

PRESCOTT CITY COUNCIL
JOINT STUDY SESSION/SPECIAL
MEETING
PRESCOTT, ARIZONA
MARCH 6, 2007

A JOINT STUDY SESSION/SPECIAL MEETING OF THE PRESCOTT CITY COUNCIL WAS HELD ON TUESDAY, MARCH 6, 2007, in the Prescott Municipal Building, 201 S. Cortez Street, Prescott, Arizona.

Mayor Simmons opened the meeting at 3:00 P.M. and 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 commented staff and community members had worked together for four or five months and gone through the Development Review process. The recommendation was made to create a new employee position to facilitate the process. A vacant plan review position was eliminated and he was pleased to introduce Gwen Rowitsch from Prescott Valley as the development facilitator; she came highly recommended and would make the development process go more smoothly and that would be noticed in the community. He said he would update Council in six months on the success of the program.

I. DISCUSSION ITEMS:

A. Approval of an annual agreement with Prescott Frontier Days 2007 in the amount of \$30,000.00.

Economic Development Director Jane Bristol explained this was an annual agreement with the Prescott Frontier Days Inc. for assistance in marketing the World's Oldest Rodeo. The amount of \$30,000 was the same as last year's allocation, and a schedule of ads was attached to the back of the agreement. Lindsay Mills, Assistant to

the President of the Rodeo Board John Reyes, introduced Vice President Irene Winters, General Manager J.C. Trujillo and Marty Borgelt, Treasurer, who were in attendance and thanked the Council for their support. She said they would get the word out about the rodeo.

Councilwoman Suttles asked that this item not be put on the consent agenda as she served on the rodeo board and had a conflict of interest.

Councilman Luzius commented he was proud to support the rodeo and he wanted to keep it at the rodeo grounds.

Ms. Mills added they had four sold-out performances and four 90% sold performances last year. The funding would be used for advertising, promotion and marketing the 2007 rodeo, and continuing improvements were being made to the facility, including enlarging the seating area.

Councilman Lamerson asked if there was a way to circumvent Councilmembers not being able to vote on those types of items by having to keep them off the Consent Agenda and voted on separately. Attorney Gary Kidd replied Councilmembers had to declare a conflict of interest if they had a financial interest in a contract, sale, purchase or service and Councilwoman Suttles was on the rodeo board and it was appropriate that she decline voting on this contract. He said there was no legal way to waive that.

Councilman Blair asked if higher quality riders were being brought in and given bigger purses when the rodeo association received money from Council and other places. Ms. Mills replied the tour changed their criteria dramatically this year and went to a \$20,000 minimum amount per event, which was double the previous year and the association was going to have to do some basic, fundamental things to improve their financial situation.

B. Approval of a CDBG contract with Down to Earth Contracting for the Dexter Neighborhood Sidewalk Improvements Project in an amount not to exceed \$365,202.95.

Grants Administrator Linda Hartmann explained this item was part of the Community Development Block Grant program, and \$365,966 was awarded to the City by the U.S. Department of Housing and Urban Development in July 2006. Three bids were received

February 26 and all were over the budget available; the City Procurement Code allowed negotiations with the low bidder and the price and scope of work were changed. The Merritt Street sidewalk, Division Street to Lincoln Street segment, was removed from the project which brought the price of the project to \$363,202.95. Sidewalks would be installed on Lincoln Street between Whipple and the pedestrian bridge over Miller Creek, on Merritt Street from Lincoln to First Street and on a block of Madison Avenue starting at First Street. The project was identified in the City's 2006 Annual Action Plan. Down to Earth Contractors has a good reputation throughout the state.

Councilwoman Suttles commented this was an old neighborhood and the project would affect a large amount of people and help them move safely through the neighborhood.

Ms. Hartmann added the Dexter Neighborhood would hopefully continue to be approved for other rehabilitative projects using CDBG funds in the future.

Councilman Blair said this was a good thing for the community and he would like to see the next round of CDBG money in projects that included sidewalks around school areas, such as the Dexter Resource Center.

C. Approval of contribution to Upper Verde River Watershed Protection Coalition Project/Program Funding Plan in the amount of \$65,000.00 annually, for the next three years.

