

PRESCOTT CITY COUNCIL  
REGULAR VOTING MEETING  
TUESDAY, APRIL 13, 2010  
PRESCOTT, ARIZONA

MINUTES OF THE REGULAR VOTING MEETING OF THE PRESCOTT CITY COUNCIL held on April 13, 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 3:01 p.m.

◆ **INTRODUCTIONS**

◆ **INVOCATION:** Pastor Lee Wiggins, Heights Church

Pastor Wiggins gave the invocation.

◆ **PLEDGE OF ALLEGIANCE:** Councilwoman Linn

Councilwoman Linn 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

ABSENT:

Councilwoman Suttles\*

\*Councilwoman Suttles was excused and participated telephonically for the Regular portion of the agenda.

◆ **SUMMARY OF CURRENT OR RECENT EVENTS**

City Manager Steve Norwood announced that there were three days left to turn in the census forms. Prescott showed a 71% completion rate which was the highest in Arizona. If the citizens did not turn in their form they would have a census person knocking on their door.

Mayor Kuykendall noted that this year was important because they knew there were vacant houses and they needed a good count. The next ten years of the

City's shared revenues would be determined by the numbers that showed up this year. He asked the citizens to make sure their neighbors turned theirs in too.

## I. PROCLAMATIONS

### A. April 2010 as ***Substance Abuse Awareness Month***

Councilman Hanna read the proclamation proclaiming April 2010 as *Substance Abuse Awareness Month* and presented it to Sheila Polk, Yavapai County Attorney.

Ms. Polk thanked the Mayor, Council and Chief Kappel for supporting the work of MATForce. She said it was a countywide substance abuse coalition formed in 2006; recognizing that law enforcement alone could not solve the substance problem. Because so many people had come to the table they had become very successful, particularly with methamphetamine. She said that between 2007 and 2009 Yavapai County had experienced a 30 percent drop in felony offenses filed. MATForce had decided to dedicate the next year to the problem of prescription drug abuse, particularly with teens. Teens were accessing the drugs in medicine cabinets and through their grandparents. She then noted that the upcoming Saturday would be the Dump the Drugs which allowed citizens to get rid of old prescription drugs at the police department between 9:00 a.m. and 12:00 noon.

### B. April 2010 as ***Fair Housing Month***

Councilwoman Linn read the proclamation proclaiming April 2010 as *Fair Housing Month* and presented it to Linda Hartmann.

Ms. Hartmann noted that Fair Housing was the law and not a choice. If people had questions, they could call 928-777-1143 and be directed to whom they needed to talk with.

### C. April 11 – 17, 2010 as ***National Public Safety Telecommunications Week***

Councilman Lamerson read the proclamation proclaiming April 11-17, 2010 as *National Public Safety Telecommunications Week* and presented it to Paul Laipple.

Mr. Laipple introduced members of the Telecommunications staff thanked the Mayor and Council, noting that these were the unsung heroes of the emergency services in Yavapai County. They provided for nine different public safety agencies and very seldom did they get recognition.

D. April 13 – May 14, 2010 as ***Prescott's Bike Month***

Councilman Blair read the proclamation proclaiming April 13 - May 14, 2010 as *Prescott's Bike Month* and presented it to Jim Knaup and Lisa Barnes.

Ms. Barnes said that Bike Month had turned into a partnership with the City over the years and she was proud of that. The newly formed Mountain Biking Alliance was bringing everyone to the table to make Prescott a first class ride center. She added that Prescott Alternative Transportation was focusing on education this year.

Mr. Knaup noted that calendars for bike month were all over town and at Transportation.org.

**II. PUBLIC COMMENT**

A. Yvonne Rogers of Big Brothers Big Sisters re recent Bowl-a-Thon

Yvonne Rogers gave special thanks to Councilwomen Suttles, Lopas and Linn, Councilman Blair, Liz Burke and Patti Crouse for their participation in the Bowl-a-Thon. She noted that 12,000 people participated and one out of three households was helping support the most vulnerable children in the community. At that time they would have had over 10,000 children that have come through.

B. Bob Luzius re transient bed tax

Mr. Luzius said that the Mayor had reminded him that the 1% bed tax increase was voted in by the citizens of Prescott and he was correct. Part of the reason they had a shortfall was because when they were considering an increase from 2% to 4%, it was going full bore at 4% until Mayor Kuykendall came in and lobbied against it. One of the council members made an offer to compromise and made it 3%. He felt that if the tax went through at 4% he would not be up there talking. They would be looking at \$600,000 for the year in bed tax.

When the Mayor was pontificating with Mr. Wall of Mural Mice he indicated that he had no control over it and it was a budget that was passed from the prior council, but he was suggesting that they had the shortcoming because of the Mayor's lobbying. He took that as not caring for the tax base. Now they were talking about a new tourism department and having a 1% sales tax to bring in \$1.3 million to support tourism. He had been advocating that for a long time.

He thought they should increase the bed tax versus sales tax. It was a tax that citizens did not pay; only the tourists paid. He would be happy if they increased it to 6%.

