

PRESCOTT CITY COUNCIL  
REGULAR VOTING MEETING  
TUESDAY, OCTOBER 26, 2010  
PRESCOTT, ARIZONA

MINUTES OF THE REGULAR VOTING MEETING OF THE PRESCOTT CITY COUNCIL held on OCTOBER 26, 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 3:00 p.m.

◆ **INTRODUCTIONS**

◆ **INVOCATION:**

Pastor Wil Ryland, Church of Nazarene

◆ **PLEDGE OF ALLEGIANCE:** Councilman Blair

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

◆ **ROLL CALL:**

Present:

Absent:

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

None

◆ **SUMMARY OF CURRENT OR RECENT EVENTS**

City Manager Norwood noted that the City received an award. Fifteen Arizona water utilities were evaluated and Prescott was in the top four for the Top Drop Award. It focused on single family water conservation, water rate structure, program funding, water loss and use of effluent. Shaun Rydell had a lot to do with the program.

He also said that Prescott had made CNN, USA Today and Money magazine as a great place to live.

**I. PROCLAMATION**

- A. October 2010 as *Palliative Care Month*.

Councilwoman Linn read the proclamation and presented it to the palliative care volunteers.

The volunteers noted that everyone had choices at the end of their lives and they wanted to help educate the citizens.

**II. CONSENT AGENDA**

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

**COUNCILWOMAN SUTTLES MOVED TO APPROVE CONSENT AGENDA ITEMS II-A AND II-B; SECONDED BY COUNCILWOMAN LINN; PASSED UNANIMOUSLY.**

- A. Appointment of Sheri Swain as the City of Prescott Yavapai Combined Trust Board Trustee and Mary Jacobsen as Alternate.
- B. Approval of the minutes of the Prescott City Council Workshop of October 5, 2010, and the Regular Voting Meeting of October 12, 2010.

**III. REGULAR AGENDA**

- A. Public Hearing and consideration of State Liquor License Application No. 12133471, for a new Series 12, Restaurant, license for Stephen Allan Rice applicant for Adirondack Cafe located at 126 South Montezuma Street.

Ms. Burke reviewed the application submitted for a new Series 12 liquor license for Adirondack Café at 126 South Montezuma Street.

**COUNCILWOMAN SUTTLES MOVED TO CLOSE THE PUBLIC HEARING; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.**

**COUNCILMAN LAMERSON MOVED TO APPROVE STATE LIQUOR LICENSE APPLICATION NO. 12133471, FOR A NEW SERIES 12, RESTAURANT, LICENSE FOR STEPHEN ALLAN RICE APPLICANT FOR ADIRONDACK CAFÉ LOCATED AT 126 SOUTH MONTEZUMA STREET; SECONDED BY COUNCILWOMAN SUTTLES; PASSED UNANIMOUSLY.**

- B. Public Hearing and consideration of State Liquor License Application No. 10133221, for a new Series 10, Beer & Wine Store, license for Rebecca Estorga, applicant for Thumb Butte Gas and Convenience Mart located at 1451 West Gurley Street.

Ms. Burke reviewed the application submitted for a new Series 10 liquor license for Thumb Butte Gas and Convenience Mart located at 1451 West Gurley Street.

**COUNCILMAN BLAIR MOVED TO CLOSE THE PUBLIC HEARING; SECONDED BY COUNCILWOMAN SUTTLES; PASSED UNANIMOUSLY.**

**COUNCILMAN LAMERSON MOVED TO APPROVE STATE LIQUOR LICENSE APPLICATION NO. 10133221, FOR A NEW SERIES 10, BEER & WINE STORE, LICENSE FOR REBECCA ESTORGA, APPLICANT FOR THUMB BUTTE GAS AND CONVENIENCE MART LOCATED AT 1451 WEST GURLEY STREET; SECONDED BY COUNCILWOMAN SUTTLES; PASSED UNANIMOUSLY.**

- C. Acceptance of Arizona Department of Homeland Security grants for the Prescott Fire Department (Total of \$114,706.00 in 100% grants—no matching funds required).

Chief Martinez reviewed the item and said that the grants were funded through FEMA. He noted that the projects had a regional concept. No other City money would supplement the grant amounts.

The first grant would replace ten year old air monitoring equipment that would help them determine air quality in a HAZMAT scene.

The second grant was for mobile data computers. This would give them seven more, so all of their front nine engines would be equipped.

The third grant was for technical rescue equipment for \$11,000 that was only half funded.

The fourth grant was for confined space equipment for \$6600. They asked for \$61,000. It was for a trailer for trench rescue and confined space rescue.

The fifth grant was for a mass casualty drill for \$23,000, which was half funded. The majority of the money would go towards backfill for participating agencies. They hoped to have up to 150 people to feed lunch for an 8 hour training drill.

