

PRESCOTT CITY COUNCIL
REGULAR COUNCIL MEETING
PRESCOTT, ARIZONA
NOVEMBER 13, 2007

A REGULAR VOTING MEETING OF THE PRESCOTT CITY COUNCIL WAS HELD ON TUESDAY, NOVEMBER 13, 2007, in the Prescott Municipal Building, 201 S. Cortez Street, Prescott, Arizona.

CALL TO ORDER

Mayor Simmons called the meeting to order at 3:00 p.m.

INTRODUCTIONS AND PLEDGE OF ALLEGIANCE: Councilman Luzius led the Council and audience in the Pledge of Allegiance.

ROLL CALL:

PRESENT

Mayor Simmons
Councilman Bell
Councilman Blair
Councilman Lamerson
Councilman Luzius
Councilman Roecker
Councilwoman Suttles

ABSENT

None

Mayor Simmons noted that Councilman Blair will be in a little late.

SUMMARY OF CURRENT OR RECENT EVENTS

Mr. Norwood said that he appreciated the great attendance at the 2:00 p.m. promotion and honor ceremony of the Prescott Fire Department.

I. PUBLIC COMMENT

A. Comments by Mike Ruble re World AIDS Day.

Mike Ruble, Executive Director of Northland Cares, said that they are the only AIDS agency serving Northern Arizona, representing 58,000 square miles.

He said that he was present to discuss December 1, which is World AIDS Day, which is an international recognition of all of the people that have perished as a result of being infected with HIV/AIDS and the celebration of the lives of those that are currently living with the disease.

Mr. Ruble said that since the official start of the epidemic in 1981, 25 million people have perished and there are 40 million people worldwide that are infected. In Northern Arizona they bring outpatient medical services and support services to men, women and children who are infected and affected by the disease. Currently they serve nearly 200 individuals. There are 600 reported cases of HIV and AIDS in Northern Arizona, and about 1,200 to 1,400 are not accessing services because they are either unaware of their HIV status or for whatever reason choose to not access services.

Mr. Ruble said that on Saturday, December 1, on World AIDS Day there are some community awareness events taking place, and he then reviewed each of them.

Mr. Ruble reported that Northland Cares now has a new facility in the Crossings complex and two satellite offices, one in Payson and one in Cottonwood. They also have a support center that recently opened in Flagstaff. In February of 2008, they are opening a specialty HIV Clinic in Kingman so their services are rapidly expanding throughout the region.

Mayor Simmons asked Mr. Ruble to let the public know how to contact them. Mr. Ruble said that they can contact them at the main Prescott Office at 928.776.4612 and they also provide fast and free confidential HIV testing.

Mayor Simmons said that he has attended a number of their events and he encouraged everyone in the community to step up and attend the events.

Rhonda Atkinson from Yavapai County Community Health Services said that they have always worked very closely with Northland Cares. They currently see about 100 people on the case log for the Ryan White Program, which is a federally-mandated program for eligible individuals who are HIV positive and qualify because of income. She said that they also do testing and counseling at the health department.

Mr. Atkinson then reviewed some events they will be sponsoring at Prescott Pride Center and at Prescott College. She encouraged everyone to participate in some of the events.

I. PROCLAMATIONS:

Mayor Simmons then asked John Tapia and Ralph Untz to come forward.

- A. November 12, 2007 – *Veteran John R. Tapia Hall of Fame Medal Recipient Appreciation Day.*

Mayor Simmons then read a proclamation proclaiming November 12, 2007 as *Veteran John R. Tapia Hall of Fame Medal Recipient Appreciation Day*, and presented it to Mr. Tapia.

Mr. Tapia thanked Mayor Simmons and noted that he also served on the Prescott Preservation Commission.

- C. November 14, 2007 – *Veteran Ralph J. Untz Hall of Fame Medal Recipient Appreciation Day*.

Mayor Simmons then read a proclamation proclaiming November 14, 2007, as *Veteran Ralph J. Untz Hall of Fame Medal Recipient Appreciation Day*, and presented it to Mr. Untz.

Mr. Untz said that he was a 92 year old World War II Veteran and he did his volunteer work in the Town of Prescott Valley because he wanted to see the town progress. He then thanked Mayor Simmons.

- B. November 13, 2007 – *Veteran Frank A. Bosh Hall of Fame Medal Recipient Appreciation Day*.

Mayor Simmons said that there is a third recipient watching the meeting from home, his Father-in-Law, Frank A. Bosh. He then read the proclamation proclaiming November 13, 2007 as *Veteran Frank A. Bosh Hall of Fame Medal Recipient Appreciation Day*.

- D. November 14, 2007 – *World Diabetes Day in support of the UN Resolution*.

Mayor Simmons then read a proclamation proclaiming November 14, 2007 as *World Diabetes Day in support of the UN Resolution*.

III. PRESENTATION

- A. Recognition of Members of the Water Conservation Committee.

Mayor Simmons asked members of the Water conservation Committee to come forward: Dava Hoffman, James DeRienzo, Steve Morgan, Barnabas Kane, Andrew Milicent, Dr. Timonthy Crews, Thomas Kane, Ken Lain and Crystal Frost.

Mayor Simmons said that in 2004 the committee was formed to address water conservation issues and they have spent hours and hours of painstaking time working on these issues.

