

PRESCOTT CITY COUNCIL
REGULAR MEETING
TUESDAY, NOVEMBER 9, 2010
PRESCOTT, ARIZONA

MINUTES OF THE REGULAR MEETING OF THE PRESCOTT CITY COUNCIL held on NOVEMBER 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 3:00 p.m.

◆ **INTRODUCTIONS**

◆ **INVOCATION:** Reverend Julia McKenna, Spiritual Architect

Reverend McKenna gave the invocation.

◆ **PLEDGE OF ALLEGIANCE:** Councilman Lamerson

Councilman Lamerson 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 he had talked to the principals of Cooperstown. They were inundated with the project in North Carolina and Florida and asked for another month or two before the next public meeting. They were still committed to Prescott and wanted to go forward. They would probably be in town after the first of the year.

I. PROCLAMATION

- A. November 14 – 21, 2010, as *Soroptimist International of the Americas Week*

Councilwoman Suttles read the proclamation and presented it to Susan Abbott, Soroptimist President, and Linda Hartmann.

Ms. Abbott said that they truly appreciated the notice given to the organization.

Ms. Hartmann said that she appreciated the help and support of the people in the community.

II. PRESENTATION

- A. Update on current street improvements.

Mr. Nietupski noted that the program in the 2011 Fiscal Year consisted of three contracts: rubberized chip seal and some pavement repairs, asphalt rubber concrete friction course overlay and pavement rehabilitation. He then gave a PowerPoint presentation which addressed the following:

- ▶ RUBBERIZED CHIP SEAL AND VARIOUS PAVEMENT REPAIRS
- ▶ AR-ACFC OVERLAY PROJECT
- ▶ PAVEMENT REHAB PROJECT
- ▶ FISCAL YEAR 2011 CHIP SEAL AND VARIOUS PAVEMENT REPAIRS

Mr. Nietupski said that it was not the solution to the pavement problem, but it would extend the life of the street. Councilwoman Linn asked how long it would extend the life. Mr. Nietupski said five years.

Councilwoman Suttles noted that some citizens wondered why some streets got repaired while others did not. She asked how they determined what was salvageable.

Mr. Nietupski said that they developed a list of streets that needed to be addressed. They did an inspection of streets to see which streets could be treated with an interim solution. Others were so far gone that this approach was not appropriate. They made a call as they looked at each street. He said that it had been a good program and hats off to everyone involved.

Mr. Norwood asked if they were taking the millings from the three projects they were currently working on for future projects. Mr. Nietupski said that the millings were required by the contractor to be delivered to the Field Operations property, to be used in the dust suppression in the future.

Mayor Kuykendall asked how many dirt roads were left to do. Mr. Nietupski said they were over half done and they had about nine miles to go. He said that Mr. McDowell thought that they would be done in the next one to two years.

Councilman Lamerson said that he felt that they got a good start on fixing the roads. It looked like a potential solution for a temporary fix.

Councilwoman Linn asked when they anticipated starting Williamson Valley Road. Mr. Nietupski said that they had it calendared for March, understanding that utility relocations still needed to occur. There were still a few more properties that needed to be resolved.

Mayor Kuykendall asked if they would be bidding through the winter months. Mr. Nietupski said that they had to have the legal right to proceed with the project, with respect to the 2 to 3 17-foot strips. The utility construction needed to be far enough along that they would be confident that it would not affect the project.

Mayor Kuykendall asked if they would work through the winter. Mr. Nietupski said they intended to, depending on weather conditions.

Mayor Kuykendall told Mr. Kidd that he thought the Council had said to move ahead on the two properties that they were waiting on. Mr. Kidd said that Mr. Lloyd was still working on them. There were three different owners. One had a secondary claim against City. That had been resolved. Another owner, Mr. Long, had been served and there was no response. That lawsuit was getting ready to be filed.

Mayor Kuykendall asked what happened next. Mr. Kidd said that the process would be to file the lawsuit and ask the court for immediate possession. He said that they were prepared to do that.

Mayor Kuykendall said that Mr. Nietupski had done a good job with limited funds. He had a lot of people telling him that the City was being successful and he appreciated it.

Councilman Blair asked if there was an updated list for the unpaved dirt roads to be paved, and was there a total amount of millings that they had to receive to complete that. He asked if the goals were realistic.