Big Chino Water Ranch Project Manager Jim Holt explained representatives of the Upper Verde River Watershed Protection Coalition were asked to request from their respective agencies a contribution to fund the three-year project/program plan. FY07 funding was available from the Alternate Water Fund in the amount of \$65,000 which was determined to be Prescott's share based on population. Prescott Valley, Chino Valley, Dewey-Humboldt and Yavapai County had agreed to contribute. The Yavapai-Prescott Indian Tribe just decided to join.

Councilwoman Suttles asked who would distribute the funding or if it was a group effort with projects being voted on. Mr. Holt replied the Town of Chino Valley had agreed to be the fiscal agent for the Coalition and possibly a consultant would be hired to help with the

coordination of projects and planning, and the projects to be done would be voted by the Coalition.

Councilman Luzius asked this not be put on the Consent Agenda as he had a problem with the contribution. He said it was over \$300,000 over three years, \$65,000 from the citizens each year. The City had the opportunity to join the Verde River Basin Partnership but chose to start another group, the Upper Verde River Watershed Protection Coalition and didn't see the need for two groups. Citizens of Chino Valley were currently circulating petitions for Chino Valley to become a member of the Verde River Basin Partnership and this seemed to be throwing good money away.

Councilman Lamerson asked if funding this Coalition would preclude Prescott from participating in the Verde River partners and Mr. Holt said he didn't believe it would.

Councilman Lamerson remarked there was no solid logic for not participating in both and it wasn't clear to him why Prescott wasn't participating in any management strategies regarding water management in this area.

Leslie Hoy, 1880 Coyote Road, asked if the Council had seen the presentation made by the UVRWPC regarding the projects at their meeting; it seemed before they spent public money they should be better informed about the projects.

Councilman Blair replied the Council had an outline as to what the Coalition would do with the money. He said they are apprised as to what the money would go toward. The Council was given the project and the intentions and once those were done, he would expect to have a presentation at that time.

Ms. Hoy asked if that was adequate and if the Council wouldn't like to know what they would be spending their money on before it was spent. She said that Council didn't see the presentation and there was some controversy over some of the projects. Another opportunity for water for the Prescott area had recently come to the attention of the Citizens Water Advocacy Group, which was an opportunity for the U.S. Bureau of Reclamation to do an appraisal study like they did for Coconino County, to identify long term water supply problems and present other alternatives. The presentation would be held March 10 by the Citizens Water Advocacy Group meeting at 10:00 A.M. at the Granite Peak Unitarian Universalist

Congregation building at 882 Sunset Avenue. She said there were other ways to spend \$65,000 which might be more productive. Cindy Barks' article in the Courier listed the projects that were part of the project the Council would be spending the \$65,000 on and the list included the protection or acquisition of locations where recharge occurred naturally; water conservation plans; recharge projects in the Big Chino sub-basin and Prescott Active Management Area; flood detention; and expansion of the Big Chino hydrologic monitoring network. Ms. Hoy said she had a similar list in a letter written by the Fish and Wildlife Service and sent to Jim Holt in April 29, 2005 and the items were listed as being part of a mitigation plan for the Upper Verde River. She asked if they were a part of the mitigation plan and Mayor Simmons remarked staff would make recommendations to prioritize the projects before the next meeting of the Coalition.

Ms. Hoy asked again if they were intended as mitigation actions or part of future mitigation plan and Mayor Simmons remarked he wasn't sure how to answer the question. Attorney Gary Kidd clarified the list was an outline of tentative project proposals and included what were conceptual plans only regarding each project proposal. More specific details about any contracts could not be provided at this time because it was unknown which projects would go forward and which ones wouldn't.

Ashley Fine, 207 Congress Avenue, commented she was not there to criticize any effort being made or future efforts if groundwater development projects did proceed forward; however, it was essential to address the impacts. Some elected officials had made public statements that the list of Best Management Practices would preclude the need to mitigate impacts to the Verde River; but everyone needed to be cautious about that. It was important for the public to understand there had not been a feasibility study done on them and no cost and benefit analysis of any of those projects. If Prescott was going to pump the amount of water they planned to pump from that aquifer, it was optimistic and unrealistic to assume the list of Best Management Practices would be enough to offset the amount of water that was going to be pumped.