Mayor Simmons then thanked each of the members and presented them with a token of appreciation.

B. Bob Culbertson re Go Skateboarding Competition.

Bob Culbertson then addressed the Council, stating that his son's name, Tyler, had been left off of the notice. He said that it was five months ago that the Mayor had made a proclamation recognizing the National Go Skateboarding Day, to get kids involved in skateboarding and exposing people to it. He said that they are at the meeting today to thank the Mayor and Council for getting the skate park going and to notify everyone that his son, Tyler, had won a contest to document the event.

Mr. Culbertson said that Tyler is a film major and he documented the process, entered a national competition and they were the West Coast winners. He said that the East Coast winner is a store that is internationally known in Brooklyn, New York that has its own skate park attached to it.

Mr. Culbertson then showed the video. Councilman Blair arrived at the meeting (3:38 p.m.).

Tyler Culbertson said that they look forward to having more successful events in the future and promoting skateboarding.

C. Presentation on Students Against Violence Everywhere (SAVE).

It was noted that the program is called Save-Prescott-Students Against Violence Everyday (SAVE). Chris Kottke introduced himself, stating that he was an attorney in town, and John Valentine, the co-founder of Students Against Violence Everyday.

Mr. Kottke said the program brings together kids in need of support in the local schools with professionals that are willing to donate their time, and as a byproduct of that relationship, the professional providing the free services will have their name in a perpetual ad. Each member of the board then added their own information to the presentation.

D. Big Chino Water Ranch Update.

Mr. Holt gave a PowerPoint Presentation on the Big Chino Water Ranch Update. He said that out of the four phases of the project, they are currently in Phase 2 with final design and construction documents required, and Phase 3 with acquisition of right-of-way for pipeline alignment. He said that the fourth phase is the construction phase itself.

He then reviewed the following sections:

- Contracts
- Project Scope
- Design status
- Summary of Probable Engineering and Construction Costs
- Easement Acquisition Update
- Schedule

Councilwoman Suttles asked if they hadn't submitted the application to ADWR (Arizona Department of Water Resources) several months ago. Mr. Holt said that the application was filed with the Department of Water Resources three weeks ago. He said that it was a significant body of work and they believe it was a good application.

Councilwoman Suttles said that they have been dealing with this for years and she asked why at this time they are still waiting to hear from ADWR. Mr. Holt said that ADWR needs to react to an application submitted by the City. The Council directed staff to obtain the highest degree of certainty that they not only is the water physically available in the Big Chino for importation, but that the ADWR would include that imported water supply in their designation for future subdivision use. The only way they can deliver that assurance to the Council is to apply to ADWR to include it within the designation for Assured Water Supply, and that process is a big deal that requires a great deal of analysis.

Councilwoman Suttles asked if he thought they could do it in a year. Mr. Holt said that he is hopeful.

Councilman Blair asked about the actual management of the ranch land itself. Mr. Holt said that they continue to have a lessee on the property who continues to grow crops for agriculture production on approximately 600-700 acres of the ranch. They have done a great deal of hydrologic work on the ranch with a large number of bore holes and a couple of production wells. In terms of other activities associated with the ranch, they have not done as much as they had hoped they would have by this point in time. He had envisioned having a ranch management plan to describe many of the things he is talking about in terms of access to the property, but up to this point they have not been able to get to it.

Mr. Holt said that he envisions a body of advisors to help in that regard, and he would like to focus in on who those people might be and begin some discussions with them.

Councilman Lamerson said that he was at a meeting last week at Prescott College and they were talking about this a little. He asked if they are any closer to being assured that they will be able to take the water they were told they could take from the aquifer. Mr. Holt said absolutely; they have done a great deal of hydrologic work on the ranch as well as in the Big Chino and others continue to do research in the Big Chino.

Councilman Luzius asked if the breakdown on the bottom of Page 2, indicating \$174.8 million, included anticipated costs of securing right-of-way and easements. Mr. Holt said that it did include the anticipated costs of approximately \$5.6 million.

Councilman Luzius said that it was his understanding that there was some problem with access through the State Land Department and he asked if that has been resolved. Mr. Holt said that they are continuing to work on those issues.

Councilman Bell then read the following statement for the record:

“Mayor Simmons, Fellow Councilmembers and Citizens of Prescott:

I would like to offer credit and commendation to past councils for recognizing the importance of keeping our resources ahead of demand.

Now, let me address the pipeline and annexation issues. To be a worthy annexation, we must have an area large enough to support open space, police and fire facilities, parks, schools and adequate infra-structure to assure recharge.

However, with the advent of Proposition 400 and it’s requirement of a super majority vote from this council for any annexations over 250 acres, it is now apparent that any desirable growth to the City of Prescott has come to an end. Prop 400 placed us in a position where 2 council members can dictate the future of the 42,000 plus residents of this city.

Therefore, I propose that we instruct our City Manager, City Attorney and City Staff to immediately study and prepare for the following:

- *Abandon our plans for the \$200 million pipeline. Without the possibility of additional rooftops, we do not need to burden our citizens with the expense.*
- *Offer the Big Chino Water Ranch for sale so that the City can recover the monies that have been expended.*
- *Dismantle the Water Agreement with the Town of Prescott Valley and*
- *Lower the water rates for the citizens as quickly as possible.*

The positive effect of these actions would

- *Eliminate the perceived threats to the Verde River of reduced flows and environmental concerns*
- *Dramatically lower the debt potential.*

Thank you Mr. Mayor. I appreciate the opportunity to offer these suggestions and I hope everyone will give them the consideration they deserve.”

