

PRESCOTT CITY COUNCIL  
COMBINED STUDY SESSION AND  
REGULAR COUNCIL MEETING  
PRESCOTT, ARIZONA  
JANUARY 9, 2007

A COMBINED STUDY SESSION AND REGULAR MEETING OF THE PRESCOTT CITY COUNCIL WAS HELD ON TUESDAY, JANUARY 9, 2007, in the Prescott Municipal Building, 201 S. Cortez Street, Prescott, Arizona.

Mayor Simmons opened the meeting at 3:00 P.M. and asked Councilwoman Suttles to lead the Pledge of Allegiance. Councilwoman Suttles presented a Boy Scout group who then 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 announced Recreation Supervisor Don Fishel was recently appointed as a Commissioner to the State Softball Association and he would be selecting the cities that would host tournaments, he trusted Mr. Fishel would make wise decisions as to a preferred location; and this was a lifelong appointment.

Mr. Fishel explained previously there were two associations, each with their own commission; both commissioners had retired and the state decided to merge the two associations.

Mayor Simmons asked how it was decided where tournaments would be held and Mr. Fishel replied there were many key officers that would be helping throughout the state and they would all be making the decision; they tried to balance factors such as weather and the fields.

Councilman Blair commended the contractor and city staff on the Iron Springs Road project, stating that things seemed to be in good hands. Mayor Simmons added he also had people stop him and tell him the same thing.

Mayor Simmons added today was the groundbreaking for the new Lowe's store on Highway 69.

## **I. PUBLIC COMMENT**

### **A. Thomas Arnold re surface water pollution and riparian health.**

Thomas Arnold, 544 Dameron, made a presentation regarding the contamination and quality of surface water and riparian health, stating the situation was worsening. He said the contamination came from water runoff, wells, and sewer lines. He was conducting research in the creek behind his residence and he proposed to volunteer his services to clean up the water by planting native plants and if it cleaned up the water he would like to try it in other parts of the creek system.

Manager Steve Norwood suggested he continue working with Park Maintenance/Trails Supervisor Eric Smith and Recreation Director Jim McCasland.

## **II. PRESENTATIONS**

### **A. Presentation on Citizen's Police Academy.**

Sergeant Ben Scott gave a brief presentation regarding the Citizen's Police Academy. The program consisted of eight four-hour blocks of instruction and included information on police ethics, a tour of the police facility, the hiring process, Silent Witness program, crime prevention, traffic and DUI enforcement, investigations, PANT, SWAT, DARE and the School Resource Officer programs, property and evidence, the K-9 program and MILO lethal/non-lethal scenarios. There was a graduation ceremony upon completion of the program and it gave the participants a first-hand look at the Police Department and fostered a relationship between the department and the community. Anyone interested could call the Police Department and fill out an application form.

Bill Bonowitz was introduced as a recent graduate of the Citizen's Police Academy and he said it was extremely informative and gave participants a better idea of what the police officers duties were.

Councilman Bell commented he was a member of the Citizens on Patrol program and they were able to provide assistance to police officers and to do jobs that freed the officers up to do other more important jobs, and many put in more than four hours a week.

**B. Presentation on Job Order Contracting Process & Projects Summary.**

Engineering Services Director Mark Nietupski explained the City of Prescott was a member of the Mohave Educational Services Cooperative which was a non-profit entity providing public procurement services; job order contracting was a project delivery method which included minor construction, repair, rehabilitation and alteration services. The benefits of job order contracting included expedited procurement, design/build options, fewer change orders and local contracting community participation in the project. MESC has awarded two master contracts who are licensed general contractors, 3D/International and Centennial Contractors Enterprises who were selected through a qualification process. Prescott can use either contractor and the City and the contractor define and agree on the scope of the project and then determine the cost by applying the coefficient (.83 for this area) to the appropriate units in the Unit Price Book. A purchase order is then issued for the project, following Council approval is required.

It was noted that statutory restrictions limited how much a city could do themselves in construction projects. Mr. Nietupski showed a list of scheduled crew activities for the third and fourth quarters of 2007 for the Streets Division.

Mr. Nietupski concluded saying job order contracting was new to Prescott and was a new method of accomplishing a project and was gaining in popularity. Many local firms are used as subcontractors and other businesses benefit as well.

**III. REGULAR AGENDA**

**A. Public Hearing and consideration of a liquor license application from Gerard Russell St. Gelais, Agent for PPLD, L.L.C., for the Person and Location Transfer of a Series 9, *Liquor Store*, license for Park Plaza Liquor and Deli to be located at 402 West Goodwin Street.**

Clerk Elizabeth Burke explained today was the public hearing for a liquor license application for the Park Plaza Liquor and Deli, to be located at 402 West Goodwin Street; the license would be transferred from the Goodwin Street Pharmacy to this location across the parking lot; the previous business had been a liquor store; the property was posted December 4 and one protest had been received; the applicant was in attendance.