Ms. Fine said another element was the need to address the habitat of the actual river and the impacts to wildlife. In the long term, there was no enforceability and funding might not be secure. If a mitigation plan was done through Fish and Game addressing the habitat impacts, the wildlife impacts and then funding was guaranteed for the duration of the project. If the group adopted Best Management

Practices, there were no long term guarantees. A change in Council membership could result in the decision to not fund any further projects.

Jack Wilson, 1514 Eagle Ridge Road, remarked he assumed Council was approving funding for one year (correct) as Council couldn't approve future funding of a future Council and the proposal was to provide funding to do the feasibility of which projects were feasible and not funding actual projects.

Mayor Simmons clarified Council was setting up the mechanics of the Coalition and they would be doing a study of the feasibility of the projects.

Mr. Wilson added the Coalition would come back for funding at some future date if the group were to proceed with one of the projects (correct) and addressed Councilman Lamerson's comment about participation in both groups that were looking at the Verde River. He said Senator John McCain's letter of February 28 was forceful in asking Prescott and Prescott Valley to participate and encouraged the entities to do that.

Lou Bellesi, 1102 Timber Ridge Road, said he had no disagreement with what Council was proposing to do; it was a Motherhood type of thing. The \$100,000 annually which was proposed to hire someone would be a nice job and if he were younger he might apply for it. He thought most of the work could be done under the Verde River Basin Partnership group and the money could be used to follow up on the Ambient Groundwater Quality Report prepared by ADEQ in 2000 which listed several things that were recommended for follow-up, for example, soft groundwater that had naturally been depleted of calcium and was susceptible to elevated trace levels of fluoride and arsenic. He said the map showed an area in Chino Valley and recently the Wilhoit Water Company had arsenic problems in serving residents of Chino Valley; the map also showed Dewey-Humboldt might have problems with nitrates; he would rather see the money go to study those things and public health purposes like following up on the 2000 ADEQ study.

Joanne Oellers, 11201 Western Sunset Drive, Dewey, thanked Council and the Coalition for trying to understand a complex issue; she wanted to add in biology and ecology; all types of habitat would be affected by anything that was done and urged the Council to consider the other animals that were out there and she didn't think

they were appreciated. She hoped proper environmental review and environmental impacts would be considered in projects like the delivery pipeline construction project. As the legal aspects of the whole situation were unknown, she urged the Council to do the right thing for the planet and show some good stewardship; the area was in a crises situation but that was an opportunity to come up with a plan. The groups and issues seemed fragmented and she hoped the various groups could work together and suggested a public forum to meet and talk about all of the things each group was studying separately and include experts to provide additional information. She thanked the Council for letting her speak up about the rest of life.

Councilwoman Suttles asked whether there was funding for administrative costs and others and that was confirmed. She asked if it would be as much as \$100,000 and Attorney Gary Kidd replied the staff memo stated the initial project costs were estimated at \$300,000 and depending on which programs would be pursued and funded would determine what staff and support would be necessary to get the program under way.

Mayor Simmons said much of the work would be done by staff members Jim Holt, Mark Holmes, and John Munderloh.

Councilwoman Suttles remarked this group had been together for six or eight months. Her point was they started as a group and everyone agreed to that and her question was why the information couldn't get out to the public so they didn't question what was happening.

Councilman Roecker said there was a concern that there wasn't enough concentration on issues of the Upper Verde River and maybe the partnership would be off doing studies in other parts of the Verde River area and a faction wanted to make sure the Upper Verde area was protected as well and the group was doing all they needed to do to protect the Upper Verde River area. When people suggested they didn't care about the species, etc., this was exactly why they were doing a presentation like this and addressing issues that might occur in the Upper Verde River and it was frustrating.

Ashley Fine asked why the group wasn't consulting with the U.S. Fish and Wildlife Service and moving forward with the project and Councilman Roecker replied that would be up to the Coalition to decide to proceed. Ms. Fine said it would help build public confidence if the group was concerned about the different affected species.

Leslie Hoy encouraged the Council take the opportunity to see the presentation by the Protection Coalition and see the budget that was laid out so Council would be better informed.

Thomas Slaback, 715 E. Goodwin Street, remarked the City was still a member of the Water Advisory Committee and was still paying money to that group and suggested if the money went anywhere it should go to the Water Advisory Committee to continue funding studies done by them and not duplicating their work.