Mr. Nietupski said that he believed that they were realistic. He could get the list of the segments that remained to be treated. He said that Mr. McDowell had a better handle on the millings. Mr. Nietupski was optimistic that they would have an adequate amount of millings to complete those residential streets in the next one to two years.

Councilwoman Lopas thanked AP&S for the streets that they did.

III. CONSENT AGENDA

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

Councilman Blair said that regarding Item C, it would be important to have someone explain to the public the number of small jobs that the City is going to put out to bid.

Mr. Norwood said that Council had already approved all of the projects. This was solely the financing mechanism. They got a lower interest rate going through the Water Infrastructure Financing Authority of Arizona (WIFA). Not all projects qualify, but these were not the major projects. They are smaller projects that were maintenance related. The local contractors will have the ability to bid on them.

COUNCILMAN LAMERSON MOVED TO APPROVE CONSENT AGENDA ITEMS III-A THROUGH III-D; SECONDED BY COUNCILWOMAN LOPAS; PASSED UNANIMOUSLY.

- A. Adoption of Resolution No. 4055-1125 – 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 with the Governor’s Office of Economic Recovery, accepting funding in the amount of \$50,000 to support basic public safety activities and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.

- B. Adoption of Resolution No. 4056-1126 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the City of Prescott Police Department to enter into an Intergovernmental Agreement between the Maricopa County Board of Supervisors on behalf of the Maricopa County Sheriff’s Office (“MCSO”) to provide Arizona Department of Homeland Security (AZDOHS) grant funding to complete the data source connection to the MCSO Regional AzLINK Node and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.

- C. WIFA (Water Infrastructure Financing Authority of Arizona) Funding:
1. Adoption of Ordinance No. 4770-1121 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, approving loan funds from the Water Infrastructure Finance Authority of Arizona (WIFA) for the Virginia Street & Penn Alley Sewer Replacement Project, through the Clean Water Program #910147-11, authorizing the Mayor and staff to sign any and all WIFA funding documents pertinent to said project, and declaring an emergency.
 2. Adoption of Ordinance No. 4771-1122 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, approving loan funds from the Water Infrastructure Finance Authority of Arizona (WIFA) for the Small Water Mains Upgrades Project, through the Drinking Water Program #920206-11, authorizing the Mayor and staff to sign any and all WIFA funding documents pertinent to said project, and declaring an emergency.
 3. Adoption of Ordinance No. 4772-1123 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, approving loan funds from the Water Infrastructure Finance Authority of Arizona (WIFA) for the Sundog Filter Replacement & Denitrification Project, through the Clean Water Program #901148-11, authorizing the Mayor and staff to sign any and all WIFA funding documents pertinent to said project, and declaring an emergency.
- D. Approval of the minutes of the Prescott City Council Regular Voting Meeting of October 26, 2010.

IV. REGULAR AGENDA

- A. Approval of agreement with DeMenna & Associates for legislative representation services.

Mr. McConnell introduced the item and said that there was a detailed breakdown of the service in Exhibit A. The contract would replace a previous one issued several years ago by Prescott Valley pertaining to the Big Chino Water Ranch Project. He noted that a question that was often asked was why the City of Prescott would need legislative services.

Recognizing the major financial challenges and the importance of water, and what can be described as the unpredictable dynamics which can rapidly unfold at the legislature regarding any issue; it was crucial that the

City be constantly well informed and well represented at the Arizona Legislature.

DeMenna and Associates was a highly regarded firm providing effective government relations, political consulting and lobbying services. Mr. DeMenna was raised in Prescott and had strong ties to the City of Prescott. He was very interested in representing Prescott at the Legislature. This was for a one-year contract, with renewal thereafter. Compensation was on a monthly flat fee basis, which was standard for representation services of that type. The Town of Prescott Valley had reviewed the scope of services and would be reimbursed 45.9% for the costs.

He invited Mr. DeMenna to come to the microphone to introduce himself, provide remarks of what was to be expected in the next legislative session and to summarize what his firm would be bringing to Prescott to stay on top of the issues.

Mr. DeMenna noted that his firm was located next to the Capitol. This was his 31st session and he was proud of his firm. It would consist of five full time people. He said that in any given session, they represented 20-25 active clients.