Councilman Roecker said that Councilman Bell had shared the concerns with him prior to the meeting and he, too, was concerned. He said that they cannot afford to have a pipeline and water ranch if they cannot annex property. They have to have annexation and growth; they're at a crossroads.

Councilman Luzius said that it seems that they are blaming the failure of the annexation on Prop 400, but that is what saved the City from going into a bad deal.

Councilman Roecker said that they all agreed that the Development Agreement on the annexation was not the best; however, it is factual to say that it passed 4 – 3.

Councilwoman Suttles asked what annexation had to do with the Big Chino Water Ranch. Councilman Roecker said that annexation is how they will pay for the pipeline.

Councilwoman Suttles asked Councilman Roecker where he was four years ago when they decided on the water ranch. Councilman Roecker said that at that time Prop 400 did not exist.

Councilwoman Suttles said that because one annexation went down, they are now suggesting that there won't be an opportunity to consider annexations in the future. Councilman Roecker said that he didn't know. It appears that this one is gone so they need to go to the other property owners and ask them if they are interested in coming into the City of Prescott. He said that if they are not going to come into the City, they shouldn't proceed with the Big Chino Water Ranch.

Councilwoman Suttles said that is one person's opinion and she doesn't think that the Council needs Councilmen Bell and Roecker to go out and negotiate for them on any annexation because of the bluebird disposition of where the City of Prescott is going. She thinks they need to look at the next one.

Councilman Roecker said that he agrees that they need to look at the next one, but it needs to be out there before they continue to spend money because the taxpayers already here are going to foot the entire bill if they do not continue to grow and annex property.

Councilwoman Suttles said that they better include their partner, Prescott Valley, in their thoughts.

Councilman Lamerson said that looking on the agenda, he doesn't see anything about annexations. He said that there is more than one objective to acquiring the water ranch, one of which has to do with achieving safe yield in the AMA. Mr. Holt said that he believes it is impossible to achieve safe yield in the Prescott AMA without some supply of imported water.

Councilman Lamerson said that what he is hearing is that they shouldn't do any annexations, and he is surprised that they would bring this up. He said that there was not a very good deal in the annexation, but that doesn't mean that the next one won't be good.

Councilman Blair said that as one of the seven dorfs sitting at Council retreats numerous times, they discussed their plans for the Big Chino pipeline, annexations, North Prescott Sewer Districts and those costs will not go down. Mr. Holt said that he thinks it is unlikely that those costs will go down.

Councilman Blair said that they have an obligation to the community and one objective is to reach safe yield and there is one way to do that and they need to do it. It is not going to get any cheaper.

IV. CONSENT AGENDA

CONSENT ITEMS A THROUGH O LISTED BELOW MAY BE ENACTED BY ONE MOTION. ANY ITEM MAY BE REMOVED AND DISCUSSED IF A COUNCILMEMBER SO REQUESTS.

COUNCILMAN LAMERSON MOVED TO APPROVE CONSENT AGENDA ITEMS IV-A THROUGH IV-O. Councilwoman Suttles asked that Mr. Holt address what some of the projects would be on Item F. Mr. Holt said that the projects that were in Year One – to identify and get some additional research to include the development of water conservation plans and programs, examine existing Big Chino hydrologic monitoring network and look at opportunities for expanding them; Year Two – identification of natural recharge areas for protection, and identification of artificial recharge sites and to assess the feasibility of those activities and in Year Three - the examination of feasibility of flood retention projects and research health watershed management approaches

which would include restoration. Councilwoman Suttles asked if the amount that all of the communities are putting in does three years. Mr. Holt said that the amount of obligation is for each year for three years.

COUNCILMAN ROECKER SECONDED THE MOTION; PASSED UNANIMOUSLY.

- A. Approve purchase of Micro Focus Compiler Software and Application Service Licenses for use with Application Data Systems Incorporated (ADSI) Public Safety Computer System operations in the amount of \$34,261.17.
- B. Approve application to the Governor's Office of Highway Safety for 410 Federal Grant funds in the amount of \$60,000.00 to be used during the period of October 2007 through September 2008 for continued operation of the Tri-City DUI Task Force.
- C. Approve reimbursement to Prescott Chamber of Commerce for the Christmas Lighting in the amount of \$30,000.00.
- D. Approve a professional services agreement with Lyon Engineering in the amount of \$190,820.00 for design and associated engineering services for the Airport Zone 18" Second Feed and 12" Water Main Project.
- E. Approve Amendment to Agreement # 00-062 for Potable Water with Cortez Circle Apartments through April 11, 2009.
- F. Adopt Resolution No. 3867-0835 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the City of Prescott as a member agency with the Upper Verde River Watershed Protection Coalition (UVRWPC) to enter into a Professional Services Agreement with Burgess & Niple, Inc., for the management of Coalition programs and development of specific projects, and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.
- G. Approve an agreement with LA Consulting, Inc., in the amount of \$112,371.00 for implementation of Phase III of a Maintenance Management System for the Utilities Operations Division of Public Works.
- H. Approve Amendment One to Contract No. 07-163 with URS Corporation, Granite Creek Structural Analysis, to develop an emergency action plan for each of four City-operated dams in a total amount not to exceed \$74,204.00.
- I. Approve Amendment One to Contract No. 08-024 with Post, Buckley, Schuh, and Jernigan, Inc., to add design of a new Indian Hills Reservoir to

the Zone 39 Water Mains and Pump Station Upgrade Project, in an amount not to exceed \$124,909.00.