D. Adoption of Resolution No. 3804 - A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, amending Resolution Numbers 3013, 3266 and 3540 by amending Intergovernmental Agreement approved therein with amendments relating to the boundaries of the Highland Pines Domestic Water Improvement District.

Public Works Director Craig McConnell explained Resolution No. 3804 would amend Intergovernmental Agreement #97-176 through which the City furnished water to the Highland Pines Domestic Water Improvement District. The request to annex into the district was made by the owner of Parcel 149A who also was the owner of the parcel to the south of that, lot 149S, which was outside the district boundaries. The owner was proposing to combine the two parcels into one large parcel, which would make a total of approximately 7 acres when combined. The property owner would covenant to only have a water demand for one parcel to one home. The parcel within the district boundary was already entitled to one water service and the effect would be to the creation of an estate lot, one water service, and no increase in water demand. It would also eliminate the possibility of a parcel split of lot 149S. Currently this lot could be split into three lots each with an exempt well and this proposal seemed to be in the best interest of the public, the Highland Pines Water District and the City of Prescott.

J. Woodward, Sleepy Hollow Drive, Highland Pines, commented the annexation was discussed by the improvement district board over a year ago; he was not clear on who would police the non-split provision, it seemed like a function of Yavapai County government and the district didn't do anything with lot splits.

Mr. McConnell explained the property owner would covenant to the water improvement district and to the City of Prescott that there

would be only one provision of water service to the combined parcel; if a party came in sometime in the future and wanted to have additional water service provided to multiple parcels, it would not be done and would be precluded by this agreement.

Mr. Woodward wanted assurance that if the owner showed up at the County asking to split the lot in 10 or 15 years they wouldn't be allowed to do that and Mr. McConnell replied in the event the parcel being combined was sold the new owner could go to Yavapai County and if the laws and Statutes allowed a lot split they could do it but they would only get one water service from the City of Prescott.

Mr. Woodward added the Highland Pines Water District was limited by the 1998 Declaration of Failure of Safe-yield and could not provide groundwater to anyone further. They were limited to 432 potential customers and had a list of 40 other properties that could be split and try to get water service and heard they would be constrained, but he asked who would police it.

Councilman Blair commented the City of Prescott wouldn't supply water service to anyone that was not on record and Mr. McConnell added the City of Prescott had a Water Management Policy and the policy indicated if the owner of vacant property came in for a water meter or water service they could not get water service unless a sewer main fronted the property.

Councilman Blair inquired whether the property owner getting one water service meter to the property could go to the State for a well permit and Mr. McConnell replied the property owner had a written agreement with the Highland Pines Domestic Water Improvement District to not do that; the agreement went with the land; but this was a legal question and agreements and laws could change in the future.

Attorney Gary Kidd clarified the addendum stated the annexation would bring lot 149S into the district to be combined with lot 149A. Lot 149A already had the legal right to one water service and the property owner would forfeit any and all well drilling right on the combined property and assign any water credits to the City; this was a lot combination, taking two lots and combining them in to one lot; the property owner agreed to abide by the terms of the addendum.

Councilman Blair asked if someone else owned the parcel in 20 years, they could put a well on it and Mr. Kidd replied the Council

would have to (1) amend the Highland Pines Domestic Water Improvement District Association agreement; (2) amend the water service area agreement; and (3) change existing and future water policies before that could happen.

Mr. Woodward said he didn't think this was an unreasonable request and he did not oppose the annexation; but it was not the Improvement District's job to police potential lot splits.

Councilman Lamerson asked if the City's agreement with the (Highland Pines) water district precluded individual parcels from having wells as it did within city limits and Mr. Kidd replied that provision was specifically included in the agreement and they could not do that.

E. Adoption of Ordinance No. 4580 - An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona abandoning a portion of Trail Walk right-of-way within Pinnacle IV subdivision.

Engineering Services Director Mark Nietupski explained this item was the abandonment of a small portion of Trail Walk right-of-way which was platted with the Summit, Unit I subdivision to provide for a future intersection and connectivity to a future phase of the Summit and other development to the east. The property was sold and platted as the Pinnacle, Unit IV and the layout of the roadways did not include the use of this right-of-way; the developer is requesting the abandonment of the right-of-way and will pay all abandonment costs.

F. Award of bid for the FY 08 Rubber Chip Seal Pavement Preservation Project to Cactus Transport, Inc. in the total amount of \$902,800.00.

