

PRESCOTT CITY COUNCIL
JOINT STUDY SESSION/SPECIAL MEETING
TUESDAY, NOVEMBER 3, 2009
PRESCOTT, ARIZONA

MINUTES OF THE JOINT STUDY SESSION/SPECIAL MEETING OF THE PRESCOTT CITY COUNCIL held on NOVEMBER 3, 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:** Reverend Julia McKenna, Spiritual Architect

Reverend Julia McKenna gave the invocation.

◆ **PLEDGE OF ALLEGIANCE:** Councilman Luzius

Councilman Luzius was not present; Mayor Wilson led the Council and audience in the Pledge of Allegiance.

◆ **ROLL CALL:**

Present:

Absent:

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

None

*Councilman Luzius attended Executive Session only, telephonically

◆ **SUMMARY OF CURRENT OR RECENT EVENTS**

None

STUDY SESSION

I. DISCUSSION ITEMS

- A. Approval of Lease Agreement between the City of Prescott and the Adult Center of Prescott, Inc. for lease of a portion of the Rowle P. Simmons Community Center located at 1280 East Rosser Street.

Item A was pulled from the agenda prior to the meeting.

- B. Approval of an increase of the Guaranteed Maximum Price (GMP) of the CM@Risk agreement for the Elk's Opera House Restoration by \$170,000.00.

Mr. Fenech noted that the funds would not be coming out of any City Funds, but from the Foundation. They will be used to add in some of the elements that were initially taken out, due to lack of funding, for decorative elements. He thanked the Foundation for the great job that they have done in raising funds.

Councilwoman Suttles said that in the past she had asked Ms. Ruffner if there would be continual funding for the Elks and this money proves that there is.

Ms. Ruffner said that they have six months to go and they will be raising money the entire time. The contractor is on schedule and the faith and the Foundation never waivers. Councilwoman Suttles thanked her for her work.

Councilman Lamerson asked Mr. Fenech to repeat that the money would be coming through the Foundation and not through the City. Mr. Fenech said that he was correct. The money would be coming through the Foundation.

- C. Approval of a Plat Revision to create one new lot within the Idyllwild Tract subdivision for a water pumping station, APN 111-08-030 comprising .68 Acres; Owner: Roy and Donna Bennett, Agent: Jeff Low, City of Prescott Capital Projects Manager. (RP09-004)

Mr. Guise introduced the item and showed an overhead of the proposed property location.

- D. Approval of expenditure for construction of SR 89A Granite Dells Parkway Traffic Interchange Project in an amount not to exceed \$17,095,996.12.

Mr. Nietupski said that this was a housekeeping item, and it had been overlooked a couple of weeks ago.

Councilwoman Suttles said that she usually likes to pull anything that is \$1 million or more off of the Consent Agenda, but she was afraid to talk about this one, since it has taken them almost a year to get it done. She asked the Council if they were comfortable keeping it on the Consent Agenda.

Councilman Bell asked if there was a penalty clause after March 2011. Mr. Nietupski asked if he meant as far as liquidated damages. He said that he was unfamiliar with the ADOT contractual provisions for that, but would be happy to get back to them with an answer. Councilman Bell said that he would like to know by next week.

Councilman Lamerson thanked Councilman Bell for the question and said that he had no problem with it being on the Consent Agenda as long as the question was resolved. Mr. Nietupski said that he would have the answer by the next day.

Robert Ekkel, North Prescott, Country Park Drive, said that he has followed the Side Road event since the subdivision was approved. He feels that it is disturbing, as a citizen, to have had it presented to the owners of the subdivision, and then pulled out of their hands with a deal was signed with a contractor. He wondered if the City solicited the bid, or if the subdivision solicited for the bid. He recommended that the Council table it and study it more. The owners of the subdivision should be able to shop at their leisure. The Council may be an indirect boss of the principal involved, but it should be no reason to exert undue pressure on any of the parties.

Michael Allen Peters, 640 Lee Blvd., Prescott, 86303, said that he was surprised that it was going to be left on the Consent Agenda. Mr. Norwood said that the possible funding would be by imposing a tax on them by sourcing it out as a bond issue for payment, rather than taking it from the current 1% sales tax that was approved by City Council in 2000. It would not terminate until December 31 of 2015. It would be fine if they pay for the Side Road debt of \$17 million from the 1% sales tax.

