

PRESCOTT CITY COUNCIL
JOINT STUDY SESSION/SPECIAL MEETING
TUESDAY, OCTOBER 20, 2009
PRESCOTT, ARIZONA

MINUTES OF THE JOINT STUDY SESSION/SPECIAL MEETING OF THE PRESCOTT CITY COUNCIL held on OCTOBER 20, 2009 in the COUNCIL CHAMBERS located at CITY HALL, 201 SOUTH CORTEZ STREET, Prescott, Arizona.

◆ **CALL TO ORDER**

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

◆ **INTRODUCTIONS**

◆ **INVOCATION:** Father John A. Peck, Prescott Orthodox Christian Church

Father Peck gave the invocation.

◆ **PLEDGE OF ALLEGIANCE:** Councilwoman Lopas

Councilwoman Lopas led the Council and audience in the Pledge of Allegiance.

◆ **ROLL CALL:**

PRESENT

Mayor Wilson
Councilman Bell
Councilman Lamerson
Councilwoman Lopas
Councilman Luzius
Councilman Roecker
Councilwoman Suttles

ABSENT:

None

◆ **SUMMARY OF CURRENT OR RECENT EVENTS**

City Manager Steve Norwood noted that enplanements through September 30 were over 8200. He said there were three months to get 1800 passengers, which looked promising.

The Dump the Drugs program occurred the previous Saturday and in three hours, they took in over 250 pounds of prescription drugs. The numbers were also good in Prescott and Chino Valley.

STUDY SESSION*

I. PUBLIC COMMENT

- A. Representative from United Way of Yavapai County re *Community Resource Fair* on Saturday, October 24, 2009.

Muriel Haverland, 786 Panican Drive, thanked the Council for proclaiming October as United Way Month. Part of their mission was to move from their Granny's United Way to a whole new United Way with community impact, collaboration and partnership.

Their first real event is the Community Resource Fair, *Surviving and Thriving in Troubled Times*, which will be Saturday October 24, from 9:00 am to 4:00 p.m. at the Church of Jesus Christ of Latte-day Saints Church Cultural Hall, behind Fry's at 1101 Sandretto Drive. The fair was underwritten by Bridgeway Health Solutions. It is a free fair with a free rice and beans lunch to the attendees, in addition to free childcare.

She said that they want the people who need it most to come out and attend the sessions, so they can get the information they need from the resources that are there for them. There will be over 50 non profits and businesses and a number of presentations on jobs and careers. There will be a resume workshop; they will talk about unemployment insurance and how to use electronic resume formats. They will be giving a lot of instruction about wellness with presentations from Alcoholics Anonymous, West Yavapai Guidance Center, and various private practitioners in Prescott.

They will also discuss fitness and nutrition, hear from a local chef about how to buy and prepare food for less and make it more nutritious. A yoga instructor will talk about overall well being. Jane Bristol will talk about how to manage in this economic climate.

People will be talking about budgeting, managing finances, as well as talking to kids about money. There will be discussions about retirement, foreclosures, and real estate buying.

She said that United Way wants to make a difference and to be impactful. They will have free vision, blood pressure and depression screening. Representative Lucy Mason will be there for lunch to give a State of the State speech.

II. DISCUSSION ITEMS

- A. Approval of an agreement with Otto Environmental Systems for purchase of automated side-load containers, in an amount not to exceed \$120,000.00.

Chad McDowell noted that containers are purchased every year for new homes or replacement of damaged containers. A typical lifespan is from ten to twelve years with a ten year warranty.

The City received three competitive bids in September. They saw the best prices in over six years, and staff was recommending entering a contract with Otto Environmental.

Councilwoman Suttles asked why he thought these were the best prices in six years. Mr. McDowell said that the competition was good and the economy was bad.

Councilwoman Suttles asked if he had dealt with Otto Environmental before. Mr. McDowell said that they provide the green cans and are the preferred cans of Prescott.

- B. Approval of an agreement with Roberts Tire, Inc. for retread tires in an amount not to exceed \$55,000.00.

Mr. McDowell said that Jim Sutton has taken an active role to find the best deal. They have been able to put the competitors against each other. These prices are \$100/tire; the normal price was \$173/tire. The solid waste division purchases 400-500 tires per, which is around \$20,000 in savings.

Councilman Bell asked where Roberts Tire was located. Mr. McDowell said that they were from Mesa, but they do use a local vendor to put the tires on.

Councilman Lamerson asked what the difference in longevity was between retreads and new tires. Mr. McDowell noted that they last about the same on the trucks and they go through tires in about 5,000 miles. Sometimes they will lose front tires in 3,000 miles. The problem with new tires is the cost. For safety reasons they will not run retreads up front.