- J. Approve Contract for Risk Management Study with ArmTech in the amount of \$33,000.00.
- K. Approve Site Plan for Texas Roadhouse, a 7150 sq. ft. restaurant located adjacent and east of Cost Plus World Market, Applicant is Greenberg Farrow.
- L. Approve Final Plat for the Ranch at Willow Creek comprising 15 lots on approximately 14.7 acres located at the southwest corner of Geneva Drive and Willow Creek Rd., Owner is V.S. Property Group, LLC, Applicant is Virgil Doefler, APN 106-22-008.
- M. Approve Final Plat for Tamarack Estates consisting of 12 lots on approximately 6.65 acres located northwest of the intersection of East Tamarack and Delano Ave., Applicant is Tamarack Estates, LLC, Agent is Brant Smith, APN 10-03-002A (FP06-020).
- N. Canyon Meadows:
 - 1. Adopt Ordinance No. 4633-0835 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, abandoning a certain 30-foot wide roadway/utility easement per Book 486 Page 168 and a certain 30-foot wide ingress/egress utility easement per Book 1269 Page 489 (both of Yavapai County Official Records) within Canyon Meadows Estates at Prescott Lakes; requesting a final plat thereof; and authorizing the Mayor and City staff to take all necessary steps to effectuate such abandonment and final plat.
 - 2. Approve Final Plat for Canyon Meadows Estates, a Planned Area Development comprising 27 lots on approximately 9.2 acres located south of Smoketree Lane and west of Prescott Lakes Parkway, Owner is Canyon Meadows Partners; Applicant is Lyon Engineering, FP07-008, APN 105-04-175B.
- O. Approve the Minutes of the Prescott City Council Regular Voting Meeting held October 9, 2007, and the Prescott City Council Study Session held October 16, 2007.

Councilman Blair said that since he was not presented for Report of Officers, he did want to report that his nephew won the Silver Award from Louisville Slugger as the hitting champion of the National League. Also, as they hear of staph infections, they are real. His sister has it and they have determined that she got

it from her cell phone. She is a health professional and works at a gym teaching health fitness. They caught it in time, but he wanted to let everyone know it is a real threat.

V. REGULAR AGENDA

- A. Canvass of the Election Results of the City of Prescott General Election Held on November 6, 2007.

Ms. Burke reported that this item is the canvass of the election results of the General Election held last week. At that election there was a 59.4% voter turnout. Incumbent Councilman Blair received 6,344 votes and Candidate Lora Lopas received 7,041 votes. Councilwoman-Elect Lopas will be sworn in to office with Mayor-Elect Wilson and Incumbent Councilmembers Mary Ann Suttles and Jim Lamerson at the end of the Council meeting on November 27, 2007.

Ms. Burke added that also on the ballot was the bed tax increase question, which passed with a vote of 8,563 yes and 4,082 no, which will become effective January 1, 2008.

COUNCILMAN ROECKER MOVED TO APPROVE THE CANVASS OF THE ELECTION RESULTS OF THE CITY OF PRESCOTT GENERAL ELECTION HELD NOVEMBER 6, 2007, AS PRESENTED; SECONDED BY COUNCILMAN BELL; PASSED UNANIMOUSLY.

- B. Appointment of Member to the Public Safety Personnel Retirement System Board.

Ms. Burke stated that there is a vacancy on the Public Safety Personnel Retirement System Board. An application was received from Bradley Malm and the Council Appointment Committee has recommended his appointment. She noted that he was not able to attend the meeting today.

COUNCILMAN LAMERSON MOVED TO ACCEPT THE COUNCIL APPOINTMENT COMMITTEE RECOMMENDATION AND APPOINT BRAD MALM TO THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM BOARD, TERM TO EXPIRE 07/2011; SECONDED BY COUNCILMAN LUZIUS; PASSED UNANIMOUSLY.

- C. Adopt Resolution No. 3866-0834 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, renaming Willow Creek Park to the Jim McCasland Willow Creek Park.

Mayor Simmons said that they had a resolution that would have been on the Consent Agenda, but Mr. McCasland was not able to attend the Study Session meeting. He then asked Mr. McCasland to come up to the front of the audience. He added that Mr. McCasland was always able to help with the historical aspect of issues within the City.

Mr. Norwood said that Mr. McCasland has left his mark on so many things in the City of Prescott. He commends him for his dedication over the years and without question his abilities to lead the Parks and Recreation Department was second to none.

Mr. McCasland said that when he first heard of this, he was overwhelmed. He said that it is a great honor to him more than most would understand. He spent his first two summers working at Willow Creek Park. They could not have accomplished what they have with the Parks and Recreation Department without his predecessor A.C. Williams. It says something to the degree of the significance that there is a park named for him. This is an honor. It was not done by him, but by the efforts of a lot of people, including past councils and tremendous employees. He said that he could not have done it without the understanding of his wife, Debbie, and his two children Sarah and Nathan.