Engineering Services Director Mark Nietupski explained this item was to award the bid for the FY08 rubber chip seal project; two bids were received on February 21; the areas to be sealed were West of Willow Creek Road, North of Whetstine, South of Tamarack, East of Eagle View Drive in Eagle Ridge. He said this was an annual project; expenditures would not be made until the FY08 budget was approved and the Notice to Proceed wouldn't be issued until after July 1, 2007. It was a 90-day contract and other regional agencies could piggyback on this bid to take advantage of the pricing and availability of the company.

Councilwoman Suttles asked why it was bid out and in place before the budget was approved and Mr. Nietupski said the objective was to have the project ready to go as early as possible in the new fiscal year and the warm temperatures.

Councilman Roecker asked if a local contractor was able to bid on this project and Mr. Nietupski replied this was a specialized product and Cactus Transport of Tolleson was a well-known chip seal provider.

G. Award of bid for the Intersection Pavement Rehabilitation Project in the downtown area to Fann Contracting, Inc. in the amount of \$287,755.00.

Engineering Services Director Mark Nietupski explained this item was to award the bid for the rehabilitation of several intersections where the asphalt was rutted; it was an interim maintenance project to provide a uniform pavement surface. Four bids were received February 21 and the project was budgeted from the 1% Sales Tax fund; the project was scheduled to be completed within 30 calendar days and would start April 2. The work would be done between the hours of 3:00 P.M. and Midnight through the week to minimize the impact to commuter traffic and the downtown area; the project was budgeted in FY07.

Councilman Luzius remarked this was an interim fix and asked if future fixes might be of a more permanent nature using concrete instead of asphalt so this situation wouldn't happen again and Mr. Nietupski replied that was correct; concrete was used on East Gurley Street when they had the water main break a year ago and concrete would be looked at.

Patrick O'Brien, 1987 Estrella, said he lived on two currently unpaved roads and in the last five years the City had regraded the road nine times; it flooded every time it rained and he asked the City to look at areas that weren't paved and spend the money to pave those streets instead of rehabilitating existing streets.

Councilman Blair asked if that road was on the list of unpaved streets that would be paved and Mayor Simmons reminded everyone that topic was not on the agenda and couldn't be discussed.

- H. Notice of public hearing (March 13, 2007) of a liquor license application from Clyde Kekahili Woode, Agent for The International Wine and Culinary Institute, L.L.C., for a New, Original, Series 10, Beer and Wine Store, License for the Royal Hawaiian Coffee and Wine Company, to be located at 1957 Commerce Center Circle.**

Clerk Elizabeth Burke noted the Public Hearing was scheduled for next week for the liquor license application received from The International Wine and Culinary Institute for the Royal Hawaiian Coffee and Wine Company to be located at 1957 Commerce Center Circle; the property was posted February 14 and no comments were received to date. The applicant was requested to be here next week.

- I. Notice of public hearing (March 13, 2007) of a liquor license application from Mark Harold Evenson for a New Series 12, Restaurant, License for Chuy's Mesquite Broiler located at 576 Miller Valley Road.**

Clerk Elizabeth Burke noted the Public Hearing was scheduled for next week for the liquor license application for Chuy's Mesquite Broiler located at 576 Miller Valley Road; the applicant was requested to be in attendance.

- J. Approval of Minutes of the Joint Special Meeting/Study Session of the Prescott City Council Held on February 20, 2007, and the Regular Voting Meeting of the Prescott City Council Held on February 27, 2007.**
- K. Selection of items to be placed on the Consent Agenda for the Regular Voting Meeting of March 13, 2007.**

Councilman Lamerson selected Items B, D, E., F, G, and J as Consent Agenda items.

II. ADJOURNMENT at 4:00 P.M.

SPECIAL MEETING

- I. Call to Order
- II. Recess into Executive Session

III. EXECUTIVE SESSION

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

1. Consideration of potential real property purchases or properties located south of Goodwin Street in the Downtown Business District vicinity.

IV. Adjournment.

The Special Meeting was reconvened at 4:20 P.M. and there being no further business to come before the Prescott City Council, Mayor Simmons ADJOURNED the Special Meeting at 4:20 P.M.

ROWLE P. SIMMONS, Mayor

ATTEST:

ELIZABETH A. BURKE, City Clerk