- C. Approval to increase the Guaranteed Maximum Price (GMP) of the CM@Risk agreement for the Elks Opera House Restoration by \$87,709.00 to \$1,239,032.00.

Mic Fenech stated that last July the three-party CM at Risk contract between the Elks Opera House Foundation, the City of Prescott and Haley Construction for \$1,151,323 was approved by Council. Prior to that, the grants administrator, Linda Hartmann asked for approval to seek a federal stimulus grant and the Council granted her permission.

Recently, they were informed that they did receive the grant. In it was \$87,709 put aside for the Elks Opera House for energy efficiency improvements to that building envelope. He asked that the GMP be increased by \$87,709, but in talking with Linda Hartmann, he discovered that their contractor was procured using CM at Risk procurement method which is a qualification-based procedure. The Feds require low bid and other things such as Davis Bacon wages, and those as well as other requirements would conflict with the current contractor.

After speaking with the management in budget and finance, it was determined that the best way to do this would be to use capital improvements funds targeted for City Hall for HVAC and move those funds to the Elks, then use the stimulus money at City Hall.

Councilwoman Suttles said that in reading the brief, it was to simplify the methodology of each area of improvement. She does not think he can simplify dealing with the Feds or the City's own accounting department. To make it simple, she asked if they needed to get the \$87,000 to the Elks for the things they are doing.

Mr. Fenech said that they are currently finishing up the testing of the new sprinkler system. With the weather turning they will be having a cold winter. They have to get the thermal envelope fixed. There is no insulation in the ceiling and many of the windows are in bad shape. The money will make that a building envelope that will resist the cold.

Councilwoman Suttles asked if the material bids were going out locally. Mr. Fenech answered that because they are using CM at Risk, Haley Construction will go out to bid for that, and because some of that was part of the original scope of work they have already received their bids.

Councilwoman Suttles said she toured the Elks yesterday and talked with Haley Construction and it seems like they are doing better each time and have some money to do some other things. It looks like they are working on the marquee with some of the money that has been saved.

Mr. Fenech said that it was a great story. CM at Risk is working as hoped. When they went to bid for the sprinkler system they were able to find a local contractor. They were able to save enough money from that project to include the marquee. That was a big bonus.

Councilwoman Suttles said that CM at Risk is a great opportunity for the City to look at other projects. She was pleased with this and was sure that they could move some money around.

Councilman Lamerson asked if understood correctly that the grant was specific for certain things, one of them was for the Elks Building. Mr. Fenech replied that was correct.

Councilman Lamerson asked if because of their contractual obligations with CM at Risk, they had to do it a little differently with some in house bookkeeping; where they are not compromising their obligations under the contract and also using it to the highest and best use of the grant application. Mr. Fenech said that was correct. He added that Linda Hartmann had checked with the Federal authority who gave them authority to make the change.

Councilman Roecker said that he went to the Elks Opera House that day; there are lots of things being done that the public will never see, but they are making the building stronger and better for the public. The sprinkler system is being designed so it will not be seen. The things they can see are spectacular. They will be proud of the results of this effort. He thanked them for their support.

Mayor Wilson said that he was looking forward to the reopening of the Elks. He thinks that it will be a touchstone event for the community, which will foretell what else is going to happen downtown.

Councilman Bell asked when they expected to finish. Mr. Fenech said that the finish date under the contract is April 20, and they have said that they are on schedule.

- D. Adoption of Resolution No. 3994-1024 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, approving the incorporation of the Town of Williamson Valley, Arizona.

Ms. Tucker said that the State Statutes require any urbanized area within six miles of proposed boundaries of an incorporation to pass a resolution. The bottom of Williamson Valley boundary abuts the City of Prescott boundary; that requires the Council approval of a resolution.

State Statutes also allows, if they are not approved, the proposed incorporation area can request annexation into this City and if not approved within 120 days, then they can submit their petitions for incorporation to the County Board of Supervisors. She said that approving or not approving the resolution does not stop the incorporation efforts. She said that the staff reviewed the proposed boundaries for any conflicts and there were none.

Councilwoman Suttles said that she would like to pull the item from the Consent Agenda. She has had quite a few e-mails and conversations and everyone is not in agreement to incorporate Williamson Valley.

Mayor Wilson asked if they would lose shared revenues. Ms. Tucker answered that the approximate amount for the current estimates is about \$53,000. There is one pool of money for all of the cities and towns in the State and when a city or town gets added, the pool gets divided up. Every city would lose money.