One thing concerning to him, after the vote was taken by Council to put it on the ballot, was that Mr. Blair (on Council at that time), revealed that he voted the wrong way. He thought he was voting against it. It was his vote that made the change because it was 4 to 3 in favor of the 3%. It was not the past City Council's fault, they had their hands tied.

He thanked the Mayor for lobbying against tourism and said that he had been asked to read a letter concerning transit and asked the Mayor if he could read it.

Mayor Kuykendall asked him who wanted him to read the letter. Mr. Luzius said that it was the advocates of public transit.

Mayor Kuykendall said that it was not on the agenda and asked him not to break his own rules. He said that normally he would not allow someone to stand at the podium and put down anyone sitting behind the dais, but because it was about him, he allowed and he would consider the source. He reminded the people that there were elections every two years and some people win and some people lose and there was usually a reason for that.

When he came and lobbied for 3% instead of 4%, he had about 540 rooms in his back pocket. It was the majority of rooms in the community, but not the majority of motels. Majority ruled that day and it continued to rule. He had a complete list of every city in the state and what they charged for bed tax. Phoenix is 3%; many of the cities are 2%. There are about six cities in the entire state greater than 3%. As long as he was the Mayor, Prescott would never be the highest. They would stay somewhere in the middle, which was where they were. They were not increasing the sales tax; there had been no discussion to talk about a sales tax increase. He said that he did not know where Mr. Luzius got his information and that he used to pick up untrue information when he was on the Council and had not broken the habit.

Councilman Hanna said that Mr. Luzius must be getting the same information that the newspaper was getting which said they had passed an at-grade crossing. He asked Mr. Luzius not to put words in their mouths that they had not said.

Mr. Quinn said that they had been advised that there was a two-week notice for public comment, which he accepted. He asked if he could stand for a brief statement for the supporters of public transportation.

Mayor Kuykendall said that they had always been generous about letting the public speak. They were also going to stand by the rules that there had to be an item on the agenda. He spoke with a representative last Friday and indicated the rules to her.

Mr. Kidd said that it was an Open Meeting Law issue which was different than the Council policy. They needed to place an item on the agenda.

Mr. Quinn asked that some notice be made to the citizens so that they knew that there was a two week lead time. Ms. Burke added that even by the old policy, they would have needed the request by the Wednesday prior to the meeting and she had received their request on Friday. The packets and agenda were already done. She noted that the item had been scheduled for a workshop.

Mike Wilkey said that he believed that they should allow one statement. Councilwoman Linn said that they would be breaking the law if they allowed the statement and she understood that it was frustrating. Mr. Wilkey said that it was frustrating and a lot of people had come.

Mayor Kuykendall said that the reason people were there was because an email had been sent out to bring the supporters out, in force, to make sure the Council understood that they were a force in the community.

### **III. CONSENT AGENDA**

**CONSENT ITEM A THROUGH G 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 III-A – III-G; SECONDED BY COUNCILWOMAN LOPAS; PASSED 6-0, WITH COUNCILWOMAN SUTTLES ABSENT.**

- A. Authorization of purchase of a mass casualty incident trailer and associated supplies in an amount not to exceed \$52,500.00 (100% grant funded).
- B. Adoption of Ordinance No. 4741-1038 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona authorizing the purchase of real properties, easements and improvements from Gretchin Bacon Armstrong Living Trust, Richard and Syntha Sachs, Emrab Properties, LLC. And Willow Creek Corner LLC for the reconstruction of the Willow Creek 14-inch transmission main, and authorizing the Mayor and City staff to take all necessary steps to effectuate said purchases.

- C. Authorization of payment to the Arizona Department of Transportation, in the amount of \$27,430.10, for upgrade of the existing City 12" water main as part of SR89 Road Widening Project in Chino Valley.
- D. Boards/Commissions/Committees:
1. Adoption of Ordinance No. 4735-1032 - An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, amending Section 1-13-6, **Standing Committees: Organization**, of the Prescott City Code; and declaring an emergency.
  2. Adoption of Resolution No. 4010-1040 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, repealing Section 2 of Resolution No. 2463 and reestablishing the **Acker Trust Board**; and declaring an emergency.
  3. Adoption of Resolution No. 4011-1041 - A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, repealing Resolution No. 3885-0853 and reestablishing the **Parks and Recreation Board**; and declaring an emergency.
  4. Adoption of Resolution No. 4012-1042 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, repealing Resolution No. 3947-0953 and reestablishing the **Prescott: The Arizona Centennial City Committee**; and declaring an emergency.
  5. Adoption of Resolution No. 4013-1043 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, repealing Resolution No. 3300 and reestablishing the **Transportation Coordinating Committee**; and declaring an emergency.
  6. Adoption of Ordinance No. 4736-1033 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, amending Chapter 1-6, **Planning and Zoning Commission**, of the Prescott City Code; and declaring an emergency.
  7. Adoption of Ordinance No. 4737-1034 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, amending Chapter 1-7, **Board of Adjustment**, of the Prescott City Code; and declaring an emergency.
  8. Adoption of Ordinance No. 4738-1035 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona,

amending Chapter 1-21, **Advisory and Appeals Board**, of the Prescott City Code; and declaring an emergency.