Councilman Lamerson clarified the liquor license was being moved from Goodwin Street Pharmacy to the Park Plaza Liquor and Deli location across the parking lot and asked if there were any legal grounds to say no

as the new location had been a liquor store for many years previously (Prescott Liquor Barn). Attorney Gary Kidd replied the Council could look at several criteria in making a decision such as the impact on the neighborhood and whether the public convenience would be served; however a denial might not be upheld due to there being no violations with the current license location and it being transferred to another location that had a license for many years.

Councilman Lamerson clarified only packaged alcohol would be sold and Mr. Phillips replied that was correct and Councilman Lamerson explained he was concerned about the serving of alcohol within the business.

Mayor Simmons commented this seemed to be a good addition to the area and would be a first-class operation.

Councilman Luzius remarked he had discussed this application with Attorney Kidd and had told him he wanted to abstain from voting and send the application back to the State Liquor Department. He was concerned that there were an increasing number of stores in that location and he realized Mr. Phillips and family had the right to move the license and asked if Mr. Phillips sold beer, wine and liquor at the Pharmacy and Mr. Phillips responded they sold only beer and wine. Mr. Phillips then gave a brief history of liquor establishments in the area and concluded saying there actually were less businesses selling alcohol than years ago.

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

Councilman Blair MOVED to RECOMMEND APPROVAL of a liquor license application from Gerard Russell St. Gelais, Agent for PPLD, L.L.C., for the Person and Location Transfer of a Series 9, *Liquor Store*, license for Park Plaza Liquor and Deli to be located at 402 West Goodwin Street, which was SECONDED by Councilwoman Suttles. The motion passed unanimously.

**B. Public Hearing and consideration of a liquor license application from Audrey Maria Orefice, Agent for G & O Enterprises, Inc., for a New Series 12, *Restaurant*, license for Genovese's, located at 217 W. Gurley Street.**

Clerk Elizabeth Burke explained today was the public hearing for a liquor license application for Genovese's located at 217 W. Gurley Street and there was an existing liquor license on the premises, the ownership was changing; the property was posted December 18 and no protests had been received; the applicant was in attendance.

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

Councilwoman Suttles MOVED to RECOMMEND APPROVAL of a liquor license application from Audrey Maria Orefice, Agent for G & O Enterprises, Inc., for a New Series 12, *Restaurant*, license for Genovese's, located at 217 W. Gurley Street, which was SECONDED by Councilman Lamerson. The motion passed unanimously.

Mayor Simmons asked if they would be serving the same type of food the previous owner served, and the applicant responded it would be Italian and they would have more beef and seafood dishes than previously.

**C. Approval of Amendment One to Contract No. 05-467, Ruth Street Reconstruction Project, with Fann Contracting, Inc., in the amount of \$175,900.95.**

Engineering Services Director Mark Nietupski explained the amendment was for final as-built quantities and compensation for supplemental work needed to complete the Ruth Street Reconstruction Project between Whipple Street and Whetstine Avenue in front of the Prescott High School.

The amendment was in the amount of \$175,900.95 which included some additional work required to do the project properly, such as increased roadway excavation to remove unsuitable material due to saturated and unstable soils, replacement aggregate base course, subdrain installation for groundwater, drainage pipe and valley gutter installation to accommodate the school bus access to the high school from Whetstine Avenue and an accelerated construction schedule to restore two-way traffic on Ruth Street prior to school opening.

Councilwoman Suttles questioned the amount of the change order and the reason the additional items weren't included in the bid process and Mr. Nietupski replied the geotechnical work that was done did not detect any water but the clay soils became unstable when the monsoons arrived and it required additional work and subgrade materials. He added that accelerating the timeframe also came with a cost. The city was the one to initiate the additional work and the change order would close out the project.

Councilwoman Suttles asked about the school bus access issue and her frustration with so many projects coming in over the price awarded. Mr. Nietupski said there was a lack of communication about that between the school and the City and it was needed so the City added it into the project.

Councilman Lamerson asked if the project would be compromised if Council didn't approve the change order and Mr. Nietupski replied it would end up in a claim with the contractor.

Councilman Blair MOVED to APPROVE Amendment One to Contract No. 05-467, Ruth Street Reconstruction Project, with Fann Contracting, Inc., in the amount of \$175,900.95, which was SECONDED by Councilman Lamerson. The motion passed unanimously.