Mr. Norwood asked if Chief Martinez could take some of the monies from one of the items that were not fully funded and apply it to one with a higher priority. Chief Martinez said that the money had to be spent specifically for what he asked for. If they did not spend all of the money, they would turn it back in.

Councilwoman Suttles asked where the money came from for the grants. Chief Martinez said that it was a FEMA grant for homeland security.

Councilman Lamerson thanked the Chief for bringing some federal money back to the State.

**COUNCILWOMAN LINN MOVED TO ACCEPT THE 2010 GRANT AWARDS FROM ARIZONA DEPARTMENT OF HOMELAND SECURITY IN A TOTAL AMOUNT OF \$114,706.00; SECONDED BY COUNCILWOMAN SUTTLES; PASSED UNANIMOUSLY.**

- D. Adoption of Ordinance No. 4766-1117 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the purchase of real property and easement rights from James Deep Well Ranches #1, L.L.C., for the Intermediate Pump Station and Reservoirs Project, and authorizing the Mayor and City staff to take all necessary steps to effectuate said purchase.

Mr. Nietupski said that this property was for an intermediate pump station west of the airport, and he then showed an overhead map. It would include a sub station and three, three-million-gallon reservoirs to provide an additional nine million gallons of storage in the City's water system. The location was picked due to its proximity to existing facilities. T

He said that the pump station was once a part of the Big Chino Water Ranch (BCWR) project, but in March of 2009 the City separated it from the BCWR project because it was a necessary facility regardless of the schedule of the BCWR. It would also increase efficiency in operation of the systems.

Currently the City produces water at operating pressures of 400 pounds per square inch (psi) in Chino Valley. By adding this system improvement at this location they will be able to cut the pressure in half, increasing their efficiency and their ability to deliver water more safely at lower pressures. The acquisition involved approximately 20 acres. Of that, 11 acres would be acquired outright, 8 acres would be permanent easement and 5 acres would be acquired as temporary construction easement. The appraised value was \$604,000 which was done in August of 2010 by Robert Huck.

Councilman Lamerson wanted to know what the current daily consumption for the City of Prescott was, or their customer base which included some customers in Chino Valley. Mr. Nietupski said that it would vary depending on the season. It could be seven million gallons a day in the winter months and in excess of 10 million gallons in the summer months.

Councilman Lamerson asked what the City's current storage capacity was. Mr. Nietupski said that was about 30 million gallons of storage throughout the City. Councilman Lamerson noted that it was three days worth of water, but if they dropped below a certain height, the efficiency to delivery became compromised.

Mr. Nietupski said that when they got behind the curve it became difficult to catch up. If an outage occurred it would give the City that much more capacity to deal with to maintain critical service. Councilman Lamerson noted that they should not pass up the opportunity in a high fire community that only had three days of service in its water storage system.

Mr. Nietupski noted that acquiring the site now provided benefits to the City. The City had recently submitted an application for a grant to study the relocation of Willow Creek Road in the future. By securing this site there would be a benefit to the City and the property owner that would allow for more detailed land planning. The purchase price was about \$30,000 per acre.

Councilman Blair asked what made the City determine that 400 psi was detrimental to the system and what type of value would that give the City as far as longevity to the line, by reducing the pressure. Mr. Nietupski said that if there was a break in a line of that size at that pressure, there would be a disastrous effect at the location.

Councilwoman Suttles asked who wrote the agreement for the annexation. Mr. Nietupski said it was written by Sal Lutey and Gary Kidd.

Councilwoman Suttles asked if the funding was coming out of the water fund. Mr. Nietupski said that it was and was a budgeted, cash expenditure.

Councilman Hanna said that he had been asked why the City was doing this project when they did not know what the future held. He said that Mr. Nietupski had done a good job explaining it to Council and he would like him to explain it to the public.

Mr. Nietupski said that this project, along with a number of other projects identified through the City's water model, were necessary projects to

address and improve system deficiencies which had been made evident. This was one element of that Capital Improvement Project that would improve the City's water distribution system, production, and storage systems. They had real deficiencies with storage now. The Zone 24 / 27 project addressed some of those.

**COUNCILWOMAN SUTTLES MOVED TO ADOPT ORDINANCE NO. 4766-1117; SECONDED BY COUNCILMAN HANNA; PASSED UNANIMOUSLY.**

- E. Approval of a professional services agreement with Post Buckley Schuh & Jernigan for engineering and construction support services for the Zone 27 Reservoir and construction support services for the Zone 24 reservoir in an amount not to exceed \$441,716.00.

Mr. Nietupski noted that this agreement was to continue with needed water improvement services and addressed deficiencies in the southwest area of Prescott. It included engineering for a Zone 27 water reservoir built of pre-stress concrete, partially buried, and located on a lot acquired in April of 2010. It would replace a 200 gallon storage facility with a 1.25 million gallon reservoir.