COUNCILMAN BLAIR MOVED TO ADOPT RESOLUTION NO. 3866-0834, A RESOLUTION RENAMING WILLOW CREEK PARK THE JIM MCCASLAND WILLOW CREEK PARK; SECONDED BY COUNCILMAN ROECKER; PASSED UNANIMOUSLY.

- D. Adopt Resolution No. 3865-0833 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the City of Prescott to enter into a Development Agreement with Ponderosa Hotel Management Services for the development of a four-star quality hotel and conference center located at 340 N. Lee Blvd., and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.

Jane Bristol summarized the project for those that may not have heard it before. She said that this is a development agreement with the City of Prescott and Ponderosa Hotel Capital Management to build a 200-room, four-star quality full-service hotel that would include amenities associated with the four-star quality status and it would also include a 20,000 sq. ft. of conference space with the goal of seating at least 1,000 people in the main ballroom.

She said that there is a Phase 2 to the project that consists of 180 casitas (condos) at the back of the property and those individual units would be available for fractional ownership or as part of the hotel pool.

She said that this project is unique to the Prescott area and does not exist in the area at this time. There was an information meeting held last week, as required by the Land Development Code, and in that meeting there were many concerns brought out by citizens and others. The developer then met with the neighborhood of Yavapai Hills and City staff attended, and it is her understanding that all of the concerns and questions brought out were addressed as much as could be done at this point in the project.

Ms. Bristol said that it is important to note that the Council does have site plan approval on the project so all of the site development issues would be clarified and known at the time the Council reviews the final site plan. However, today they are discussing the development agreement.

Councilman Lamerson said that this is a wonderful opportunity for the City and asked if the land wasn't already zoned and with that zoning if it carries a property right to be developed. Mr. Kidd said that was correct.

Councilman Lamerson said that this is only one of the uses that could be put on the property. Mr. Kidd said that was correct.

Councilman Lamerson said that they have a multimillion dollar project that would have been built within the City limits, or outside, and the City went to them and asked them to build it the way they wanted it built. Ms. Bristol said that was correct. The project came forward as a hotel, and staff expressed the Council's desire to bring it up to a level of a certain quality that would include major conference facilities.

Ms. Bristol said that it was her recommendation that the City fund a feasibility study for a conference center, but the developer funded his own feasibility study, found that it was a viable project, and continued to work with the City on it.

Councilman Lamerson said that he didn't think that the City belonged in a conference center business, but the community will benefit from the resort/conference center and there is someone bringing this forward. He asked if the City could build a conference center for \$5 million. Ms. Bristol said that it could not be built today for \$5 million.

Councilman Luzius asked how the four-star quality is rated. Mr. Kidd said that the definition section addresses the four-star industry standard.

Mr. Fenech said that the Mobile Travel Guide rates hotels from one through five stars. In looking at their criteria for a four-star facility, it refers to their three-star criteria with the addition of two pages worth of additions. Some of it is pretty subjective as it relates to Mobile Travel coming out and doing an inspection.

Mr. Fenech said that AAA awards diamonds, rather than stars, and they are much more specific. He said that the four-star criteria is more geared toward service rather than asset oriented as with AAA.

Mr. Fenech said that it is not easy to get four stars. Prescott has a number of three-star properties—Hassayampa Inn, and others.

Councilman Luzius said that he has been on the Council for not quite two years and he has been steadfastly against corporate giveaways, but he also knows that the community really needs such a facility. He sees the \$5 million as a lot of money, but he sees it as an investment.

Mayor Simmons said that this has been on the top of the list for the past six years. Some years ago there were preliminary talks with people on different projects and they were talking a lot more money than \$5 million and were not talking the quality that they will have with this project.

Mr. Behnke said that one of the things that came up on Thursday was that the \$5 million would be paid once they received the four-star hotel designation. The contract doesn't require a four-star designation, but it has to be built to a four-star standard. He asked who would determine if it is a four-star quality.

Councilman Roecker asked Mr. Fenech to explain if the criteria is met as they go through the building process. Mr. Fenech said that he took the information from the Mobile website as well as AAA website. He said that Mobile has a two-page list of criteria required for a two-star and then for a three-star and four-star additional requirements have to be met.

Councilman Roecker asked if they can built a four-star quality facility and have that designation before anyone walks into a room. Mr. Fenech said that he did not know the answer to that question.

Skip Drinkard, General Manager of the Hassayampa Inn, said that Mr. Fenech is correct. AAA is much more specific than Mobile. He's been in the business for years and there is more or less a gentleman's agreement that if a facility is built to a specific standard, that they will receive the appropriate designation, but there is no guarantee.

Mr. Drinkard said that the push for the four-star is not going to come from the City, or even from Mobile or AAA, the push is from the developer because his understanding is that the business plan works at \$185 ADR (average daily rate). If they don't have the four-star designation, they won't get that rate. The Hassayampa Inn is a three-star hotel and their ADR is around \$130, so they will have to get another \$55 and they can't do that without being a four-star facility.

Brad Christiansen, President of Ponderosa Hotel Development Services, said that he spoke with Mr. Behnke prior to the meeting and one of the suggestions he had was that they are very prepared to work closely with City staff on the issues to make sure they are designing the project to meet the intent of the agreement.