9. Adoption of Ordinance No. 4739-1036 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, amending Chapter 1-22, **Prescott Preservation Commission**, of the Prescott City Code; and declaring an emergency.
  10. Adoption of Ordinance No. 4740-1037 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, amending Chapter 1-25, **Fire Board of Appeals**, of the Prescott City Code; and declaring an emergency.
- E. Appointment of Sheri Swain as City of Prescott Alternate Yavapai Combined Trust Board Trustee.
- F. Approval of the City of Prescott Flexible Spending Plan Agreement.
- G. Approval of the Minutes of the Prescott City Council Regular Voting Meeting of March 23, 2010; the Workshop of March 23, 2010; and the Workshop/Special Meeting of March 30, 2010.

#### IV. REGULAR AGENDA

At this time in the meeting, Ms. Burke contacted Councilwoman Suttles via telephone and she began participation in the meeting.

- A. Public Hearing and consideration of a liquor license application from Lauren Kay Merrett, applicant for Amigos, LLC, for a Series 12 Restaurant license for Kokopelli's Southwestern Cuisine located at 503 Miller Valley Road.

Ms. Burke reviewed the application, noting that the property had been posted and no public comments had been received.

There being no input from the public, **COUNCILMAN BLAIR MOVED TO CLOSE THE PUBLIC HEARING; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.**

**COUNCILWOMAN LINN MADE A MOTION TO APPROVE THE LIQUOR LICENSE APPLICATION FROM LAUREN KAY MERRETT, APPLICANT FOR AMIGOS, LLC, FOR A SERIES 12 RESTAURANT LICENSE FOR KOKOPELLI'S SOUTHWESTERN CUISINE LOCATED AT 503 MILLER VALLEY ROAD; SECONDED BY COUNCILWOMAN LOPAS; PASSED UNANIMOUSLY.**

- A. Authorization to enter a purchase agreement with Guidance Helicopters, Inc. in the amount of \$171,740.40 for a double-wide commercial modular building.

Mr. Vardiman noted that Guidance Helicopters had been a long term renter at the airport. They currently had a month to month parcel license agreement at 6540 Crystal Lane. They had requested that the City enter into a long term lease agreement. To do so the City had to go through a public bid process. In consideration with the City Legal department, in order to be fair and equitable to all parties wishing to bid on that property, the City needed to hold title to that building and those improvements located on that parcel.

He said that the purchase agreement would allow the transfer of the title and the improvements to the City for the City to hold for the duration of the bid process. Once there was a successful bidder, one of the minimum requirements needed would be the payment of the dollar amount to the City which would be passed on to satisfy the promissory note. One noted correction was that the actual amount was \$171,741.40.

Mayor Kuykendall asked if they were going to buy it with the City's money and then sell it. Mr. Vardiman said that they were going to buy it with the City's money and once they received the money from the successful bidder they would be made whole. Mayor Kuykendall asked what they had to ensure the City that Guidance would complete their transaction if they were the successful bidder.

Mr. Vardiman said that if they were the successful bidder, the City would enter into a long term lease agreement and they would transfer a bill of sale to the City with all title and rights to the property and improvements.

Mayor Kuykendall asked if the City would get a deposit to assure their performance. Mr. Vardiman said that any company that would bid on the project would have to put down a deposit and provide payment of \$171,741.00 in advance, after the City had brought the contract for approval. That would be 60 days prior to the effective date of the lease.

Mayor Kuykendall asked what assurance the City had that they would complete the transaction. The City's money would be invested for a while. He asked if there was anything to keep them from deciding that they did not want to spend the money. Mr. Vardiman said that if a company did not wish to bid on the parcel or if they decided that they did not want to be involved, there was a clause in the promissory note that they could return the title back to Guidance Helicopters anytime within 12 months from the effective date of the promissory note. Then the promissory note was null and void.

Mr. Kidd said that the City owned the land and Guidance put the building on it with a short term lease. The City could lease the bare land. The disadvantage of that for other bidders was that they would have to come in and put on a building. This way, the City owned the building and the long term lease which gave them more revenue. It put everyone in an equal situation bidding for the improved property.

They could do a ground lease with a 30 day notice. They might have a competitive advantage. The interest was always to get long term tenants. If they wanted to bid on the property and get a long term lease, the current ground lease values were much higher than they were a number of years ago.

Councilman Hanna asked when they would get their money back. Mr. Vardiman said that it would be less than six months. Councilman Hanna asked if there was any interest accrued on the money or were they getting the money for free. Mr. Vardiman said that the City was not going to issue a check until they received a check from the successful bidder.

Mr. Kidd said that it could be any other bidder also.

**COUNCILWOMAN LOPAS MOVED TO AUTHORIZE ENTERING INTO A PURCHASE AGREEMENT WITH GUIDANCE HELICOPTERS, INC. IN THE AMOUNT OF \$171,741.40 FOR A DOUBLE-WIDE COMMERCIAL MODULAR BUILDING; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.**

- C. Approval of engineering of a standard at-grade crossing, in conformance with nationally recognized standards, for the intersection of Granite Dells Estates Road 39 and Peavine Trail

Mr. Nietupski noted that there had been considerable discussion on this item. After the last meeting, there were some discussions with Mike Fann regarding a proposal, relative to the crossing. The proposal was to allow the fill construction to occur within the trial right of way to provide for ramps for approaches for a future bridge, and allow some fill construction adjacent to the common property boundary to provide a more uniform appearance, so it did not appear as an afterthought. Fill work would be no cost to the City and was proposed as a way to find some common ground toward resolution of this issue.

