

PRESCOTT CITY COUNCIL
REGULAR VOTING MEETING
TUESDAY, MARCH 9, 2010
PRESCOTT, ARIZONA

MINUTES OF THE REGULAR VOTING MEETING OF THE PRESCOTT CITY COUNCIL
held on TUESDAY, MARCH 9, 2010 in the COUNCIL CHAMBERS located at CITY HALL
201 SOUTH CORTEZ STREET, Prescott, Arizona.

◆ **CALL TO ORDER**

Mayor Kuykendall called the meeting to order at 3:03 p.m.

◆ **INTRODUCTIONS**

◆ **INVOCATION:** Pastor Steve Paglia, Heights Church

Pastor Paglia gave the invocation.

◆ **PLEDGE OF ALLEGIANCE:** Councilman Hanna

Councilman Hanna led the Council and audience in the Pledge of Allegiance.

◆ **ROLL CALL:**

PRESENT:

Mayor Kuykendall
Councilman Blair
Councilman Hanna
Councilman Lamerson
Councilwoman Linn
Councilwoman Lopas
Councilwoman Suttles

ABSENT:

None

◆ **SUMMARY OF CURRENT OR RECENT EVENTS**

City Manager Steve Norwood said that they would start the two meetings per month in April. The Council will be getting their packets on Wednesday instead of Friday, which gives them nearly a week to review the information.

I. PUBLIC COMMENTS

A. Warren Frasher re fees on public trails.

Mr. Frasher was not present.

- B. Frank Creelman re Traffic Engineering.

Mr. Creelman spoke about dips in the road and square curbs.

- C. Tony Sciacca and Punky Moore re Arizona Wildfire Academy.

Mr. Sciacca said that it was the 8th Annual Arizona Wildfire Academy beginning on March 13 at Embry Riddle Aeronautical University. This year there will be about 950 participants from 20 different states. Last year there were 1000 participants from 27 states. They have seen over 5900 participants in the past 8 years and have issued over 5000 certificates to wild land fires. This year they have representatives from 200 different fire departments and 5 different Federal agencies. The Academy is known as one of the premier academies in the nation. They have interest from Japan and other places. The host hotel is the Wyndam Garden this year. The academy prides itself on their financial impact to the community and thanked the businesses for their donations.

He said that Tuesday, March 16 will be VIP day between 9:00 a.m. and 5:00 p.m. and he invited all to attend. The Academy would not happen without the City of Prescott and the fire department, and he thanked them for their support and leadership.

Councilman Blair asked him what the economic impact was to the City. Mr. Sciacca said that it was between \$800,000 and \$1 million in eight days.

Councilman Hanna thanked them for doing a tough job.

II. PRESENTATION

- A. Recognition of Prescott Police Officer Nate Barto.

Officer Barto was unable to attend; this item will be rescheduled.

- B. Larry Green, West Yavapai Guidance Clinic, with an update on mental health and state budget issues.

Mr. Green, CEO of the West Yavapai Guidance Clinic, said that the clinic is a 501c3 non-profit organization that has been in community for 44 years. Their current services include outpatient counseling, support services for individuals with serious mental illness, psychiatry, inpatient psychiatric hospitalization, vocational services for individuals with disabilities, senior peer prevention program, chemical dependency

outpatient and residential treatment, supervised and unsupervised housing, 24 hour crisis intervention and two pharmacies.

Last year the clinic served 7,200 individuals in Western Yavapai County; 2,543 individuals were Prescott residents.

If Proposition 204 is passed it could be catastrophic for the community. A family of four could not make more than \$7,200 to qualify at the poverty level. They would not be able to serve nearly one half of the people they currently serve. In addition, they will be forced to lay off at least 100 employees.

He noted that the emergency rooms as well as police and fire departments will have to take up the slack.

III. CONSENT AGENDA

CONSENT ITEM A THROUGH I 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 ITEMS III-A THROUGH III-I OF THE CONSENT AGENDA; SECONDED BY COUNCILWOMAN SUTTLES; PASSED UNANIMOUSLY.

- A. Authorize application for funding from the Governor's Office of Highway Safety for overtime payments and related expense to DUI enforcement and aggressive driving details in the amount of \$64,100.00.
- B. Authorize application for funding from the Governor's Office of Highway Safety to purchase an unmarked enforcement vehicle for DUI and aggressive driver enforcement in the amount of \$43,075.00.
- C. Adopt Resolution No. 4007-1037 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the City of Prescott to enter into an Intergovernmental Agreement ("IGA") with Prescott Unified School District (P.U.S.D.) for the exchange of facilities and various maintenance requirements and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.
- D. The Bradshaws – A Planned Area Development:
 - 1. Approve Site Plan Amendment for Phase IV of The Bradshaws – A Planned Area Development comprising 32 Senior Apartments located on approximately 1.5 acres at the Southeast corner of Bradshaw Drive and Stetson Drive; Zoning is Business General;