Councilwoman Suttles asked Mr. Christiansen if he attended the meeting last Thursday. Mr. Christiansen said that he did. He said that the community raised a lot of legitimate concerns. He believes that, for the most part, they were concerns that they had considered prior to the meeting. He thinks there are still some issues that they need to resolve, such as traffic studies, lighting, blasting, and they are prepared to work with the community on all of the issues.

Councilwoman Suttles said that the Council had been presented with a small package of questions, and she asked if those had been addressed. Mr. Christiansen said that they were answered to the extent they could. There are still some bridges to cross, such as traffic.

Councilwoman Suttles asked Mr. Behnke if he felt the questions were answered. Mr. Behnke said that he thought they were answered in the context that they could at that time, recognizing there is a lot of things that are going to come up, with the site plan, Planning and Zoning, traffic.

Councilman Blair thanked Mr. Behnke and the folks in Yavapai Hills for understanding the value of the project and that there is a whole process left where these issues will be addressed.

Lora Lopas said that Elisabeth Ruffner had to leave and she asked her to read a statement, as follows:

"A convention center for Prescott has been a perceived need for at least 40 years with a serious effort made while Antelope Hills Subdivision and Golf Course was in the early stages. For a variety of reasons, accommodations for large groups became a reality with the hotel on the Yavapai Prescott Indian Reservation for the first time. Now the need for larger space is so evident that the private sector has stepped forward to plan the Resort at the Ranch to make Prescott competitive with other

communities who spend far more on attracting tourism that don't have our combination of historic assets and open space attributes.

Since all of Arizona and Prescott thrive or wither on sales tax receipts and private investors are willing to help us move up a notch in attracting clean industry-tourists-while giving residents new opportunities as well, this new development must be accepted by the Council and the investment necessary to bring it about. Private investment is not made on a whim or because people wish to lose money, but because the market is ready for the infusion of cash to fill a well-studied need. As a business owner for more years than most Prescott businesses have existed, I have observed that new enterprises created in the same business as already exist is not competition but investment to fill a niche that is underserved.

The history associations with which I have long been involved, have passed Prescott by for even medium-sized conferences because all events associated with the gathering could not be held in one venue. All meeting planners know the danger of losing participants when all sessions are not held in the same place. This is a crucial step in assuring Prescott's future and I urge you to approve the development agreement and move on to bigger and better gatherings of visitors from many places who will share our great town and then go home. People don't come to Prescott to shop at big box stores because they have them at home, but they do come to share the most historic town in the State which happens to have an awareness of our magnificent setting and have longed worked hard to protect all of our natural and manmade assets."

Mr. Drinkard said that he was back now to speak as Vice President of PALA (Prescott Area Lodging Association). They had a meeting yesterday and they voted unanimously in favor of the project; however there was a vote of 6-4 taken against the development agreement.

He said that the one percent bed tax has just been passed and PALA came before the Council and asked them to have it on the ballot as a two percent item. He said that some of their membership was there that disagreed and in the spirit of compromise they went with a one percent. They wanted to point out that it was unfortunate at that moment that the biggest hotel project in the history of Prescott was coming down the line and the Council voted to limit that increase in the bed tax. They all would like to make the point that the citizen's money of \$5 million is going to be invested in the project and they think it is very important that the Council understand that if they are going to do this, the protection of that \$5 million is very important.

Mr. Drinkard said that two things are very important to them—first, that if the project does go forward it needs to be very successful because they

have to protect that investment of the citizens, and if it isn't successful, and they don't make the pie bigger, then all they have done is increase their inventory and they all fight over that inventory.

Jack Wilson said that he spent a long time in corporate America and has stayed at some four-star hotels. Prescott has a certain unique cache, an ambiance that no other city or town in the area has. He likes to call that their reputation capital. He looks at the hotel conference center as an enhancement to their reputation capital. It moves Prescott in the right direction. Prescott is the best location for a venue of this quality and he urges that all Council members vote in favor of the development agreement.

Marlin Kukendall said that, first, he brings them greetings from the Mayor of Puerto Penasco, with his thanks to all who made their visit here during the air show so enjoyable. He wanted to take the opportunity to thank Mayor Simmons and Councilman Blair for their years and efforts they put into the community. Sometimes they don't realize the rewards out there, but he wishes them Godspeed and the best of luck in whatever they do.

Mr. Kukendall then said that he and Mr. Drinkard have a difference of opinion. He thinks that when they put money in an investment, it is partially their responsibility to advertise and make it successful. He doesn't think they should ever get into the position to depend on bed tax money to advertise and keep their rooms full. Everyone in Prescott realize that they need convention facilities. He's been part of a group, starting back in 1974, that looked and this is the first time that something has come to this point. He disagrees with the City's \$5 million contribution. As he looks on the chart, to make the numbers work, he sees they keep adding bed tax in as a form of income, or redemption of the \$5 million. If they contribute the bed tax and distribute it the way they have in the past, they can't claim it. They can only claim the two percent as an offset. He questions that and he asked if it was their intent to take the sales tax and the bed tax to credit back against the \$5 million.

Councilman Lamerson said that his intent when they talked about it last week was that he supported taking the first \$5 million that the community generates out of it and put it back in the capital improvement fund. Mr. Kukendall said that he then is assuming that the bed tax contributed by the new entity is not going to go into bed tax distribution to be given to PALA, etc. Councilman Lamerson said that would be his preference, but he is one of seven. He said that is a policy decision of the Council, and nothing to be discussed today.