There still remained no resolution on construction of a bridge. A funding mechanism would be necessary, whether it be a Transportation Enhancement Grant or otherwise. The trail advocate group strongly supported the bridge. They had offered to participate in the development of the grant application and that process. The recommendation before them

was to allow the fill construction and ramp approaches, earthwork, to be stabilized and ultimately graded to 3:1 slope, planted, and to be aesthetically pleasing. The staff recommended a standard at-grade crossing, in conjunction with the fill, for the initial crossing of Road 39 at the Peavine Trail. That crossing would be a standard at-grade crossing, without enhancements and signed in accordance with standards.

Councilwoman Lopas said that she knew that the developer had offered to do the grading. She asked what guarantee the developer had that the City would continue with the intent to get funding for that. Mr. Nietupski answered that the City would have to grant easements for fill construction and drainage improvements. As far as assurance that bridge would be constructed, there was not one.

Nigel Reynolds, Prescott, said he thought that the engineering of the deal was not finalized and not part of the resolution. He hope there would be some opportunity for the trail users to come up with some ideas for addressing costs. He asked if there was a likelihood of the trail users to work with Lyons or the City staff to find out what the design was and give input. Mr. Nietupski said that they would be more than happy to engage the trail users as they go through the design process.

Mr. Reynolds said that the fact that the trail had been there a long time and that there would be a road across the trail, it may be worth considering putting in stop signs at Road 39 to let the trail users get familiar with the idea that they no longer had a traffic free trail.

Mayor Kuykendall asked if the design for Road 39 would be similar to Centerpointe East. Mr. Nietupski said that there would be an opportunity at some point in the future to provide grade separating if that was the determination of the Council. The look had not been developed. It would have to be an elevated crossing over the roadway. It had been designed at-grade with stop control on the trail. It would be similar to a crosswalk at Goodwin and Montezuma. In the future, potentially a bridge could be developed. The ramp approaches would be a design consideration with respect to whether they could be developed or designed with earth or with structural form work.

Mayor Kuykendall noted that the area was really congested. He asked if there had been any discussion with the trail users about the future of Centrepointe East. Mr. Nietupski said that other than a few comments heard in public meetings there had not been a discussion. In the Development Agreement entered into with Granite Dells Ranch, there was consideration that acknowledged the need to address the crossing and that Cavan would work with the City in that regard.

Councilwoman Linn said that she assumed it was coming forward because of the timeline and the developer's offer. Mr. Nietupski said that the preliminary plat was approved February 23, 2010 and it was necessary to finalize the design to obtain final plat approval. Councilwoman Linn asked what the timeline was to open the road and have non-construction traffic use it.

Mr. Nietupski said that once the final plat was approved it would be up to the developer to build it. Once it was constructed and then approved by the City, it would be open for public use.

Councilwoman Linn said that it was her understanding that they were actively pursuing the grant through Debbie Horton's office. Mr. Nietupski said that they were going to provide a placeholder for that grant should it be awarded. The grant application could be written for Road 39 and Centerpointe.

Councilwoman Linn said that she understood that there would be a public meeting on the Centerpointe intersection on Phase B. Mr. Nietupski said that they were committed to continuing the dialogue to the conclusion of business and that will happen.

Thomas Slaback, Prescott, said that he found it ironic that they started off with a proclamation for bike month and then talked about putting the first of five nails into the coffin of the bicycling in the community. They were putting the cart before the horse. Before any decision was made, they needed to know what the result was of the grant. He would hate to see taxpayer money go into the engineering and then they get a grant. They would have to spend money on the grant and then have a crossing that they would have to scrap and then start over again. He suggested that they table any vote until they had everything known.

Lisa Barnes, Prescott Alternative Transportation, asked if the road had to be built at that time. A grant notification could come as early as November. She asked if anything had to start construction before knowing the first round of the grant attempt.

Mr. Nietupski said that the developer's schedule was his own now that he had the Preliminary Plat approval. Once the design was finalized and the permits were issued, then the construction schedule would be up to developers. A road would be necessary for the acceptance of the subdivision so they would go forward with the parcels within the subdivision.

Councilwoman Linn said that it was coming to fruition because of the offer from the developer.

Ms. Barnes said that the offer was wonderful. She asked why they could not wait for it to come together all at once instead of having the at-grade crossing unenhanced, which will be very dangerous. She thought that there should be a four way stop if there was going to be any at-grade crossings. She was trying to understand why they could not wait until November to see if they got a grant.

Councilwoman Linn said that it cost money to take equipment off a construction site and it would mess up the schedule of other subcontractors.

Ms. Barnes asked why the Council could not state their support for a grant. Mr. Nietupski said that they could bring that forward if the Council wanted to go in that direction.

Mayor Kuykendall said that he thought they had already started with the grant process using City employees. Mr. Nietupski said that the Trails Advocacy Group (TAG) group had been in communication with Parks & Recreation. He believed that Eric Smith would be involved on the City's behalf; the formal action by the Council was all that remained.