None of them were attorneys. He felt that they saw things more clearly. They were able to draw on the needs of attorneys and legislative staff. When he arrived at the capitol he was an intern. His goal was to be the economist and served as the Senate Economist and moved to Chief of Staff in the Senate. Since there was nowhere to go after that, he began the firm. They learned about their client's issues and were advocates for them. Their approach was very substantive. They tried to make sure that key members and voting members, understood the issues and understood the position that Prescott would take and tried to ensure that they would vote consistent with that position.

He said that they had the firm to do the job. He knew the area and they tried hard. He looked forward to the opportunity.

Councilman Lamerson pointed out that there were a number of issues on the minds of the people. To him it was protecting the private municipal property rights that were negotiated through the governments, for water that belonged to the citizens of Prescott. Also, the legislation and State law that was generated specifically for the citizens of Prescott to get the water they were entitled to. He felt comfortable that Mr. DeMenna and his firm were more than competent to bring things before them that they needed to know, before it was too late.

Mr. DeMenna said that water was not the first thing on their minds. They would like to deal with the budget only.

COUNCILWOMAN LINN MOVED TO APPROVE THE AGREEMENT WITH DEMENNA & ASSOCIATES FOR LEGISLATIVE REPRESENTATION SERVICES; SECONDED BY COUNCILWOMAN LOPAS; PASSED UNANIMOUSLY.

B. Lease with Prescott Meals on Wheels:

Ms. Horton said that the lease agreement with Prescott Meals on Wheels was up for its annual review. They made a few changes to the lease. One was in the insurance portion by recommendation from the Risk Management Department and also, they increased the amount of repair costs that the lessee would be responsible for from \$100 to \$500, in keeping with the contract recently approved through Adult Center.

1. Adoption of Resolution No. 4053-1123 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, declaring as a public record that certain document filed with the City Clerk and entitled the *2010 Lease with the Prescott Meals on Wheels for Lease of a Portion of the Rowle P. Simmons Community Center*.

COUNCILWOMAN LOPAS MOVED TO ADOPT RESOLUTION NO. 4053-1123; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.

2. Adoption of Ordinance No. 4767-1118 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona adopting by reference that certain document entitled the 2010 Lease with the Prescott Meals on Wheels for Lease of a Portion of the Rowle P. Simmons Community Center, made a public record by Resolution No. 4053-1123 and approving said lease.

COUNCILWOMAN LOPAS MOVED TO ADOPT ORDINANCE NO. 4767-1118; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.

- C. Adoption of Ordinance No. 4768-1119 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the sales and exchange of certain real properties belonging to Arizona Public Service Company (APS) and the City of Prescott, approving the conveyance of title to certain real property belonging to the City of Prescott and accepting title to that certain real property which is a 2.8 acre APS parcel north of the APS yard, and authorizing the Mayor and staff to

execute all necessary sale and conveyance documents to complete the exchange.

Eric Smith said that they posted a notice of intention to exchange real properties; there were no inquiries. This was more of a housekeeping item. Arizona Public Service (APS) received 1/3 of an acre that they already occupied and the City received 2.8 acres that they already occupied with the Miller Creek trail. In addition APS gained two easements to their maintenance yard and substation.

The value of what APS received was about \$34,200; the City received land valued at \$70,000, but APS did not wish to be compensated for that balance. APS paid for all of the survey and title escrow charges.

Councilwoman Suttles said that it showed that the value that the City owned was \$22,500. Mr. Smith said that the \$34,200 was with the 1/3 acre plus two easements.

COUNCILWOMAN SUTTLES MADE A MOTION TO ADOPT ORDINANCE NO. 4768-1119; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.

- D. Authorization to enter into an Airport Ground Lease Agreement with Guidance Helicopters, Inc. for approximately .185 acres of airport property at Ernest A. Love Field and authorizing the Mayor and City staff to execute any and all related documents for the lease.

Mr. Vardamin said that the parcel in question was located at 6540 Crystal Lane going at the property rate of .35 cents per square foot per year. It was a 20 year term with three 5-year options to extend. The options were at the City's discretion. Only one bid was received from the Request for Proposals.

Mayor Kuykendall asked if there was a building on the property. Mr. Vardamin said yes.

COUNCILWOMAN SUTTLES MOVED TO AUTHORIZE THE CITY TO ENTER INTO AN AIRPORT GROUND LEASE AGREEMENT WITH GUIDANCE HELICOPTERS, INC. FOR APPROXIMATELY .185 ACRES OF AIRPORT PROPERTY AT ERNEST A. LOVE FIELD AND AUTHORIZING THE MAYOR AND CITY STAFF TO EXECUTE ANY AND ALL RELATED DOCUMENTS FOR THE LEASE; SECONDED BY COUNCILWOMAN LOPAS; PASSED UNANIMOUSLY.