Councilman Lamerson said that he thanked Mr. Christiansen and their investors for their willingness to invest millions in the community. He

thanks Mr. Otwell for standing up and bringing the community something they have longed for.

COUNCILMAN BLAIR MOVED TO ADOPT RESOLUTION NO. 3865-0833, ADOPTION BY THE MAYOR AND CITY COUNCIL OF PRESCOTT, ARIZONA, YAVAPAI COUNTY, AUTHORIZING THE CITY OF PRESCOTT TO ENTER A DEVELOPMENT AGREEMENT WITH PONDEROSA HOTEL MANAGEMENT SERVICES FOR THE DEVELOPMENT OF A FOUR-STAR QUALITY HOTEL AND CONFERENCE CENTER LCOATED AT 340 NORTH LEE BOULEVARD, AND AUTHORIZING THE MAYOR AND STAFF TO TAKE ANY AND ALL STEPS NECESSARY TO ACCOMPLISH THE ABOVE; SECONDED BY COUNCILWOMAN SUTTLES; PASSED UNANIMOUSLY.

- E. Approve recommended changes to the Outdoor Water Use Code to promote conservation.

Mr. McConnell said this item is to discuss alternatives for turf reduction to promote water conservation. Council and the public engaged in a considerable discussion of the subject last week and specifically that aspect of it pertaining to recommended Code provisions pertaining to turf reduction.

What was presented last week were proposed amendments to the Landscape and Screening Section of the City's Land Development Code which would restrict irrigated turf associated with new construction only. They would not affect existing residences.

The discussion last week included whether restrictions should be mandatory, and if so, whether they should be indefinite. Second, whether turf restrictions on new construction might be implemented for a two-year period and sunset, and then there was some discussion of letting the market do itself, and the community work on public education. Based on those discussions, the packet includes three alternatives:

1. Code Amendments with no sunset
2. Code Amendments with sunset
3. Voluntary turf restrictions with an active public education program

Another option would be to do nothing.

After last week's meeting, the Council received a letter from the Yavapai County Nursery & Landscape Association that stated that they endorse #3.

Councilman Blair thanked the Water Conservation Committee. He made his own voluntary decision and he thinks that is the way it should be done. He will be supporting Alternative No. 3. He doesn't think that the City has done enough on its own in the way of water conservation.

Mayor Simmons said that the one factor that he thinks is very important is the two-year element. He believes that the issue needs to be revisited in two years, regardless of what option they choose. He is leaning between Alternative #2 and #3. By changing the Code they make it more difficult to make changes. If they don't make the Code changes now, and revisit it in two years, then a decision can be made about the Code.

Councilman Lamerson said that after four years, Councilman Blair says something that he agrees with, in choosing Alternative #3.

Councilwoman Suttles said that she likes Alternative #3, but she wanted to know how they would handle the situation of grass being allowed on new construction, and then in a year or two, that homeowner wants it taken out and comes to the City for the incentive. Mr. McConnell said that he would suggest that that issue be addressed through the rebate program.

Councilwoman Suttles asked who would do the public education mentioned on Alternative #3. Mr. McConnell said that they discussed that since last week, and it would be a partnership. There are two parties to what was just described; there is a full-time water conservation coordinator and she does have publications available. Organizationally, when someone comes in for a building permit, at that one-stop permit counter, they would be provided some specific materials pertaining to water conservation objectives. The other side has been laid out in part by the Landscape Association where they have described what they are going to do when someone comes in for landscaping.

Councilman Roecker said that he agrees with Mr. Blair and everything just said by Councilwoman Suttles. He said that if Charlie's organization does what they said they were going to do, he is hopeful that they can reduce the use of water without code amendments. He asked that they have a 120-day report period where Shaun would report to the Council.

Councilman Luzius said that he was given a memo by Mr. Wayne Horton, who had asked him to read it into the record:

"November 7, 2007 – To Council Members: Regarding the impending rulings you will be making on the International Wildland Interface Code amendment changes and lawn size restriction code, I bring to light my

perspective on the negative power of misinformation. Example 1: A quick tour of any of our new neighborhoods reveals an amazing lack of green lawns, nowhere near what would ever average 600 sq. ft. per home, and, in fact, much less. So our concerns over lawn watering are already on its own corrected itself beyond what a new law would try to accomplish, minus the dreaded enforcement.

Example 2: Too much of a good thing becomes a bad thing. The proposed zone 1 ornamental ban smacks of overzealous anti-vegetation mentality trying to snuff out the last vestige of homeownership liberties related to landscaping and gardening that so many of us enjoy. As an example of this growing and unjustified hysteria is attached (two articles not read). The hidden agenda is insurance companies that do not want to pay out any claims if a technicality can free them from obligation (remember Katrina). Please do not give them that edge again, therefore I respectfully recommend a no vote on both of these issues and suggest that we put extremism on notice.

In closing, I commend you for being able to sort through such a barrage of personal agendas to arrive at a fair ruling based on the good information available. Thank you. Sincerely, Wayne Horton, citizen of Prescott.