Councilwoman Linn said that she sent an email and Debbie and Eric were taking the lead. Ms. Barnes said that she had not been contacted by anyone.

Ms. Horton said that they were doing some transitioning in her office and that she did want to work with the public and appreciated their knowledge. They were going to wait for the completion, but they were happy to bring something forward at that point and get some commitment from Council.

Ms. Barnes said that she knew a formal resolution was required in order to submit the grant. She also mentioned that if they were going to work on a grant, the maximum amount allowed has been raised to \$750,000. She encouraged them to go for both crossings; Ms. Horton agreed.

Councilman Lamerson said that he thought the deal at Centerpointe was temporary and that nothing on the crossing there had been finalized. Mr. Nietupski said that he was correct.

Councilwoman Lopas said that she hated to rush, but she suggested that they add it to the motion to build a future bridge crossing Road 39 to be built when funding and/or grant was available.

Councilwoman Suttles asked for it to be tabled.

Mr. Norwood suggested that they address the item at hand and then come back and address the grant. They could move forward and come back with an agenda item dealing with a grant request.

Mayor Kuykendall said that they were going to build the road and that they needed to move ahead with that. Councilman Hanna said that he agreed Mr. Norwood. He said that they intended to go forward which did not mean that they were going to go forward if they did not have the money. He wanted to see a separated grade crossing but did not believe that the tax payers should pay for it. He understood that a trail person was going to apply for the grant which did not have anything to do with the City applying for a grant. Now they were paying taxpayer's money to have staff look into grants. He did not understand what they were doing.

Mr. Nietupski said that in the last meeting it was represented that the Trail Advocate Group would apply for the grant. Just before the memo was submitted there was a meeting and a discussion ensued with Ms. Horton's department to discuss the grant application process and the City's participation in that. It could occur that way or with TAG, with the City becoming the beneficiary.

Councilman Hanna said that was what he understood that to be. He agreed that there should be stop signs and that they needed to move forward. Every day that went by that it was postponed; they were costing the developer money. The developer had bent over backwards to accommodate the City and TAG.

Councilman Blair said that they should bring a resolution forward at the next Council meeting with the intention of at-grade separation crossings at both Centerpointe and Road 39 in the future when money was available. They should go forward with how they had it written and know that at the next meeting they would make a formal request to submit for grants for both crossings and make it clear that it would be when money was available.

Joyce Mackin, Prescottt, said that she wanted to remind Councilman Hanna that they were also taxpayers. She was sure that there were quite a few of them that would say it was okay to put a separated grade crossing over the Peavine Trail. She appreciated the fact that the Council was working with them and they would have a resolution depending on the grant money. She also appreciated the support for a four-way stop.

Councilman Hanna said that he understood that they were all taxpayers. He would not spend the taxpayer's money that they did not have to spend on a separated crossing. He was for grants and the four way stops.

Councilman Lamerson said that a non at-grade crossing was probably safer than an at-grade crossing. Until they had the revenue to build what was the safest and the best, they should continue with the temporary at-grade crossing.

**MAYOR KUYKENDALL MOVED TO APPROVE ENGINEERING OF A STANDARD AT-GRADE CROSSING OF PEAVINE TRAIL BY GRANITE DELLS ESTATES ROAD 39, AND EMBANKMENT FILL WITHIN THE PEAVINE TRAIL RIGHT-OF-WAY, ALONG WITH FILL FOR RAMPS TO A FUTURE BRIDGE CROSSING ROAD 39; SECONDED BY COUNCILMAN LAMERSON.**

Councilman Hanna asked if they could add a four-way stop to that. Mr. Norwood said that they could do that but the stop sign would not come close to meeting any kind of warrants. The traffic on Road 39 would be so minimal. They could put it on the trail and bring it back at a later time.

Councilman Blair said that he had a digestion problem when it came to meeting warrants. He thought that it was up to the Council to determine whether the right thing was to do the right thing for the right reason and let the lawyer keep them out of trouble. It was just like talking about Copper Basin. Even if it did not need warrants, the Council could make that call if they believed they needed to be there.

If anyone chose to reread the east area plan, it called out for no at-grade crossings on the Peavine Trail. He thought that the Council said that to move the plan forward, it should be safe for the users. If it meant temporary stop signs, then they should do that.

Councilman Hanna asked if they could tack that request on the motion. Mr. Norwood said yes.

Mayor Kuykendall withdrew the motion. He told Councilwoman Suttles that it would be a new motion with a four-way stop sign.

**COUNCILMAN HANNA MOVED TO APPROVE ENGINEERING OF A STANDARD AT-GRADE CROSSING OF PEAVINE TRAIL BY GRANITE DELLS ESTATES ROAD 39, AND EMBANKMENT FILL WITHIN THE PEAVINE TRAIL RIGHT-OF-WAY, ALONG WITH FILL FOR RAMPS TO A FUTURE BRIDGE CROSSING ROAD 39 AND FOUR WAY STOPS AT THAT INTERSECTION; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.**

- D. Authorization of various traffic control additions and modifications.

Ian Mattingly said that the item was presented for action on two traffic control changes.