He asked where the 1% sales tax money for roads, maintenance and new roads is going to go, if they are going to bond this out for source of funding on that $\frac{3}{4}$ % that Mr. Norwood made comment about in the paper. He asked why they would take it from the 20 year extension, which begins January 1, 2016, as opposed to the 1% now. He would like to know where the money was coming from. Also, he asked what it was going to cost the citizens to take on the administration of the contract pursuant to the settlement. He also asked if the actual judgment of the settlement with the Side Road controversy was ever going to be reduced to writing and published for the taxpayers. Mayor Wilson said that he did not understand the last question.

Mr. Peters said that there was a judgment that was referred to when they announced that the Side Road controversy was resolved. He has not seen what the judgment consisted of in writing and what legal obligation was imposed on the people when the agenda item says City's agreement is to take on the administration of the contract.

Mayor said that he would take the third question first. He said that he did not think there was a judgment. It would be something that they would get from a court of law, which they do not have. There is an agreement from the parties not to sue each other. In terms of the cost of the financing, he directed the question to Mr. Woodfill.

Mr. Kidd said that he would answer the other question. He told Mr. Peters that he would give him a copy of the settlement agreement and there was a recent order dismissing the entire cross and counter claims in court.

Mr. Woodfill said that as far as the financing of the project; it was budgeted in the year's budget to be done with the bond issue. The bond issue will be paid with the 1% Streets and Open Space Tax as well as the ¾% because it will be a 20 year bond. The anticipated life of the road is significantly longer. It will be done through the Municipal Property Corporation, and will be considered by them on the December 17 public meeting at 2:00 p.m.

Mr. Peters asked if it is possible that the 1% sales tax, between now and the start of construction, designated as a source of revenue for streets, maintenance and repairs, could pay the entire \$17 million for Side Road.

Mayor Wilson said that he thought the question was if they had that much in the budget. There is not that much in the budget, which is why they bond.

Mr. Woodfill said that they are bonding it regardless of whether there would be enough cash flow over the next six years. They chose to go to the voters for the extension so they could do a 20 year bond to keep the infrastructure that will last well beyond that and still be able to maintain the existing roads.

Mr. Peters asked what the cost to the City was. Mayor Wilson said that it was his understanding that the cost to the City is nothing because they are not raising any salaries. Mr. Nietupski will take over the contract management.

Mr. Nietupski said that there is a cost associated with providing the service that they would have incurred if the City was doing it or if Granite Dells Properties was doing it. Those are real costs that the City would have

incurred one way or the other. The way they are managing the project, they will incur less than otherwise stated.

Mayor Wilson said that it was true and he had forgotten about that. One of the provisions in the original contract would have allowed the contractor something like 5% as a General Contractor.

Mr. Norwood noted that they were receiving \$1 million from Arizona Department of Transportation as part of the construction.

- E. Adoption of Resolution No. 3995-1025 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, approving a Sewer Service Reimbursement Agreement between Chad W. Beyea, Jason R. Beyea, Patrick Lee McCarty, Harry and Reeda McCarty, and Laurentian Development, Inc. and the City of Prescott, and authorizing the Mayor and staff to take any and all steps deemed necessary to accomplish the above.

Mr. Nietupski said that the district is comprised of ten parcels with eight of them being in the initial development area and two are in the reimbursement area. The reimbursement district is in the amount of \$93,859.68, and if any party has the desire to hook onto the system, within the next 15 years, they would be obligated to reimburse their portion. There are no costs to the City. It was all funded privately.

Steve Blair, 1802 Northside Drive, asked if the City had given any credence to upsizing the sewer line that will go through that property, with the idea of capturing septic sewer. They receive City water and the City should be recouping the sewage from the water that they supply outside of the City. He wondered when the City looks at sizing the sewer line to the right size.

Mr. Nietupski said that the sewer line was in place. There is a Wastewater Master Plan that addresses the Williamson Valley area. He would look into it and provide the information needed.

Mr. Blair said that he would like to know that the City has an obligation to the citizens by selling water outside of the City to try to recuperate the sewage.