- Owner, Wescap Investments; Agent, Fergis and Hardings, Inc. (SI10-001).
2. Approve waiver of LDC Section 9.10.2 regarding the subdivision process.
 3. Approve Water Service Agreements for Phases III, IV and V, Nos. 10-001, 10-002, and 10-003.
- E. Adopt Ordinance No. 4732-1029 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, amending the zoning of certain property within the City of Prescott generally located at the northwest corner of East Sheldon Street and North Alarcon Street from Multi-Family High Density (MF-H) to Industrial Light (IL) zoning district. (Rezone of approximately .09 acres Owner, Miss Kitty's Cat House; Agent, Marcia L. Kerans; APN 113-13-006A.) (RZ09-009)
- F. Adopt Ordinance No. 4733-1030 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the purchase of real property belonging to A. Roy and Donna L. Bennett Family Trust for the construction of a new Zone 27 Water Utility Pump Station, authorizing the Mayor and City staff to take all necessary steps to effectuate said purchases, and declaring an emergency.
- G. Approve Settlement Agreement and Release with TranSystems Corporation for acceptance of \$100,000.00 for modification of the retaining wall adjacent to Iron Springs Road and Vyne Street.
- H. Adopt Ordinance No. 4734-1031 - An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the purchase of real properties, easement and improvements from Flower Fields, LLC, Ken Lain, for the Iron Springs Road Retaining Wall Improvement Project, and authorizing the Mayor and City staff to take all necessary steps to effectuate said purchases, and declaring an emergency.
- I. Approve the Minutes of the Prescott City Council Workshop of February 23, 2010 and the Regular Voting Meeting of February 23, 2010.

IV. REGULAR AGENDA

- A. Appointment of members to the *Prescott: The Arizona Centennial City Committee*.

Ms. Burke explained that there had been two vacancies on the Centennial Committee and these individuals were both willing to serve. Mr. Roginson would be replacing Patti Ezell, representing the advertising industry, and Mr.

Madden would be filling a vacancy and bring his financing background to the committee.

COUNCILWOMAN LOPAS MOVED TO APPOINT GUY ROGINSON AND PAUL MADDEN TO THE PRESCOTT: THE ARIZONA CENTENNIAL CITY COMMITTEE; SECONDED BY COUNCILMAN HANNA; PASSED UNANIMOUSLY.

- B. Public Hearing and approval of Draft Consolidated Plan FY2010-2014, Annual Action Plan FY2010, and Citizens Participation Plan 2010-2014.

Ms. Hartmann said that they did not take infrastructure out of the five-year plan, just the 2010 plan. They felt that the human condition outweighed infrastructure needs this year. They had also received over \$1.5 million in the last five years. In four years they had spent over \$700,000 on infrastructure.

Councilwoman Linn asked if something happened with the State budget, there would be a way to resubmit their application to cover some of the more needy things. Ms. Hartmann said that they can only use 15% on public service.

COUNCILWOMAN LINN MOVED TO CLOSE THE PUBLIC HEARING; SECONDED BY COUNCILWOMAN SUTTLES; PASSED UNANIMOUSLY.

COUNCILWOMAN LINN MOVED TO APPROVE THE CITIZENS PARTICIPATION PLAN 2010, THE ACTION PLAN DRAFT AND THE CONSOLIDATED PLAN DRAFT; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.

- C. Council direction on negotiations re acquisition of real property identified as Thumb Butte Estates Lot 18 for the Zone 24 & 27 Water Reservoir Upgrade and Replacement Project.

Mr. Norwood said that Mr. Nietupski would have more detailed information. He noted that the property across the corner had been for sale for a week and they were asking \$170,000. The elevation was lower than where the preferred site was so in order to use that property, they would have to install a 40-45 foot water tower, which he did not think the residents would approve. On Friday the Mayor had a conversation with the property owner of the preferred site, who had agreed to lower their asking price to \$212,000 from \$220,000. There was a strong public need. There are other sites that could be acquired and developed, but it would come at great expense.

It was still the Staff's recommendation to move forward at \$212,000. In the overall percentage of the project, it was not a large amount. It was more

than the appraised value, but they can clearly demonstrate that the need was there to proceed. If the Council desires, staff would have no problem proceeding at \$212,000. They would need to bring it back to Council at an upcoming meeting.

Councilman Lamerson said that he was fortunate enough to see what was paid for that property in 2006. He asked what the total projected cost of the product was. Mr. Nietupski asked if he was talking about the preferred site. Councilman Lamerson said yes. Mr. Nietupski said that it was estimated at \$3.7 million including cost of land, tank and pipeline.