The first item was for the two-way traffic control at Goodwin Street and Pleasant. The item was brought to Council's attention due to concerns over

limited site distance at the intersection caused by on street parking. The staff conducted an engineering study and found that the location did not meet any of the traditional warrants for a multi-way stop based on traffic volumes, collisions or delay. The street grades on Pleasant Street varied from 10-12%.

Councilman Blair asked if it did not meet warrants, what they had to say that they believed that it was a health and safety issue. Mr. Kidd said that traffic warrants were based on engineering standards. Reasonable care was based on nationally recognized standards. If the Council expressed record concerns that created a heightened concern for safety, those were the kinds of things that would have to be on the record to support something that did not meet warrants.

Councilman Blair asked if they could override a national standard if it was on public record. Mr. Kidd said that it would not be overriding. They could determine their own local standards based on their records and information they had. Councilman Blair asked if they could deviate and Mr. Kidd said yes.

Mr. Mattingly said that not meeting the standard warrants did not mean that they could not put in a stop sign. There were three options at that intersection and Option C allowed for stop installations when there was a condition of limited site distance that would be mitigated by the four way stop. If they decided not to do that it would be staff's recommendation to alleviate the site conditions they would pull back the parking. They do understand that the American Legion is on the corner.

The second item stemmed from a resident request and considered a modification of traffic signal timing practices on Gurley Street. The request proposed that the normal operation be moderated to a flashing yellow and red during late nights. This would take place on Gurley at various intersections from Bradshaw to Gail Gardner. Gurley would have a yellow flashing and the side streets would have a flashing red. It was thought that this would improve operation and reduce the number of times that Gurley Street traffic would have to stop. Staff did not recommend that based on some safety concerns.

This type of timing operation required the drivers facing the yellow indication to cautiously and slowly move through the intersections. It was believed that it would work in an initial period but as people got used to do it, the slow tendency on Gurley Street would go away and people would revert back to their normal driving patterns. The operation of the flashing red lights to indicate a stop did not normally demand the same level of compliance as a red indication.

The operation of a signal in this manner did not allow any pedestrian indications. If they operated this, anyone wanting to cross Gurley would have to cross as if crossing at a stop sign; however there was no requirement for the traffic to stop. That was concerning because there was a lot of night time use where people could be impaired. He had recommendations for how that could be addressed in another manner.

They could upgrade the existing signals to add vehicle detection capabilities so that during the late night hours they would move away from a fixed time system. They could have it rest on green on Gurley and the light would only turn red if there was side street traffic or a pedestrian used the signal.

That approach would maintain standard signal operations and not result in any degradation of pedestrian movements. The staff recommended the second option.

Councilman Blair thought that the second option was safer and more realistic. He asked how efficient the timers would be. Mr. Mattingly said that 95% of the signals in town operated that way. They had a good working record.

Councilman Hanna noted that motorcycles did not activate the lights and asked what those drivers were supposed to do. Mr. Mattingly said that the sensitivity of the electronics could be adjusted, within reason.

Thomas Slaback, Prescott, approved of putting a four way stop at Goodwin and Pleasant. He also thought it was a good idea to go with the second option making sure that they had push button cross walks.

Councilwoman Lopas asked how the signs would be installed at Goodwin and Pleasant. She asked if there would be temporary stop signs in the middle of the road and would it configure like Mount Vernon. Mr. Mattingly noted that in the drawing provided they were not going to do that. They had not looked at it extensively. If the parked vehicles were going to impede any of the sight visibility to the stop signs, they would work with Field Operations to get some signs in the middle of the street temporarily. There was a 90 day requirement to have an advanced warning signing to show a traffic control change. There would also be pavement markings.

**COUNCILWOMAN LINN MOVED TO APPROVE THE AUTHORIZATION OF VARIOUS TRAFFIC CONTROL ADDITIONS AND MODIFICATIONS AS STATED WITH A FOUR WAY STOP AT PLEASANT AND GOODWIN AND OPTION 2 ON THE TRAFFIC SIGNAL TIMING ISSUE ; SECONDED BY COUNCILMAN HANNA; PASSED UNANIMOUSLY.**

- E. Discussion of vagrancy in Prescott.

Mr. Norwood noted that there was an Executive Session the past Tuesday to get Legal Advice on vagrancy issues. There was no action to be taken, but they were there to talk about specific issues. They had an increase in crime and increase in public consumption and numerous complaints from businesses. They talked about looking at signage for businesses regarding trespassing that owners could display and looking at ordinances regarding camping on public and private property as well. From a law enforcement standpoint they would enforce what they had on the books. If there were ordinances that needed to be amended, they would do that. They had an aggressive panhandling ordinance that they enforced. The main thing was to enforce crime.

If there was an issue they needed to make an arrest, which was no different than on Willow Creek Road or the Gateway Mall. The Police Department had been doing a very effective job. They had manpower issues like every other city in the country.

Councilman Lamerson said that his position was simple; to enforce the laws and ordinance they had on the books.