**D. Award of an engineering services contract to URS Corporation in an amount not to exceed \$233,025.00 for a structural stability analysis of the Granite Creek Dam.**

Public Works Director Craig McConnell explained this item was a contract to provide a structural stability analysis on Granite Creek dam; a similar contract was awarded in 2003 for the Willow Lake dam stability analysis. The analysis was a requirement of the State Dam Safety Act; inspecting, maintaining and analyzing dams was required by Federal and State law for public safety reasons. The Watson Lake dam was built in the early 1900s and an analysis had never been performed. The amount of \$115,000 was included in the award amount in case the foundation rock needed to be tested. If it didn't, the amount would not be spent.

Councilman Bell clarified the foundation rock on Willow Lake dam didn't require testing and it wasn't expected to be necessary on Watson Lake dam.

The question was asked why include the \$115,000 at this time and it was explained that would require coming back to Council a second time; Recreation Services Director Jim McCasland added the negotiations with Chino Valley Irrigation District for the purchase of the lakes included the deduction in the cost of the purchase and this action had been anticipated for several years and needed to be done.

Councilman Lamerson MOVED to AWARD an engineering services contract to URS Corporation in an amount not to exceed \$233,025.00 for a structural stability analysis of the Granite Creek Dam, which was SECONDED by Councilman Luzius. The motion passed 6-1 with Councilman Blair casting a NAY vote.

**E. Award of a contract to Grady's Quality Excavating, Inc., in the amount of \$325,271.00 for the Willow Creek Utilities Flood Damage Repairs Project.**

Public Works Director Craig McConnell explained the contract was for the repairs for the Willow Creek Utilities Flood Damage project that occurred

in the winter of 2004/2005; some sewer and water lines suffered damage and would be replaced; 30% of the cost would be reimbursed from FEMA.

Councilman Blair remarked FEMA would reimburse the city approximately \$100,000 and asked if Yavapai County Flood Control District had been approached about putting some money into this project. Mr. McConnell responded he didn't recall that in the intergovernmental agreement with the Flood Control District.

Councilman Blair continued there were two things that bothered him and they were the fact the sides of the creek were armored approximately three years ago and it was paid for by Yavapai County Flood Control District and Mr. Malouff contributed as well, along with the City, and the utility lines were still damaged. He asked if the insurance company should be contacted and the Flood Control District shouldn't contribute.

Mr. McConnell said bids were recently opened and the City needed to proceed; the questions could be asked but the project needed to be done and asked Council to award the contract today; he would contact the parties Councilman Blair referred to.

Councilman Roecker MOVED to AWARD a contract to Grady's Quality Excavating, Inc., in the amount of \$325,271.00 for the Willow Creek Utilities Flood Damage Repairs Project, which was SECONDED by Councilman Lamerson. The motion passed unanimously.

**F. Award of a contract to JBT Contractors, LLC, in the amount of \$58,991.00 for Rehabilitation of Recharge Cells 5, 6 and 7.**

Public Works Director Craig McConnell explained this was a construction contract for the rehabilitation of three recharge cells at the wastewater facility at the airport; there were eight cells in all, 5 of them had been rehabilitated in 2004 and this contract would upgrade the other three cells; the cells required periodic maintenance such as redoing the slope grade, removing vegetation, etc. and the lowest bid was from JBT Contractors and the price was in line with the 2004 prices.

Councilman Lamerson asked why so many bids (8) came in on a small project such as this and Mr. McConnell replied the economy went up and down and this was a straight forward, easy project.

Mayor Simmons remarked the spread of bids was interesting; they went from the low bid of \$58,000 to \$143,000.

Councilman Bell MOVED to AWARD a contract to JBT Contractors, LLC, in the amount of \$58,991.00 for Rehabilitation of Recharge Cells 5, 6 and

7, which was SECONDED by Councilman Lamerson. The motion passed unanimously.

- G. Adoption of **Resolution No. 3794** - A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona authorizing the City of Prescott to enter into an Intergovernmental Agreement with the Town of Chino Valley for professional services for appraisal analysis of a portion of the City of Prescott municipal water delivery system and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.