- E. Approval of the Final Plat of the Granite Dells Estates Commercial PAD Phase 1B.

Mr. Guice said that this was the first phase of development for the Granite Dells Estate Commercial Planned Area Development. He showed the Master Plan for the 11,042 acre development. Phase 1B was three lots of a total of ten acres. The Planning and Zoning Commission recommended approval to the Council.

Councilwoman Suttles asked if there was going to be any grading on those ten acres. Mr. Guice said that the proposal for those properties zoned commercial and industrial would be mass graded. The residential properties to the east would be more site built. Councilwoman Suttles was pleased that they were getting it going.

Mayor Kuykendall asked if there was any access now or if they were in that process. Mr. Guice said that utilities and access would be extended approximately 500 feet south from the existing Centerpointe East Drive. The next phase would be 1C. He noted that the City was working with the County for an Intergovernmental Agreement related to the roadway that was within the County.

COUNCILMAN LAMERSON MOVED TO APPROVE THE FINAL PLAT OF THE GRANITE DELLS ESTATES COMMERCIAL PAD PHASE 1B; SECONDED BY COUNCILWOMAN LINN; PASSED UNANIMOUSLY.

- F. Adoption of Ordinance No. 4769-1120 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, amending the City Code by adding Chapter 5-14, *Fireworks*, and amending Section 15-1-20(A), to add regulations and penalties for the use of fireworks.

Chief Martinez noted that through a National survey, Prescott had been identified as one of the top seven communities which posed a threat of a devastating wild land fire; not to mention the threat of bodily harm that consumer fireworks could cause.

In the legislative language, they gave cities and towns the ability to prohibit the use of fireworks, but not the sale. Unfortunately, that did not apply to counties. Subdivisions around the City like Mountain Club, Highland Pines and Ponderosa Park, had the ability to use the consumer fireworks. Fire Marshal Kriwer presented a PowerPoint presentation that covered:

▶ HB2246

▶ ARS 36-1606

- ▶ PERMISSIBLE
- ▶ NONPERMISSIBLE
- ▶ NOT REGULATED
- ▶ DISPLAY FIREWORKS – No changes
- ▶ REGULATING THE USE OF FIREWORKS
- ▶ SIZE OF THE FIREWORKS PROBLEM
- ▶ NFPA STATISTICS
- ▶ TYPE OF INJURIES STATISTICS
- ▶ CHARACTERISTICS OF FIREWORKS INJURIES
- ▶ TYPICAL STORE DISPLAY
- ▶ ROADSIDE STAND
- ▶ CONSUMER FIREWORKS STORE
- ▶ VIOLATION OF ORDINANCE
- ▶ CONCLUSION

Councilwoman Suttles said that she was amazed that the legislators could approve this in a state as dry as it was and then turn it over to the cities and towns to take care of. Her concern was with the counties and forests. She asked what they would do if it got out of hand and was not in their restricted area.

Mr. Kriwer said that they would respond. He said that the county could restrict fireworks during times of high fire danger. The best enforcement had been the citizens. They called 9-1-1 right away when they saw a firework. The Northern Arizona Fire Marshalls wanted to stay unified and limit the confusion. During times of fire dangers, they would be restricted in the county areas.

Councilwoman Suttles was pleased that the fire department stayed on top of it. She asked who was going to enforce it. Mr. Kriwer said that the fire department did not have citation rights. It would go through the police department.

Councilwoman Lopas said that she noticed that most of the fireworks were foreign and she wondered how toxic the smoke was. Mr. Kriwer said that no smoke was healthy.

Councilwoman Lopas asked what the penalties were for starting a wildfire. Mr. Kriwer said that they pulled the severance portion out that was the limited liability. They would take it as a case by case basis.

Councilman Hanna said that it was very disheartening that they had morons in the legislature that were passing garbage like this. It was like giving an arsonist a book of matches.

COUNCILWOMAN LOPAS MOVED TO ADOPT ORDINANCE NO. 4769-1120; SECONDED BY COUNCILWOMAN SUTTLES; PASSED UNANIMOUSLY.