Ms. Carmichael, Prescott, said that she understood that the panhandlers needed to stop, but Prescott had very limited shelters. She was a cancer patient. She cannot find a shelter that puts her up because she has a medical problem. She understood that the City did not want them camping on their front lawn. Prescott needed to have some type of shelter. With the bad economy, so many are becoming homeless. She would not have a home over her head in the next week.

Marshia Rishar, Llama House Boutique on Whiskey Row, said that they supported the enforcement of the ordinance for vagrancy. They looked to every avenue for people to continue to shop in downtown Prescott. They now had to deal with one or more occasions of vagrants. They are rude, drunk and obnoxious and hang out in front of their stores, daily. The business owners felt helpless and frustrated. The vagrants slept in their doorway, swear and yell up and down the street, vomit and spit on store windows. The business owners were uncomfortable with the recent stabbings that had taken place in the parking garage. When customers came in, they say that they were happy to have found a parking space on the street. They are reluctant to park in downtown garage as business owners alike are. The merchants are concerned and want to resolve the matter.

Daniel Matsen, Prescott, noted that he helped a lot of the homeless people. He said that the problems were with a small subgroup. As far as the public drinking, the City should enforce it. The majority of those people is down on their luck and trying to get along. It would be nice for the City to find a place

for the people who were down on their luck, where the City was a little more tolerant. He knew many of the people that were vagrants and they were decent people trying to survive. With the economy as it is and being as difficult as it is finding a job, the City would have more “vagrants.” The City should enforce the laws against those that do cause trouble.

Last night the Police Department handed out tickets across the street from Church on the Street to people sleeping in their cars. They were not hurting anyone. If they were littering, drunk or obnoxious, then they should write them a ticket. He asked them not to write tickets to people who were down on their luck.

Brad Phillips said that he felt for anyone who owned a business downtown where intoxicated, foul mouthed people were in front of their businesses. He said that action had been taken against the homeless people. The City was making it clear what a homeless person cannot do. Perhaps they should take a look at what they can do. Regarding crime, assaults, possession of dangerous drugs; the numbers did not add up. It was not the homeless population that was doing it. It was the young males, repeat felons with drug charges, in their 20's; many that reside in halfway houses. They were in violation of their probation. He thought that the City was targeting the wrong people. He asked at what point did they public ordinance the Constitution to death.

They should target the individual that was intoxicated in front of the store. Enforce those laws strictly but do not target an entire group of people as it was reminiscent of some unpleasant periods of human history.

Alessandra Scamardo, Sun West Gallery, said she started business in 1988. They had seen a marked increase in the amount of panhandlers and vagrants. It had become a real problem beginning last year. She disagreed with Councilman Lamerson and said that they needed stronger ordinances than they had now. As a business owner, she said that the vagrants were confrontational with them. When she asked them to move along, they were confrontational. The women were not as comfortable going to the parking garage as they used to be. They needed to strengthen the ordinances. She thought that the downtown businesses, who were all struggling, were all also supporters to many of the downtown charities and organizations. They could not do it this year because of business being down. That was part of their problem. They needed locals and tourists to feel comfortable.

Don Coffee, Black Arrow Indian Art since 1996; said that he believed in the town so much that he moved his store out of Bashford Court down to the street level and put everything he had into it. Everyone really needed to get in the middle of the problem. There were a lot of people down and out. They needed to spend money in order to get the old jobs back.

He had taken trips to Jerome and Sedona. They were doing a good job over there. There were bus loads of people. He asked if they would bring a bus into an area where people were afraid. He said that the police officers had done a great job, but they could not do it by themselves. After being in the back of the building for 14 years, creating repeat customers from Prescott and the Phoenix area, tourism was the icing on the cake. The panhandlers, who lived in low income housing would sleep in his doorway and use the area as a restroom.

He saw more people on the street in Prescott than at 5<sup>th</sup> and J in the Gaslamp District in San Diego. The churches that fed the homeless should consider also letting them stay in their parking lot where they felt safe. He said that he could get a parking ticket in Prescott in two hours, but lie on a bench all day and never get a ticket. He was available to do whatever he could do and work with who ever wanted to work on the problem.

Kimberly Magalatega, Prescott, said that she would not want to be in the place of any homeless person. She did not think that any of them wanted to be homeless. She worked with the homeless and they never asked for anything other than a prayer. The citizens needed to show more compassion. There was no compassion when all of the people were worried about their businesses. She did not think that people should be arrested for lying on a bench. They were not second class citizens, the community needed to show the love of Prescott.

Tammy Cameros, Artrageous Gallery, said that she was getting the feeling that they were comparing apples to oranges. She had not had many issues with vagrants; but it was unbelievable that the drunk and disorderly people were allowed to stay. She witnesses a guy who was sited and left on the premises. People could not get into St. Michael's Alley for two hours. She did not understand how the police could have their hands tied when it came to enforcing the ordinances. She was stabbed on October 30, 2009 and was still recovering. She was grateful for the police and the community for catching the guy. If the ordinances could not be enforced to keep them safe, no one will come into the shops if a guy was blocking the door that was drunk, yelling and screaming.