Public Works Director Craig McConnell explained:

- ◆ Resolution No. 3794 would authorize an intergovernmental agreement with the Town of Chino Valley to share the cost of having an appraisal analysis done on a portion of Prescott's municipal water delivery system.
- ◆ There were approximately 550 Prescott water customers within the town limits of Chino Valley and most of them came with the Chino Valley Irrigation District intergovernmental agreement.
- ◆ The Town of Chino Valley was developing and they had a strong interest in their own economic future.
- ◆ The intergovernmental agreement would authorize the appraisal of the city's retail water business within Chino Valley and consider the costs of replacement and depreciation, the current value and future value of CVID properties not providing water to but future customers.
- ◆ A team was set up with Chino Valley and proposals were solicited and received and Economists.com had been selected.
- ◆ A second intergovernmental agreement would be drafted for the proposed transfer of part of the water system called the Safeway Loop.
- ◆ A third intergovernmental agreement would transfer the responsibility for current and future customers.
- ◆ The cost of the appraisal was \$64,900 with the expenses split between the Town of Chino Valley and the City of Prescott.

Mayor Simmons asked if transferring a portion of the water system, the Safeway Loop, ahead of the rest of the system would take away Chino Valley's interest in the entire system within their town limits and Manager Steve Norwood replied he talked with Town Manager Bill Pupo and he had

been assured in writing and verbally the full transfer of the water system would take place in 2007 following the acceptance of the appraisal.

Councilman Lamerson asked if the water was included in the infrastructure deal and Mr. McConnell responded the City of Prescott had a responsibility to serve CVID properties with water and if the Town of Chino Valley assumed the water system infrastructure the water would go along with the conveyance deal.

Mr. McConnell concluded saying there would be three separate intergovernmental agreements; today was the first step to appraise the system; Issues of the Safeway Loop, issues of Chino Valley performing or not performing would be the next topics to discuss.

Councilman Lamerson asked if the city was selling the whole water system if the deal went through and Mr. McConnell there would be two separate locations; the current distribution system would be separated from the service area and conveyed to CV; water would not be provided from our water distribution facility into their system.

Councilwoman Suttles MOVED to ADOPT Resolution No. 3794 which was SECONDED by Councilman Lamerson. The motion passed unanimously.

- H. Adoption of **Ordinance No. 4570** - An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona authorizing the purchase of public right-of-way and easements in the vicinity of Westridge Drive and Gail Gardner Way and authorizing staff to execute any and all documents to effectuate said purchase and acceptance of right-of-way. (Ralph J. Kurzhals)

Engineering Services Director Mark Nietupski explained Ordinance No. 4570 would accept 221 square feet of right-of-way to improve the radius at Westridge Drive and Gail Gardner Way; the property was being dedicated by Westridge Preserve, L.L.C. and there were no budget impacts.

Councilwoman Suttles MOVED to ADOPT Ordinance No. 4570 which was SECONDED by Councilman Roecker. The motion passed unanimously.

- I. **Award of bid and approval of contract with Inter-Mountain Communication, Inc. for purchase and installation of radio and electronic equipment and repair services for existing equipment, as needed, in an amount not to exceed \$80,000.00 annually.**

Mayor Simmons declared a conflict of interest due to his owning the business and turned the meeting over to Mayor Pro Tem Lamerson.

Administrative Services Director Mic Fenech explained Resolution No. 3791 allowed the City to go out to bid if an officer or employee of the city was involved; Inter-Mountain Communications was the only bidder and recommended the award in an amount not to exceed \$80,000 annually.

Councilman Bell MOVED to AWARD a bid and approve a contract with Inter-Mountain Communication, Inc. for purchase and installation of radio and electronic equipment and repair services for existing equipment, as needed, in an amount not to exceed \$80,000.00 annually, which was SECONDED by Councilwoman Suttles. The motion passed unanimously, with Mayor Simmons excused.

- J. Award of bid and approval of contract with Blind Brothers for purchase and installation of window treatments, as needed Citywide, in an amount not to exceed \$10,000.00 annually.**

Councilman Blair declared a conflict of interest as he owned the business.

Administrative Services Director Mic Fenech explained the contract was to supply window treatments on an as-needed basis; two bids were received and the recommendation was to award the bid to Blind Brothers in a not-to-exceed amount of \$10,000 annually.

Councilman Roecker MOVED to AWARD the bid and approve a contract with Blind Brothers for purchase and installation of window treatments, as needed Citywide, in an amount not to exceed \$10,000.00 annually, which was SECONDED by Councilman Bell. The motion passed unanimously, with Councilman Blair excused.

- K. Approval to purchase Fire Shelters from the Arizona State Land Department Cooperative Wildfire Equipment program in the amount of \$21,786.82.**

Fire Chief Darrell Willis explained fire shelters were mandatory for the Wildland firefighters and were used only as a last resort when the firefighters were in a situation where they could not escape; the Prescott firefighters had never had to deploy one. A new design was available and the Fire Department was requesting the replacement of their shelters which were designed over 30 years ago and most were 20 years old. The department was requesting the placement of an order for 60 regular size, 10 large size, 65 shelter cases and 10 practice shelters; the shelters were available from the Government Services Agency (GSA) from the Arizona State Land Department Cooperative Wildfire Equipment program in the amount of \$21,786.82.

