridor.

Mayor Simmons asked him to stay on the topic of the General Plan Amendment and the project would be discussed at the time the rezoning request was presented.

Mr. Hitson responded his comments were in support of the land use and the parcels were designed to be dealt with separately; it was an ideal project for the property and urged Council to consider the General Plan Amendment change.

Councilman Lamerson said when the City put an overlay on private property without the owners' permission it was the same as a taking and he couldn't support the amendment.

John McCutcheon, 825 Flora Street, read a statement and urged Council to vote against the amendment; there were overwhelming objections to the project and it was Council's responsibility to follow the guidelines of the General Plan; this did not have a community-wide impact; Prescott Heights Subdivision was on three sides of the property; the church was given a Conditional Use Permit in 1988; he urged Council to leave the property zoned SF-9 and let it develop under that zoning and improve Solano Drive out to Willow Creek Road; to consider the concerns of the neighborhood and keep the residential neighborhood intact.

Mr. McCutcheon concluded saying it had taken a lot of time to reply to the challenges of this project and asked the Council to defeat the General Plan amendment today and retain the SF-9 zoning which was best for the neighborhood.

Mayor Simmons asked how long this had been going on and Mr. Guice replied one year.

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

Councilwoman Suttles MOVED to ADOPT Resolution No. 3789, which was SECONDED by Councilman Bell.

Councilwoman Suttles clarified they would only be changing the General Plan Land Use Map and Mayor Simmons replied that was correct and would show the church property as part of the commercial overlay; if it passed, the church would have to come back with a rezoning request and because of the neighborhood objections a supermajority vote would be required.

The motion passed 4-3 with Councilmen Luzius, Roecker and Lamerson casting NAY votes.

**E. Public Hearing on annexation of .927 acres owned by Williams, Hollyer and Woods, located west of White Spar Road at Peterson Lane, with R1L-12 County zoning (APN 107-09-017A, 107-09-017B and 107-09-013A). (ANX06-001)**

Community Development Director Tom Guice explained today was the public hearing on an annexation of less than one acre located at Peterson Lane and Valley View Road and was at the request of Ron Williams; Mr. Williams had come to Council regarding having been assured he could get water if he purchased the property and then the City amended the water policy and he was told he could get only one meter. His only option was to be annexed into the city. The ordinance would come to Council at the end of the 30 day public notice period.

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

**F. Public Hearing on annexation of 9.7 acres of City-owned land located north of Limberlost Lane and south of Clubhouse Drive, with R1L-12 County zoning (APN 107-04-038 and 107-04-039). (ANX06-003)**

Community Development Director Tom Guice explained this was a 10-acre parcel donated to the city and known as the Boyle/DeBusk property and the City initiated the annexation process to bring the property into city limits.

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

**G. Recess into Executive Session.**

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

The meeting recessed into Executive Session at 5:00 P.M.

**V. 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 Magistrate Arthur Markham.
- 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. Section 38-431.03(A)(4)
1. Home Builders Association of Central Arizona v. City of Prescott; Town of Prescott Valley.

The meeting reconvened Open Session at 5:48 p.m.

**VI. POST EXECUTIVE SESSION**

- A. Consider annual salary/employment agreement for City Magistrate Arthur Markham.

Councilman Roecker MOVED TO APPROVE a two-year contract with City Magistrate Arthur Markham, in the amount of \$60,050.00 for the 2007 calendar year, with a four percent increase commencing January 2, 2008, authorizing the change from an employee contract to an independent contractor contract, and authorizing the Mayor and staff to prepare all necessary documents, which was SECONDED by Councilman Lamerson. The motion passed unanimously.

**VII. ADJOURNMENT**

There being no further business to come before the Prescott City Council, Mayor Simmons ADJOURNED the meeting at 5:50 P.M.

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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 12th day of December, 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