Tom Vondeck noted that the current regime in Prescott was very scary so he was not going to give his address. Sedona decided to do something about their homeless problem and sent police through the woods to find the camps. They did that repeatedly until the homeless left. San Diego, in the Ocean Beach area gave a \$250 ticket for sleeping on the beach around 4:00 – 5:00 a.m. The police in Boulder Colorado would follow the homeless into the woods and give them a ticket. Prescott needed to be a livable place for everyone, not just the "haves".

Marlene Hammond, Prescott, Director of Open Door which was part of Coalition for Compassion and Justice, said that she saw the homeless every day. She had never felt more safe than when she walked around the Courthouse and it was because she respected the homeless. The drinkers were the problem, not the homeless. Open Door fed them three times a week. There were two places to eat in town every day. The homeless get fat living in Prescott. The police that go into Open Door respect their people. She did not understand why they could not practice the laws on those breaking the laws. She said that the homeless had gone through their IRA's and the kid's college funds and they were not there by choice, but by circumstance.

Carol Mumford, Prescott United Methodist Church said that a balanced community was what they all wanted. They asked the Police Department not be too harsh in their enforcement of things.

Dave Michaelson, Prescott, said that he took offense to the comment about the bars in this town. The bars and restaurants were some of the most generous organizations in most cities. They donated to charities and were most conscious of people who get out of line. They ran their businesses respectfully and looked out for their patrons. He thanked the City and Police Department for more of a presence downtown. There was an element downtown that was a problem and it needed to be dealt with.

Councilman Hanna said that he appreciated everyone's comments. He said that they were not addressing anyone who was not hurting anyone. When he went downtown there was a man lying on a bench who had urinated and defecated in his pants. He rolled off the bench and left the area. A woman and her children came up and sat on the bench when he left. He felt that it was a health and safety issue.

He said that they were not trying to put a stop to the people who were trying to better themselves. They were trying to get the people off the street that were sleeping and urinating in the business alcoves. No one was trying to belittle anyone else. They were trying to take care of the problems and make it safe for tourists and everyone else. His wife walked down the street the week prior and three people came up to her and asked for money. Two homosexuals were having sex in Granite Creek Park. He asked the community to open their eyes, see the problem and take care of the problem. He noted that the community had First Amendment Rights also.

Councilman Lamerson asked what the intent of the current ordinances was, concerning the subject. He asked if the City Attorney had them with him.

Mr. Kidd said that it was on the agenda as vagrancy. The issues that he was directed to look at was what criminal statutes were on the books. Most of the complaints were criminal violations. There were City Codes and State statutes that dealt with the issues. Public urination, disorderly conduct and trespassing on private property were prosecutable violations.

The business alcoves could be posted. People could be asked to leave. If they do not leave, there were criminal trespassing laws. There was not a City Anti- vagrancy law.

There were different ways to commit disorderly conduct; abusive language and gestures to a person in any manner likely to provoke immediate retaliation, were a few.

Councilman Hanna noted that there had to be a victim to do that. If they did not have a victim they could not prosecute the crime. People had to step up and be a witness for a police investigation.

Councilman Lamerson said that there were not any ordinances against people being poor, but they did have ordinances against bad behavior.

Councilman Blair asked if the police department would have more authority to write tickets for people urinating in the business alcove if the alcoves were posted. Chief Kabbel said that they would, for certain crimes. It would work mostly for trespassing after hours.

Councilman Blair said the City needed to work with the property owners to give the police department the authority to enforce the no trespassing laws. It would be the first step that the City could do to move some people along who should not be there. He was about as compassionate as it got. He gave over 40,000 loaves of bread to the needy every year, for the amount of \$82,000. He was more compassionate about the fact that the businesses survive. Whatever the City needed to do in cooperation with the police department and business owners; they needed to figure the problem out, bump up the enforcement and solve it.

Jerry Garvey, Executive Director of Coalition and Compassion for Justice, said that she did not like seeing the business community and the people who work with the homeless being split. She said that if anyone came to their door who was intoxicated, cursing or urinating, they would call the police who were there within minutes. She did not know why it was not true for the businesses. She gave her phone number of 445-4382 to call for help with the homeless.

Mayor Kuykendall said that the City had a responsibility to the community of 43,000 people. They would try to do what was right. He believes that the

police department did not harass people who were not doing anything wrong. He thought that the people who worked with the homeless might find a place for them in the church parking lots to park and sleep in their cars.

- F. Recess into Executive Session.

**COUNCILWOMAN LINN MOVED TO RECESS INTO EXECUTIVE SESSION; SECONDED BY COUNCILMAN BLAIR; PASSED UNANIMOUSLY.**

The Prescott City Council recessed into Executive Session at 5:24 p.m.

**V. EXECUTIVE SESSION**

- A. Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property, pursuant to A.R.S. §38-431.03(A)(7).
- i. Potential open space properties.
- B. Discussion or consultation for legal advice with the attorney or attorneys of the public body, pursuant to A.R.S. §38-431.03(A)(3) and 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 A.R.S. §38-431.03(A)(4).
- i. Big Chino Water Ranch project.

**VI. ADJOURNMENT**

The Prescott City Council reconvened into Open Session at 5:55 p.m. at which time the meeting of April 13, 2010 was adjourned.

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MARLIN D. KUYKENDALL, Mayor

ATTEST:

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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 April, 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

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ELIZABETH A. BURKE, City Clerk