Councilman Roecker asked if unopened shelters had a shelf life and Chief Willis replied they did but he wasn't sure of the time period.

Councilman Luzius MOVED to APPROVE the purchase of Fire Shelters from the Arizona State Land Department Cooperative Wildfire Equipment program in the amount of \$21,786.82, which was SECONDED by Councilman Lamerson. The motion passed unanimously.

- L. Adoption of **Ordinance No. 4571** – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, accepting title to real property located adjacent to Granite Mountain Middle School and in the vicinity of Williamson Valley Road, and authorizing the Mayor and staff to execute any and all documents to effectuate said purchase.

Attorney Gary Kidd explained Ordinance No. 4571 was an ordinance accepting title to the Nature Center located off Williamson Valley Road adjacent to Granite Mountain Middle School; escrow closed December 29, 2006 and the City of Prescott was now the new owner of the 18 acre site.

Councilman Bell MOVED to ADOPT Ordinance No. 4571, which was SECONDED by Councilman Luzius. The motion passed unanimously.

- M. Adoption of **Resolution No. 3795** – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona approving an Intergovernmental Purchase Agreement with the State of Arizona, Department of Economic Security, for the acquisition of certain properties located in the vicinity of Grove Avenue currently owned by the State of Arizona, Department of Economic Security, and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.

Attorney Gary Kidd explained Resolution No. 3795 approved an intergovernmental purchase agreement with the State of Arizona for property previously used by the Department of Economic Security located on Grove Avenue; escrow would be 60 days and this was part of an Economic Development Agreement with Prescott College approved in December.

Councilwoman Suttles MOVED to ADOPT Resolution No. 3795, which was SECONDED by Councilman Lamerson. The motion passed unanimously.

- N. Adoption of **Resolution No. 3796** – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona authorizing the City of Prescott to enter into a Memorandum of Understanding with the Yavapai-Prescott Tribe providing for allocation of funds for the public benefit in accordance with the State of Arizona Gaming Compact and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.

Attorney Gary Kidd explained Resolution No. 3796 approved a Memorandum of Understanding with the Prescott-Yavapai Indian Tribe regarding the distribution of gaming funds for public benefit as part of their State Gaming Compact and the funds would be allocated through the City to the Adult Center, Yavapai Regional Medical Center and the YMCA, each receiving \$25,000.00. The Gaming Compact allows the Tribe to contribute up to 12% to the community.

Councilman Luzius MOVED to ADOPT Resolution No. 3796, which was SECONDED by Councilman Lamerson. The motion passed unanimously.

- O. **Approval of the Minutes of the Prescott City Council Joint Study Session/Regular Voting Meeting of December 19, 2006.**

Councilman Lamerson noted that he had requested the City Clerk to include his comments regarding water outside the Active Management Area.

Councilman Roecker MOVED to APPROVE the Minutes of the Prescott City Council Joint Study Session/Regular Voting Meeting of December 19, 2006, as amended, which was SECONDED by Councilman Luzius. The motion passed unanimously.

- P. **Approval to purchase a Caterpillar 930G loader from Empire Machinery, Prescott, Arizona, in the amount of \$142,481.76.**

Assistant to the Manager Laurie Hadley explained Council approved the purchase of a Caterpillar 930G loader from Empire Machinery in November by piggy-backing off a Reno, Nevada bid; staff decided that wasn't exactly the loader they wanted and rebid the equipment and received two bids. Staff was recommending the award of the bid to Empire Machinery in the amount of \$142,481.76. The current equipment failed yesterday and they were renting one at \$1,500 per week and it would take approximately four weeks to receive the new one and that was the reason this item was added to the agenda at the last minute.

Councilman Roecker MOVED to APPROVE the purchase of a Caterpillar 930G loader from Empire Machinery in the amount of \$142,481.76, which

was SECONDED by Councilman Luzius. The motion carried  
unanimously.

**IV. ADJOURNMENT**

There being no further business to come before the Prescott City Council, Mayor  
Simmons ADJOURNED the meeting at 4:42 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 Joint Study Session/Regular Voting Meeting of the City Council of the City of  
Prescott, Arizona held on the 9<sup>th</sup> day of January, 2007. I further certify the meeting was  
duly called and held and that a quorum was present.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2007.

AFFIX  
CITY SEAL

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ELIZABETH A. BURKE, City Clerk