- G. Adoption of Resolution No. 4054-1124 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona repealing Resolution No. 4012-1042 dissolving the *Prescott: The Arizona Centennial City Committee* as an advisory committee.

Mr. Prince noted that several members of the Centennial Committee had been appointed and resigned for various reasons. It had been difficult for the committee to move forward while complying with statutes required by its creation. It was agreed that it would be more beneficial to resolve the committee and allow the members to continue serving as an advisory committee to the City's Department of Tourism.

Councilwoman Suttles said that she sat with Ms. Gilliss, Mr. Prince and Mayor Kuykendall and discussed how hard it had been this last year to keep the committee going. They thought that they should down grade it to make it easier to work on. The kick off event for the State would be in Prescott in September. They were not dissolving the committee.

Mayor Kuykendall said that they were changing the structure which would make it easier to move.

Ms. Gilliss said that she appreciated the change in the structure as they had been struggling since December of 2008. They were looking forward to working closer with the Office of Tourism and Advisory Council so they would have more energy, support, and excitement from City staff and the business community. It was very timely because the kick off was September of 2011. It gave them less than a year to get started on something very big. Their job was to help the community as well as the City.

The big events would bring in lots of people, but the smaller ones would bring in people who were interested in that group. Their whole job was to focus on bringing people to the community of Prescott to enjoy the Centennial.

COUNCILWOMAN SUTTLES MOVED TO ADOPT RESOLUTION NO. 4054-1124; SECONDED BY COUNCILWOMAN LOPAS; PASSED UNANIMOUSLY.

- H. Approval of the Notice of Intention to Increase Water and Wastewater Rates, providing for a Public Hearing at 3:00 p.m. on December 14, 2010.

Mr. McConnell noted that the rate schedule was attached to the council memorandum. The public report for the proposed rates would be filed with the City Clerk and available for public review, as well as posting on the City website. The Notice of Intention set a public hearing for 3:00 p.m. on Tuesday, December 14, 2010. Adoption of the Notice of Intention and holding the hearing would not obligate the Council to any particular course of action. Any actual changes to the rates must be implemented by approval of a separate ordinance which could occur on December 14 following the public hearing or at a subsequent meeting specified by the Council.

Mr. Nietupski provided a summary of Fiscal Year 2011 Water Projects.

Zone 12 was near the end of the design and he anticipated going forward in the spring. He did not anticipate construction on Zone 19 until later in 2011. The surface water recharge line project was ready to go. There were a few easements to work out, which he was close to.

The Haisley design was pending. It may be constructed in the winter of 2012. The Zone 56 Reservoir, which required State land, was pushed out into the fall. He would start construction on Zone 29 in the fall, as well as the Zone 56 Pump Station.

Williamson Valley Road was scheduled for March 2011, along with Rosser Street, water main on Country Park, Granite and Willow Creek Dam repairs.

The costs are estimated at \$25 million in improvements.

On the wastewater side, the Airport Phase I, he anticipated having someone on board in early 2011. He anticipated a construction start by 2012. The total estimated cost was \$41.6 million. The Sundog filter replacement system would be done at the same time.

The Virginia Street Project was underway for sewer rehabilitation. Penn Street Alley was pending construction. He expected that to come before Council in February for award of a contract. The Cliff Rose Lift Station, projects on Rosser Street and Williamson Valley Road, with respect to sewer facilities, also had construction pending.

In the area of wastewater, the City had approximately \$9 million worth of expenditures earmarked for the near term.

Councilman Lamerson said that it would be unfair not to acknowledge the City Manager and various Department Heads for the progress that had been made in taking care of the basic services to keep the community safe and healthy.

Councilman Hanna asked how long the filters at Sundog would last. Mr. Nietupski said that the ones that needed to be replaced were installed in 1989. He noted that they typically had a 20-25 year life.

Councilman Hanna asked if the water pressure would change if the lines were repaired. Mr. Nietupski said that it would increase system pressure. He would be glad to meet with people to discuss specific water pressure.

Councilwoman Suttles asked if the list could be shortened to three items. She had no idea where the City would start. All items seemed important.

Mr. Nietupski noted that, as they discussed, the City had deferred a lot of projects of recent years. What remained had been identified as the most critical infrastructure to continue to serve the community. In order to do them it would be necessary for the City to issue some debt. That was the plan, subject to a rate structure that would afford the City that opportunity.