Councilman Lamerson said that he also understands there were other options. He asked if they, in total cost, rival the \$3.7 million. Mr. Nietupski said that the other locations went as high as \$4.9 million. It depended on the locations and other criteria.

Mr. Lamerson said that he did not consider eminent domain an option when there were other choices. Mr. Nietupski answered that the tank would be 44 feet high if it were developed on another lot. The pump facility would have to be relocated. The zone configuration would have to be modified.

Councilman Lamerson said that for a lot more money they could get a product that would not function as well. He asked what the cost difference would be if they went through eminent domain. Mr. Kidd said that if they used outside counsel to litigate the case, it would be \$40,000 - \$45,000. If they did it in house, the expert witness fees would be about \$10,000 for the appraiser. If they were to go to trial, additional court costs would be another \$5,000 to \$10,000.

Councilman Lamerson said that it sounded like it would be cheaper to purchase outright than go through the eminent domain process.

Councilwoman Lopas noted that Mr. Stone, who owns the lot, was not making a profit on this. They verified his records, and unfortunately prices have gone down. She did not think they should do eminent domain and pay less than what he has in it. She had calls from citizens. He has paid closing costs, property taxes and removed brush from the property.

Councilman Linn said that the cost of the property is less than .5% of the entire project. She agreed with Councilwoman Lopas.

Councilwoman Suttles noted that she understood the owner's situation and the City's situation. She does not agree with the dollar amount that the City will exchange with the property owner. They have a number of

pieces of property they will be purchasing in the future and this sets a precedent. She appreciated that the owner did come down on his price.

Ray Dextreits, who lives next to the preferred site, said that he did not understand the selection of the site. He noted that Site B was 200 feet from the nearest home and the preferred site was 23 feet from his home.

Last week the construction cost for the preferred site was \$3 million. Now it is down to \$2.3 million. They would be \$200,000 ahead on Site B because the City already owns site B.

Mr. Nietupski said that the representation of \$3 million on the preferred site was pertaining to a steel tank out of the ground. The \$3.7 million was for a buried tank. Mr. Dextreits said that he was talking about the construction costs that say that Site B is \$2.8 million and the preferred site is \$2.3 million.

Mr. Nietupski said that he was comparing an apple and an orange. There were tank costs and project costs. Between the preferred site and Site B, the costs would generally be the same for a pre-stressed concrete tank but they would incur additional expense due to the amount of excavation up to 10,000 cubic yards to cut into the rock slope in order to build. It would also require some type of retaining wall. The total project cost for Site B would be \$4.2 million.

They put the numbers together very quickly after the last meeting; it is a conceptual estimate. The agreement on the Gardner Open Space specifically prohibited the building of a water reservoir on that property.

Mayor Kuykendall said that the engineering people went back and looked at the heights of the tanks to give it the hydraulic pressure that would be needed to serve the area; the selected site provided that by being able to bury the tank. To come to that same height on the lower property they would have to install a steel tank about 40 feet high. He got the impression that the neighborhood would prefer a buried tank.

Mr. Nietupski said that from a hydrologic standpoint Site B would work; the problem is the provision in the agreement.

Mayor Kuykendall thanked Mr. Stone for working with the City and asked Mr. Norwood if they should vote on it in the next meeting. Mr. Norwood said that they could vote on it on the 23rd. Councilman Lamerson asked why they could not vote on it that day.

Henry Glick, who lives in Thumb Butte Estates area, said that he did not live next to the proposed tank and he would not see it, but he would like to

second his concerns and objection to where they plan to put it. It strikes him that Site B makes sense but, he was wondering why it was proposed if it was not possible. Councilman Hanna explained that it was brought up last week and he was unaware of the agreement that existed.

Mr. Glick asked if the proposed tank would primarily serve the Hassayampa Development Area. Mr. Nietupski said that it would serve Zone 27 which is everything down toward Thumb Butte Road, south of Thumb Butte and east of the forest. It also serves to provide water which would be pumped to Zone 24 on Lookout Lane. That tank would need to be upsized to meet the system demands that have been identified. It affects approximately 6500 properties in both zones.

Mr. Glick thought that there might be other properties within the two zones that would have less impact on one of the neighbors in the area. The tank would be situated 20 feet away from a house and visible from half a dozen properties. He said that the existing tank is not a small tank. The proposed tank is huge in comparison and will have an enormous impact on this neighborhood. He asked them to please reconsider the site.

If the Hassayampa area was included in this zone; there would be homes on the hill, directly adjacent to boundary with the National Forest, that were even higher than the proposed site. Maybe they could acquire a lot in the Hassayampa Area or from the National Forest.

Mayor Kuykendall asked Mr. Nietupski to explain to the public that this was part of a plan that has been ongoing for several years to achieve the correct water flows for the best safety factor for the community.