Councilwoman Suttles asked if the reimbursement district was part of the City and how it benefits the City. Mr. Nietupski said that the City benefits in the collection of revenues for the provision of sanitary sewer service. The people, who install the line at their expense, benefit by having it. It is a win/win.

Councilwoman Suttles asked if it was in the City limits. Mr. Nietupski said that he did not know for certain and that he would get back to her.

Councilman Lamerson asked if they had anticipation recapturing the effluent, why they would not upsize the sewer line. Mr. Nietupski noted that the issue and policy of providing sewer service to unsewered areas has been discussed many times. The funding for providing sewer services to those areas that do not currently have sewer is not resolved. This is an example of people who are in an unsewered area and he does think that they are within the City of Prescott but they have City water. In the event that they desire sewer service at this time, it is their responsibility to come up with a means to provide that service. It is not the City's responsibility, under the current guidelines and procedures.

Councilman Lamerson confirmed that they the City had no anticipation of a facilities district out there so that the residents can upgrade their sewer lines. Mr. Nietupski said that there have been discussions of improvement districts, but it has not been widely accepted by the people who are within the areas.

Councilman Lamerson said that he is hearing that they are choosing to stay on septic tanks. It is not the choice of the City to go in and tell them that they are going to get bigger sewer lines at the homeowner's expense. Mr. Nietupski said that was correct.

- F. Approval of minutes of the Prescott City Council Workshop of October 13, 2009, the Joint Public Workshop with Water Conservation/Safe Yield Committee of October 15, 2009; the Regular Voting Meeting of October 27, 2009 and the Study Session of November 3, 2009.

No discussion.

- G. Selection of items to be placed on the Regular Voting Meeting Agenda of November 10, 2009.

Councilman Bell said that item A and D had been pulled from the agenda' B, C, E and F would be on the Consent Agenda.

II. ADJOURNMENT

The Study Session of the Prescott City Council adjourned at 3:27 p.m.

SPECIAL MEETING

- 1. Call to Order.

Mayor Wilson called the Special Meeting to order at 3:42 p.m.

- 2. Recess into Executive Session.

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

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, pursuant to ARS §38-431.03(A)(4).
 - i. Raber v. City of Prescott
 - ii. City of Prescott v. CVID Investment LLC
- 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, pursuant to ARS §38-431.03(A)(1).
 - i. Annual review of City Manager.

4. POST EXECUTIVE SESSION

- A. Possible amendment to Employment Agreement with City Manager.
The Prescott City Council reconvened into Open Session at 4:52 p.m.

**COUNCILMAN LAMERSON MOVED TO EXTEND THE CITY
MANAGER CONTRACT IN ITS PRESENT FORM TO THE END OF THE
FISCAL YEAR (JUNE 30, 2010), RETROACTIVE BACK TO JULY 1,
2009; SECONDED BY COUNCILMAN BELL.**

Councilman Roecker clarified that the only change was the date on the top of the contract.

Councilwoman Suttles thanked Mr. Norwood for the job he has done. She said that they have been through some tough times and he has done everything the City has needed.

Councilman Lamerson echoed those comments. He said that Mr. Norwood had moved his family a long way to be in Prescott and he has done a good job.

Councilman Roecker said that the fact that the community has not had to do across-the-board reductions in pay shows that the management of the City is in good hands and they should be proud of what he has done as the City Manager and the Council should be proud as well.

Councilman Bell echoed the comments and said that he believed in the six and half years that Mr. Norwood has been in Prescott he has been an excellent City Manager and they owe him a debt of gratitude.

Mayor Wilson said that they were taking steps to make sure they get the reviews of appointed personnel on the proper cycle and they were working with the HR Director. Councilwoman Lopas apologized that it had taken so long.

Mr. Norwood said that he appreciated the trust the Council has in him and the staff as a whole. He said that he was tickled to be in Prescott. He said that they have had some tough times but the management structure is in place to weather the storm. He noted that there were no salary or benefit increases in the agreement, and that was the right thing to do as they were asking the same of all City employees.

MOTION PASSED UNANIMOUSLY.

5. Adjournment

There being no further business to be brought before the Council, the Special Meeting of the Prescott City Council held November 3, 2009, adjourned at 4:55 p.m.

JACK D. WILSON, Mayor

ATTEST:

ELIZABETH A. BURKE, City Clerk