Georgene Lockwood, 8100 North Red Oak Road, Williamson Valley, said that she was the Chairman of the Williamson Valley Incorporation Committee. She noted that in these tough economic times, it is tough to present anything that represents loss of revenues to the municipality. This provides an opportunity to provide services to a newly incorporated town. It will also give more power to the area, in that there would be another municipality to provide a voice to the State and County on issues, important to the region. This area does not intend to take commercial business from Prescott. Allowing the incorporation can facilitate regional, joint planning, transportation, water and other issues. Incorporation allows the area to build its own identity.

Lew Smith, 2102 Stringfield Drive, in the unincorporated area of Yavapai County and within the proposed area of the proposed town of Williamson Valley, said that he asked that the City Council follow the guidance of Nancy Reagan and *Just Say No*. He commented that this was another boondoggle by a select few. A few years back there was a proposal to bury all of the power lines because they did not fit with the rural nature. When APS made it clear that they were the ones to pay for it, that all died. In his opinion, it is the same group pushing the idea to become incorporated. They do not need incorporation. As far as getting a voice, Carol Springer is one of the most receptive people he deals with. He asked that Council not okay the project.

Councilman Roecker clarified that if they turn this down, the Williamson Valley group will go through another process and proceed anyway. Ms. Tucker confirmed the comment.

Councilman Roecker said that if they say yes, it will just shorten the process. It does not matter what they do; it is like liquor licenses. Ms. Tucker answered yes. The state statute provides if the resolution is not approved and they request annexation into Prescott, the City must pass an ordinance within 120 days approving the annexation, and if that does not occur, they can move forward with their petitions to the County Supervisor.

Councilman Roecker said that Ms. Lockwood mentioned that there were services that might be provided by the City. He asked what those would be. Ms. Tucker said that it would be police and sanitation services. CYFD serves the area currently and would continue to do so.

Councilman Roecker said that once they got past \$53,000, the City could be making money. Councilman Luzius asked what the procedure was for incorporating a new area and if they needed a certain amount of signatures.

Mayor Wilson answered that there were two requirements, 50% of the actual people out there and 50% of the property value. Councilman Luzius asked if these people had met those criteria.

Ms. Tucker said that she believed that the requirement for the signatures on the petition is less than 50%. It is the election that requires those percentages. She believes that is it 10%.

Councilman Luzius asked if they have met the criteria that are outlined for becoming incorporated. Ms. Tucker said yes, 10% of the voters in the area have to sign the petition for incorporation, which is then presented to Board of Supervisors. An election would be held and it is 50% plus 1 of the people in the area and 50% plus 1 of land value.

Councilman Luzius said that it takes 10% to talk about it and then 50% plus 1 for the election. Councilman Bell asked Ms. Tucker to walk them through the timing. If they have to petition the County, he asked what happens after that.

Ms. Lockwood said that process is that they first get permission from the two adjoining towns, the City of Prescott and Chino Valley, before they even begin the petition process. Then they file petition language with the Elections Department of the County. That will be based on a legal description of their boundaries. That would not happen until February of next year. Then they have 120 days to gather 10% signatures. The election that they are looking at is August 24, 2010. Once the Board of Supervisors hears the resolution, they have a possible 60 days.

Councilman Roecker said that would be if they vote yes. Ms. Lockwood said if they voted no, it would just take longer. They would then be looking at the November 3, 2010 election.

Mayor Wilson noted that in terms of potential annexations, the City of Prescott has a policy of what they will annex. Part of that has to do with level of infrastructure in terms of streets, sewer and water service. He would be surprised if they were interested in annexing that area since there are no sewers.

Ms. Lockwood said that in their meetings with the City staff, there seemed to be no interest in annexation and they read the General Plan before the meeting with staff. They kind of know what the plans are and they removed areas from the initial boundaries which the surrounding towns were interested in for the future annexation. They tried to consider the City of Prescott long term plans.

Councilman Luzius asked what the difference would be between them getting 10% or 2/3%. Ms. Lockwood said if they got 2/3% they would be automatically incorporated, as Star Valley did.

Councilman Luzius asked what that possibility was. Ms. Lockwood answered that they did not want to do that. Tom Belshe, from The League of Cities and Towns, met with them and they all agreed that they wanted to use the voting process.

Councilman Roecker asked how many people would reside in the new area. Ms. Lockwood said that she only had an estimate. They started out with the census designated place. In 2000 it was around 3700 people. Their boundaries are smaller than that, but she estimated that there were around 5,000 people. They will not know until the census next year. That is what the state shared revenues will be based on.