Mr. Nietupski said that the water model was developed in 2005. It was a tool they used to evaluate the system and its challenges in delivering fire flows, and pressure throughout the community. This was one of several projects identified for improvement in interrelated Zones 24 and 27. The City has over 60 different pressure zones and a very complex water system. It is operated based on the topography and different elevations to serve different areas. Doing the evaluation to develop a site location requires that they meet the parameters of that zone so they continue to operate the system most efficiently for storage and delivery of water in the event of an emergency.

They are limited as to where they can put facilities that will meet the needs. In doing the analysis, they looked at a number of sites. This was the preferred location for the facility. He would be happy to provide more specific information after the meeting.

France Rosenburger, who lived about ten homes away from the proposed site, said that he realized that each meeting they face a group of citizens that are unhappy. He asked if they could put another \$20,000 into the project and put a garden on the site and dress it up. He didn't realize that he was buying a home that would look down on a tank. His home property values will drop.

He has personal experience, coming from Alabama, where a tank this size was built near his house. It was a nightmare for a whole year. There was consistent truck traffic. He asked them to please consider the green roof alternative.

Frank Creelman said that it should be done right, and it was real easy.

Norm Humphrey said that he lives in Thumb Butte Estates and will not be directly affected by the tank, but lives nine houses from it. He asked how much they had looked into building it at Loma Rica.

An unidentified citizen said that she remembered when Hassayampa was National Forest. When they put the water lines in the road, they were told that it would be temporary and Hassayampa would produce enough effluent to water the golf course and take care of its own water supply. That line broke three different times. She asked what happened to that plan. She felt that they were not told the truth from the beginning.

Jacqueline Eiler, 2290 Lookout Lane, said that she and her husband had been happy and gracious working with the City on the plan for the new tank. They failed to understand how it was going to benefit the neighborhood. She asked if there was any process in which they could build the top tank and add something to the tank at the bottom to create a smaller Zone and tank to supplement the larger tank. When they talk about being responsible and maintaining values of the homes, that was not happening. She had the most wonderful view of Thumb Butte and now she will have a view of a water tank, which will decrease her property value. She asked why Hassayampa was not getting some type of water system and what guarantee they had that the tank shown would be the actual tank that goes in.

Councilwoman Linn asked about the effluent coming from Hassayampa and if the tank was partially buried. Mr. Nietupski showed the image with about 12 feet exposed and about 2 feet exposed to the houses nearby.

Eric Matthew, 2011 Forest Hills, said that he bought an old house and was fixing up outside first. He moved there because of the beauty of this place. His parents live on Skyline. Everyone in the neighborhood realizes that they need water, although they would rather not have the tank in that

neighborhood. They would like assurances that the tank will look like it says and that there will not be changes in the design. He appreciated the opportunity to speak.

Mayor Kuykendall said that the Council has several responsibilities. They made an oath to do certain things in the community. None of them are newcomers in the community. The community they live in is a result of people like them over the past years that did what they thought they needed to. They had an obligation to provide water for homes, fire flow, sewage, etc. The Council was taking things seriously. When they provide the services, they hope that the community can prosper and grow. He knows they will never do everything right. They have a great group trying to do what is right.

He thought the proposed tank would be an improvement over the metal water tank that was there now, which will be removed.

Councilman Hanna noted that he had been in Prescott for 53 years. He had seen new tanks pop up. He did not remember a tank being built where someone was not unhappy. They would do everything they can to make this tank where it was not visible to the degree that they can do that. He agrees that they do not want eyesores. They can do the best they can with what they have. The Council will try to make sure that everyone is a little happy.

The main thing is to provide the services to the community that they were put in charge of. They value the beauty of the City.

Councilman Lamerson said that they cannot make everyone happy. He asked how many homes in the zone they were impacting by what they were doing. He also asked if there had not been the fire flow that was necessary in the past.

Mr. Nietupski said that in the service area for the project and associated Zone 24, there are about 6500 properties. He said that he believed that the fire department would tell them that there had been issues and that they were trying to improve the system.

Councilman Blair asked how many gallons were in the water tank above his house. Mr. Nietupski asked if he was referring to the MIngus tank. Councilman Blair said that it was a concrete structure. Mr. Nietupski said that he could not quote the volumes, but the Mingus tanks are smaller and one of the Douglas tanks was slated for replacement and it was a significant project. A 2 million gallon tank would replace it. Councilman Blair said that he did not take the decision lightly.

Mr. Norwood said that they do not have anything for them to vote on at the moment other than to authorize him to get together with the Legal department to develop a contract. The counsel advised him to go ahead.

V. ADJOURNMENT

There being no further business to be discussed, the Regular Voting Session of the Prescott City Council adjourned at 4:14 p.m.

MARLIN D. KUYKENDALL, 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 9th day of March, 2010. I further certify the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____, 2010.

AFFIX
CITY SEAL

ELIZABETH A. BURKE, City Clerk