Sandy Griffith, Yavapai County Contractors Association, said that she respected all of the comments today and support of Alternative #3. She said that she believes there are a lot more than just two parties, as suggested earlier in the meeting. It also includes the Contractors Association as well. They have great resources and they will take ownership in it and support Alternative #3 to the best of their ability to lead in education. She said that they work well with others and she would hope they would invite the YCCA to be included in the education efforts.

Mr. Hildebrandt said that he hopes what can put Councilwoman Suttles' concerns to rest, or at least indicate that they take it seriously, is that if accepted the Yavapai County Nursery and Landscape Association will provide a panel of volunteers to be available to aid the Water Conservation Coordinator in evaluating individual homeowner's dilemmas regarding irrigation. For example, if a homeowner contacts the Coordinator and requests an evaluation of their landscape water use, a member of their panel will be available to aid the Coordinator in that evaluation and education the homeowner. This will not be treated as an advertising opportunity for the landscaper. They would be required to wear a YCN&LA shirt, and would not be permitted to solicit the homeowner.

The YCN&LA would also partner with the Water Conservation Coordinator in co-hosting four educational classes per year. Two would be directed

toward the homeowners and two directed toward professional landscapers. YCNLA would educate homeowners at the point of contact as well that turf is a privilege that the town has allowed for those who use it as a quality of life enhancement and not one to be frivolously abused. YCN&LA would participate with the Coordinator at public functions to aid in educating the Prescott population.

Mayor Simmons said that he likes Councilman Roecker's idea of the 120 days.

Helen Goodman said that she would like the Council to consider the concept of leading by example. They moved here two years ago from Colorado. She knows that there have been some things being done, but today they took their dogs to Ponderosa Park for a walk and in the park, the ground was flooded. She said that their feet sink at the park because of the amount of water. That is not a good example. To jump to a policy of restricting the citizens is not prudent governing. In Colorado the water department had all sorts of incentives available.

Mayor Simmons said that efforts are being made, success has not been completed, but he knows that Parks and Rec has been working to correct some of those issues.

Victor Rublic, a private property owner, said that he was astounded at how much big government likes to jump with fanatics to deal with conservation. It seems ridiculous for people to rip out grass and put in rocks. In talking about global warming and precipitation, they are creating more heat by doing that and lowering the amount of water coming down. He said that there is no science behind it.

Ralph Fernardi said that he lives on South Mount Vernon, where he has lived since 1965. He has used the same amount of water and all of a sudden he gets a huge bill and then he saw the code amendment. He said that he wanted to remind everyone that the title to his property is only in his and his wife's name. He bought it to do with it what he wanted. He didn't move into a neighborhood where there is a committee telling them what to do. He really likes grass; 9,000 cars go in front his house every day and he gets comments on how nice the grass looks. He doesn't appreciate someone telling him what he can plant or what he can do at home. What dictates that is the amount on the water bill. He thinks that #3 is okay, but he hates the word "codes."

Mr. McConnell said that if the consensus of the Council is to approve Alternative #3 he would suggest they vote on that with the additional staff direction and staff will summarize that for them, but it would not necessarily be a part of the motion.

COUNCILMAN ROECKER MOVED TO APPROVE ALTERNATIVE NO. 3, PROVIDING DIRECTION TO STAFF AS REQUIRED; SECONDED BY COUNCILMAN BELL; PASSED 6-1 WITH COUNCILMAN LUZIUS CASTING THE DISSENTING VOTE.

- F. Recess into Executive Session.

COUNCILMAN LAMERSON MOVED TO RECESS INTO EXECUTIVE SESSION; SECONDED BY COUNCILMAN BLAIR; PASSED UNANIMOUSLY.

The Prescott City Council recessed into Executive Session at 6:10 p.m.

VI. EXECUTIVE SESSION

- A. Discussion or consultation for legal advice with the attorney or attorneys of the public body.
1. Title clearance of parcel of land located in the area of the Prescott Municipal Airport.
 2. Interim Arsenic Treatment Project, regarding permitting and contractual matters.
- B. 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 ARS 38-431.03(A)(1)
1. Annual review of City Manager.

VII. POST EXECUTIVE SESSION

The Prescott City Council reconvened into Open Session at 6:58 p.m.

- A. Approval of a legal services agreement with the law firm of Favour, Moore & Wilhelmsen for continuing legal representation in City of Prescott v. CVID Investment LLC.

COUNCILMAN LAMERSON MOVED TO APPROVE A LEGAL SERVICES AGREEMENT WITH THE LAW FIRM OF FAVOUR, MOORE & WILHELMSEN FOR CONTINUING LEGAL REPRESENTATION IN CITY OF PRESCOTT V. CVID INVESTMENT LLC; SECONDED BY COUNCILMAN LUZIUS; PASSED UNANIMOUSLY.

- B. Consideration of amendment(s) to City Manager's contract.

COUNCILMAN ROECKER MOVED TO AMEND THE CITY MANAGER'S CONTRACT BY GIVING A FOUR PERCENT INCREASE (IN THE NEIGHORHOOD OF \$7,600) AND BUY BACK A WEEK OF VACATION; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.

VIII. ADJOURNMENT

The Regular Meeting of the Prescott City Council held on November 13, 2007, adjourned at 7:01 p.m.

JACK D. WILSON, 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 13th day of November, 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

ELIZABETH A. BURKE, City Clerk