It also included engineering services, during construction for the Zone 27 reservoir, the pump station for Zone 27 and a new water transmission main for Zone 27. The project would begin immediately in November. He expected it to be completed by summer of 2011. Ultimately the reservoir would be put out to bid. It was a critical system improvement in an area where they had identified deficiencies.

Designs for those two facilities were about 60% completed. The design was lagging because of the time it took to acquire the location for the pump station and the location for the Zone 27 reservoir. The contract provided for two public meetings. As they went forward, there will be two more public meetings. This was a budgeted project from the Water Fund for this fiscal year. Kevin Murphy of PBS&J was in the audience to answer questions.

Councilwoman Suttles said that the map was confusing. Mr. Nietupski said that there were different colors to show the water pressure zones. Tank for Zone 27 was located on a common boundary between 24 and 27. The pump station for Zone 27 was located in Zone 0. It was a complex system.

Councilman Lamerson noted that the deficiencies identified were things that needed to be fixed. He asked where the money came from to take care of the existing deficiencies. Mr. Nietupski said that the only option

they had for addressing the existing deficiencies within the existing service area was through the rates.

Councilman Lamerson said that it helped explain why some of the things they were looking to do with the rates was not just to tax people. It was the case of a user fee designed to provide the necessary water and to maintain those systems. Mr. Nietupski said that the water system operated under an Enterprise Fund. It was a stand alone fund that provided for operations and maintenance to supply service to the community. It was not funded from the General Fund or the one cent sales tax.

Councilwoman Linn noted that APS said that when they got any new pump station or piece of equipment, the City needed to keep them involved so they could potentially get a rebate back to the City. Mr. Nietupski said that was correct.

Councilwoman Linn said that they had rebates from \$10,000 up to \$50,000. She wanted to make sure everyone knew that the City was trying to keep the costs down and involve the public. Mr. Nietupski said that when they had more information on it, he would share it with Council.

**COUNCILWOMAN SUTTLES MOVED TO APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH POST BUCKLEY SCHUH & JERNIGAN FOR ENGINEERING AND CONSTRUCTION SUPPORT SERVICES FOR THE ZONE 27 RESERVOIR AND CONSTRUCTION SUPPORT SERVICES FOR THE ZONE 24 RESERVOIR IN AN AMOUNT NOT TO EXCEED \$441,716.00; SECONDED BY COUNCILWOMAN LINN; PASSED UNANIMOUSLY.**

F. Assignment and Assumption of Rights – Prescott Lakes:

Mr. Kidd said that the first item dealt with a sale that occurred this past spring at Prescott Lakes with SDC LLC and EFO/P LLC Investors. This assignment assigns the rights under the original Development Agreement that was modified in 2004 to the new owners of Prescott Lakes. They assumed all of the obligations and rights under the existing Development Agreement. They took over the existing obligations under the original Development Agreement. The second item was an assignment of the water rights that existed under the original Development Agreement. The transactions culminated in May.

Councilwoman Linn recused herself from discussion and voting.

Councilman Blair asked if the area was the Falcon Point area. Mr. Kidd said that it was the entire Prescott Lakes area and was not limited to

Falcon Point. Councilman Blair noted that the issue he had was to make sure that they were not sweeping the “as-built” issue into the agreement without addressing it.

Mr. Nietupski said that he could not answer that question without doing some more research. Councilman Blair said that he would like to defer the vote. He said that other contractors had done work for Prescott Lakes and had not been paid, based upon the retention. He said that they needed to protect the people who worked in the community.

Mr. Kidd said that there were some of the developer’s representatives who were supposed to be at the meeting to answer some of those questions.

There were no objections to deferring the item.

1. Adoption of Resolution No. 4051-1121 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the City of Prescott to enter into an Assignment and Assumption of Rights and Obligations Pertaining to a Development Agreement, Contract No. 2004-157, with SDC Prescott, L.L.C. thereby assigning the rights and obligations under the existing agreement to EFO/PL Investors, L.L.C., and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.
2. Adoption of Resolution No. 4052-1122 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the City of Prescott to enter into an Assignment of Rights Pertaining to the Agreement for Potable Water, Contract No. 2004-151, with SDC Prescott, L.L.C. thereby assigning the rights and obligations under the existing agreement to EFO/PL Investors, L.L.C., and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.

Councilwoman Suttles asked if contractors would be there the next time the topic came up. Councilman Blair said that they would find out with the sale of the property if the new group was going to make the contractors whole and how the City would demand the as-builts from the contractors. The City needed to protect their contractors as it was not the contractors’ problem.

Councilwoman Suttles said that she was confused. She thought that it was a simple change from Prescott Lakes to the new owners. She wondered if the outstanding bills were the City’s responsibility. Mr. Kidd said that the transaction had already happened. When the new owners

took over, they were subject to the obligations and subject to the same terms of the original Development Agreement.