Councilman Roecker asked if the 10% would be based on next year's census. Ms. Lockwood said yes.

Councilman Lamerson said that other than the \$53,000, it appears to be a neighborhood issue; a neighborhood that is not in the City of Prescott. He thought that the issue needed to be solved by that neighborhood and not the City of Prescott, unless there is another liability or disadvantage to the City of Prescott by not looking at this area for annexation. He thought that the City was timid about looking for huge annexations to bring up to City codes. He asked why the Council would get into a circumstance that did not have to do with the City of Prescott.

Ms. Tucker said that is the issue, whether the City Council wishes to approve the resolution or not. The staff has looked at proposed boundaries and does not see any issues. The City's total take of State shared revenues is estimated at around \$11 million. \$53,000 is not a huge percentage, in that respect. It is the Council's decision.

Councilman Lamerson said that on the ballot this year the City has an initiative that has to do with Home Rule. The residents are sensitive about it and he does not understand why they would not respect the sensitivity of others.

Betsy Ann Copeland, 4712 West Case Junction, Prescott, Williamson Valley thanked Councilwoman Suttles and Councilman Lamerson for their good questions. She said that there are a lot of people in Williamson Valley who do not want to incorporate. She requested that the Council put this on hold until next week. She wanted to get some information out there and hear from others that do not want to incorporate. She feels that the Council will be getting more e-mails.

Mayor Wilson noted that it will be open for discussion next week. He told her that she could tell people to come to the Council meeting or send emails.

Ms.Lockwood asked if the vote would be next week. Mayor Wilson said yes, unless someone raises a serious objection.

Ken Janecek, 2764 Boon Court, said that \$53,000 based on \$11 million was about a 5% cut. He was interested in Connie giving him a basis on how that was generated. Other people think it is a smaller number.

Ms. Tucker said that there are four different shared revenue funds and each has their own formula, based on population. \$53,000 would be a .5% cut. Largest hit in the City funds would be the HURF funds. It is all based on population and funding formulas for each fund.

Mr. Janecek asked if she would share how much the fundings were for each one of the four categories. Mayor Wilson said that she would e-mail the information to him.

- E. Adoption of Resolution No. 3989-1019 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, amending Resolution Number 3830, by amending the Intergovernmental Agreement approved therein to now allow for a disbursement of \$250,000 from the City to the County against monies otherwise payable to them and authorizing payment therefore.

Mr. Norwood said that this item dated back to their transfer agreement with the Rodeo Grounds. They went through a series of credits for animal control expansion, road improvements, and utility improvements – incrementally over a several years. One was for the County to pay approximately \$250,000, which is 50% of their responsibility for the expansion of the animal shelter. The City gave them credit for that.

He said that earlier this year the County and City contracted with Yavapai Humane Society, so the expansion was not necessary, but it does not relieve the requirement for \$250,000. He said that there are funds available to make that happen. The County did work with the City. The City gave them an extra year to move out of the facilities, and they gave the City a lot of space at the Rodeo Grounds, saving the City money on rental space. He said that this was a one-time payment of \$250,000.

- F. Approval of minutes of the Prescott City Council Workshop of October 13, 2009, the Regular Voting Meeting of October 13, 2009 and the Joint Public Workshop with Water Conservation/Safe Yield Committee of October 15, 2009.

None.

- G. Selection of items to be placed on the Regular Voting Meeting Agenda of October 27, 2009.

Councilman Bell said that the following items would be on the Consent Agenda: A, B, C, E, and F. Item D would be on the regular agenda next week.

III. **ADJOURNMENT**

The Study Session of the Prescott City Council adjourned at 3:40 p.m.

SPECIAL MEETING*

1. **Call to order.**

Mayor Wilson called the Special Meeting to order at 3:40 p.m.

2. **Recess into Executive Session.**

**COUNCILMAN ROECKER MOVED TO RECESS INTO EXECUTIVE SESSION;
SECONDED BY COUNCILWOMAN SUTTLES; PASSED UNANIMOUSLY.**

The Prescott City Council recessed into Executive Session at 3:40 p.m.

3. EXECUTIVE SESSION

A. Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation, and/or discussion or consultation for legal advice with the attorney or attorneys of the public body, pursuant to ARS 38-431.03(A)(3) and (4).

i. Paul Katan v. City of Prescott/Liz Burke.

4. Adjournment.

The Prescott City Council reconvened into Open Session at 4:09 p.m. at which time the Special Meeting of October 20, 2009, was adjourned.

JACK D. WILSON, Mayor

ATTEST:

ELIZABETH A. BURKE, City Clerk