Councilman Hanna said that the City got in this trouble, by deferring projects. They now have \$80 million of work that needed to be done. He believed that the rate structure would allow the City to get the projects done.

Councilwoman Suttles asked where they were going to start. Councilman Blair said that the start dates were in the presentation. He said that he would have to assume that they would all be going on in the next two years, with debt issue. Mr. Norwood said that was correct and that it was Mr. Woodfill's job to make sure that the City had a rate structure that would support the projects. The City was not going to issue debt without a rate structure in place. All of the projects would be going concurrently. These were not small water mains. They were all major system enhancements. The projects should have been done 10 -15 years ago.

Councilman Blair said that there was no better time to bid these jobs out than now, because the economy was right. Mr. Nietupski agreed. Councilman Blair said that the projects were not being done because of an influx of people. They were from neglect over the last 40-50 years.

Mr. Nietupski said that the majority of the projects in 2011 and 2012 were for system deficiencies of existing facilities.

Councilman Lamerson asked Mr. Woodfill to address the issue of the City's sound bonding rating.

Mr. Woodfill said that the City's current rating was AA with all three rating agencies. They looked at the lowest possible financing option they had, and that was Water Infrastructure and Finance Authority (WIFA). The large number for the airport wastewater treatment plant was under the application process with WIFA. If WIFA dried up, the City would still be able to go out to the public because they had a good bonding policy and a good bond rating.

Mr. Kindig, 4866 Camachee Trail, complimented the Council on biting the bullet to get the work done. He felt that they were willing to do what was necessary to make things right.

Mayor Kuykendall said that they appreciated Sandy Griffis being the watchdog of the public. He said that he hoped everyone would remember that they spent \$3 for 1000 gallons of treated water, delivered to their homes and then spend \$1 for a small bottle of drinking water.

Greg Lazzell, Prescott, said that he was doing a lot of ground work at Prescott College and noticed a lot of deficiencies in the Unisource Gas lines. He asked if Unisource would be a part of the work being done.

Mayor Kuykendall said no. Mr. Lazzell asked if the City was digging up the road, would Unisource then upgrade their lines. Mayor Kuykendall said that if the City was doing repaving and there was an opportunity to do the entire infrastructure, underground, in that area, then he said that it was happening everywhere the City went.

Mr. McConnell said that there was close coordination between the City and the utilities regulated by the state. A lot times it boiled down to whether the utilities were in conflict.

COUNCILMAN HANNA MOVED TO APPROVE THE NOTICE OF INTENTION TO INCREASE WATER AND WASTEWATER RATES, PROVIDING FOR A PUBLIC HEARING AT 3:00 P.M. ON

**DECEMBER 14, 2010; SECONDED BY COUNCILWOMAN LINN;
PASSED UNANIMOUSLY.**

- I. Discussion/direction for December 28, 2010, regularly-scheduled meeting.

Mr. Norwood said that the City typically cancelled the last meeting of the year. They would try to consolidate a lot of it on December 14, 2010.

**COUNCILMAN HANNA MOVED TO CANCEL THE MEETING ON
DECEMBER 28, 2010; SECONDED BY COUNCILWOMAN LINN;
PASSED UNANIMOUSLY**

- J.* **Recess into Executive Session.**

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

The Prescott City Council recessed into Executive Session at 4:43 p.m.

V.* 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**

VI.* POST EXECUTIVE SESSION

- A. **Discussion and consideration of proposed legal settlement on arbitration issues re Spire Engineering LLC v. City of Prescott.**

The Prescott City Council reconvened into Open Session at 5:04 p.m.

Mr. Kidd said that they were getting closer and closer to arbitration so last week they sat down, without a mediator, with representatives from the other side. He said that it was a fairly long, detailed negotiation, but as a result of that they were able to work out the bottom line of resolving the

matter. He said that this will get the City a first-class type of road with warranties on the roadway.

He then reviewed the details of the settlement, noting that the final number was \$510,000, which represented approximately \$100,000 more than their original bid of \$2,548,937, and still less than the bid of the second lowest bid.

COUNCILMAN HANNA MOVED TO ACCEPT THE SETTLEMENT PRESENTED; SECONDED BY COUNCILWOMAN SUTTLES; PASSED UNANIMOUSLY.

VII. ADJOURNMENT

There being no further business to be discussed, the meeting of the Prescott City Council held on November 9, 2010, adjourned at 5:10 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 November, 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