Mayor Kuykendall said that he thought that there was some litigation going on between the contractors. He thought that Councilman Blair was asking if the contractor would be left high and dry if the City created a new agreement with no strings.

Councilman Blair said that it was important. Part of Falcon Crest (Falcon Point) and other areas out there did not have the final as-builts submitted to the City and the City still had a punch list that had not been completed. He wanted to make sure that they were not walking away from their obligation as a Council.

G. Presentation on direction being taken by the City of Prescott Department of Tourism.

Mr. Norwood introduced Mr. Prince, the City's new Director of Tourism, who gave a PowerPoint presentation which addressed the following:

- ▶ PROFESSIONAL EXPERIENCE
- ▶ IMPORTANCE OF TOURISM TO PRESCOTT
- ▶ LATEST NUMBERS
- ▶ STRUCTURE OF NEW DEPARTMENT
- ▶ BRANDING (IDENTITY) CHALLENGE
- ▶ DESTINATION BRANDING
- ▶ OUR CHALLENGE
- ▶ SOLUTIONS
- ▶ SEASONAL ADVERTISING TARGETING PHOENIX/SCOTTSDALE RESIDENTS & VISITORS
- ▶ FOCUSING ON FESTIVALS AND EVENTS TO DRIVE SHOULDER SEASON VISITATION
- ▶ WEBSITE
- ▶ DIRECT SALES

- ▶ INTERLUDE TOURS
- ▶ MEDIA OUTREACH
- ▶ TOURISM NEWSLETTERS
- ▶ TOURISM ADVISORY COUNCIL

Councilwoman Suttles asked where he was going with branding. Mr. Prince said that he was looking at a process using a company that had extensive experience with destination branding. They needed to understand Prescott's challenges and know that there was not a lot of money to be spent on branding. Prescott needed to brand itself. The company would not know the destination.

Councilwoman Suttles asked if they would keep some of the old branding. Mr. Prince said that they would continue to address a number of niche markets. Those all continued to be important and existed, but they would still be underneath the overall brand.

Mayor Kuykendall said that the easy thing would have been to appoint 7-9 people to a committee. They had purposely approached the solution the way they had by asking the different organizations to tell the City who they would like to have on the committee. He thought that it was worth the wait. He also said that it was critical that the make up of the Tourism Council be people from those making a living doing that. Mr. Prince said that he was waiting for a few more names.

Councilman Blair asked if there was a spot for comments from the Tribe. Mr. Prince said that it was an excellent point. He noted that they needed to work with them. They were exploring ways to make that happen. They set up a meeting the second week in November to explore some options.

Councilman Blair asked if Prescott would have links to the Tribe's monthly activities. Mr. Prince said that it was something that they would like to do. Prescott is not exclusionary as far as listing events. They listed events from Prescott Valley and Chino Valley.

Jenny King, Convention and Visitors Bureau, said that she was surprised that as the only business that was totally dedicated to tourism that they were not part of the tourism council. She requested that they be a part of that. Mr. Prince said that she had a valid point but there was redundancy between the lodging association and the Chamber of Commerce. All of her members were members of one of the two groups.

Councilwoman Linn noted that the Convention and Visitors Bureau was getting a lot of foot traffic in addition to the Chamber. They were the people on the front lines and involving them would be good.

Jack Wilson, Prescott, asked that Bill Baker, who wrote the book on small town branding, was given consideration in the Request for Proposal process. Regarding the Tribe, he noticed that there were no Tweets on the Tribe. Mr. Prince said that he was not exclusionary, but he felt that actions spoke louder than words. He said that they were the only show in town for big conferences.

Mayor Kuykendall said that they had been communicating with the Tribe constantly. They did not report to the City. They did not collect and remit sales tax that came to the City. The City assured them that they appreciated and honored the advertising and promotion they did. The meeting would set the stage for some method of agreeing on an equitable method of giving them credit for what they did.

H. Recess into Executive Session.

**COUNCILWOMAN LOPAS MOVED TO RECESS INTO EXECUTIVE SESSION; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.**

The Prescott City Council recessed into Executive Session at 4:38 p.m.

**IV.\* EXECUTIVE SESSION:**

A. Discussion or consultation for legal advice with the attorney or attorneys of the public body 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) (3) and (4).

1. Spire Engineering LLC v. City of Prescott
2. Brighton Patio Homes v. City of Prescott
3. City of Prescott v. CVID Investments LLC
- 4.\* Legislative Representation Services**
- 5.\* Elks Theater Review**

**V. ADJOURNMENT**

The Prescott City Council reconvened into Open Session at 6:32 p.m. at which time the Regular Voting Meeting of October 26, 2010, adjourned.

\_\_\_\_\_  
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 26th day of October, 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